

FLORIDA ADMINISTRATIVE CODE

CHAPTER 12D-7: AD VALOREM TAX EXEMPTIONS

12D-7.001. Applications for Exemptions.

(1) As used in section 196.011, Florida Statutes, the term "file" shall mean received in the office of the county property appraiser. However, for applications filed by mail, the date of the postmark is the date of filing.

(2) The property appraiser is not authorized to accept any application that is not filed on or before March 1 of the year for which exemption is claimed except that, when the last day for filing is a Saturday, Sunday, or legal holiday, in which case the time for making an application shall be extended until the end of the next business day. The property appraiser shall accept any application timely filed even though the applicant intends or is requested to file supplemental proof or documents.

(3) Property appraisers are permitted, at their option, to grant homestead exemptions upon proper application throughout the year for the succeeding year. In those counties which have not waived the annual application requirement, the taxpayer is required to reapply on the short form as provided in section 196.011(5), Florida Statutes. If the taxpayer received the exemption for the prior year, the property may qualify for the exemption in each succeeding year by renewal application as provided in section 196.011(6), Florida Statutes, or by county waiver of the annual application requirement as provided in section 196.011(9), Florida Statutes.

(4) Each new applicant for an exemption under sections 196.031, 196.081, 196.091, 196.101, or 196.202, Florida Statutes, must provide his or her social security number and the social security number of his or her spouse, if any, in the applicable spaces provided on the application form, Form DR-501 (incorporated by reference in Rule 12D-16.002). Failure to provide such numbers will render the application incomplete. If an applicant omits the required social security numbers and files an otherwise complete application, the property appraiser shall contact that applicant and afford the applicant the opportunity to file a complete application on or before April 1. Failure to file a completed application on or before April 1 shall constitute a waiver of the exemption for that tax year, unless the applicant can demonstrate that failure to timely file a completed application was the result of a postal error or, upon filing a timely petition to the value adjustment board, that the failure was due to extenuating circumstances as provided in section 196.011, Florida Statutes.

(5) In those counties which permit the automatic renewal of homestead exemption, the property appraiser may request a refiling of the application in order to obtain the social security number of the applicant and the social security number of the applicant's spouse.

12D-7.002. Exemption of Household Goods and Personal Effects.

Only household goods and personal effects of the taxpayer which are actually employed in the use of serving the creature comforts of the owner and not held for commercial purposes are entitled to the exemption provided by section 196.181, Florida Statutes. "Creature comforts" are things which give bodily comfort, such as food, clothing and shelter. Commercial purposes includes owning household goods and personal effects as stock in trade or as furnishings in rental dwelling units.

12D-7.003. Exemption of Property of Widows, Widowers, Blind Persons, and Persons Totally and Permanently Disabled; Disabled Ex-Service Members, Spouses.

(1) For the purposes of the exemption provided in Section 196.202, Florida Statutes:

(a) The provisions of this rule shall apply to widows and widowers. The terms "widow" and "widower" shall not apply to:

1. A divorced woman or man;
2. A widow or widower who remarries; or
3. A widow or widower who remarries and is subsequently divorced.

(b) The term "widow" shall apply to a woman, and the term "widower" shall apply to a man, whose subsequent remarriage is terminated by annulment.

(c) Blind persons means those persons who are currently certified by the Division of Blind Services of the Department of Education or the Federal Social Security Administration or United States Department of Veterans Affairs to be blind. As used herein "blind person" shall mean an individual having central vision acuity 20/200 or less in the better eye with correcting glasses or a disqualifying field defect in which the peripheral field has contracted to such an extent that the widest diameter or visual field subtends an angular distance no greater than twenty degrees.

(d) The exemptions provided under Section 196.202, Florida Statutes, shall be cumulative. An individual who properly qualifies under more than one classification shall be granted more than one five hundred dollar exemption. However, in no event shall the exemption under Section 196.202, Florida Statutes, exceed one thousand five hundred dollars (\$1,500) for an individual.

(e) Where both husband and wife otherwise qualify for the exemption each would under Section 196.202, Florida Statutes, be entitled to an exemption of five hundred dollars applicable against the value of property owned by them as an estate by the entirety.

(2)(a) The \$5,000 exemption granted by Section 196.24, Florida Statutes, to disabled ex-service members, as defined in Section 196.012, Florida Statutes, who were discharged under honorable conditions, shall be considered to be the same constitutional disability exemption provided for by Section 196.202, Florida Statutes. The unremarried surviving spouse of such a disabled ex-service member who was married to the ex-service member for at least 5 years at the time of the ex-service member's death is allowed the exemption.

(b) The exemptions under Sections 196.202 and 196.24, Florida Statutes, shall be cumulative, but in no event shall the aggregate exemption exceed \$6,000 for an individual.

(3) The exemptions granted by Sections 196.202 and 196.24, Florida Statutes, apply to any property owned by a bona fide resident of this state.

12D-7.004. Exemption for Certain Permanently and Totally Disabled Veterans and Surviving Spouses of Certain Veterans.

(1) This rule applies to the total exemption from taxation of the homestead property of a veteran who was honorably discharged and who has a service-connected total and permanent disability and of surviving spouses of veterans who died from service-connected causes while on active duty as a member of the United States Armed Forces as described in section 196.081, Florida Statutes.

(2) The disabling injury of a veteran or death of a veteran while on active duty must be service-connected in order for the veteran or surviving spouse to be entitled to the exemption. The veteran, his or her spouse, or surviving spouse must have a letter from the United States Government or from the United States Department of Veterans Affairs or its predecessor certifying that the veteran has a service-connected total and permanent disability or that the death of the veteran resulted from service-connected causes while on active duty.

(3) A service-connected disability is not required to be total and permanent at the time of honorable discharge but must be total and permanent on January 1 of the year of application for the exemption or on January 1 of the year during which the veteran died.

(4)(a) This paragraph shall apply where the deceased veteran possessed the service-connected permanent and total disability exemption upon death. The exemption shall carry over to the veteran's spouse if the following conditions are met:

1. The veteran predeceases the spouse;
2. The spouse continues to reside on the property and use it as his or her primary residence;
3. The spouse does not remarry; and
4. The spouse holds legal or beneficial title.

(b) This paragraph shall apply where the deceased veteran was totally and permanently disabled with a service-connected disability at the time of death but did not possess the exemption upon death. The surviving spouse is entitled to the exemption if the following conditions are met:

1. The veteran predeceases the spouse;
2. The spouse continues to reside on the property and use it as his or her primary residence;
3. The spouse does not remarry;
4. The spouse holds legal or beneficial title; and
5. The spouse produces the required letter of disability.

(c) This paragraph shall apply where the veteran died from service-connected causes while on active duty. The surviving spouse is entitled to the exemption if the following conditions are met:

1. The veteran was a permanent resident on January 1 of the year in which the veteran died;
2. The spouse continues to reside on the property and use it as his or her primary residence;
3. The spouse does not remarry;
4. The spouse holds legal or beneficial title; and

5. The spouse produces the required letter attesting to the service-connected death of the veteran while on active duty.

(5) The surviving spouse is entitled to the veteran's exemption if the surviving spouse establishes a new homestead after selling the homestead upon which the exemption was initially granted. In the event the spouse sells the property, the exemption, in the amount of the exempt value on the most recent tax roll on which the exemption was granted, may be transferred to his or her new homestead; however, the exemption cannot exceed the amount of the exempt value granted from the prior homestead.

(6) A surviving spouse is not entitled to the homestead assessment increase limitation on the homestead property unless the spouse's residence on the property is continuous and permanent, regardless of the potential applicability of a disabled or deceased veteran's exemption. Where the spouse transfers the exemption to a new homestead as provided in section 196.081(3), Florida Statutes, the property shall be assessed at just value as of January 1 of the year the property receives the transfer of the exempt amount from the previous homestead. The real property shall be considered to first receive the exemption pursuant to Rule 12D-8.0061(1), F.A.C.

12D-7.005. Exemption for Disabled Veterans Confined to Wheelchairs.

(1) Although the certificate of disability referred to in section 196.091(1), Florida Statutes, would be sufficient proof upon which the property appraiser could allow the tax exemption, this does not mean that the property appraiser could not deny such exemption if, upon his investigation, facts were disclosed which showed a lack of service-connected total disability.

(2)(a) This paragraph shall apply where the deceased veteran possessed the exemption upon death. The exemption shall carry over to the veteran's spouse if the following conditions are met:

1. The veteran predeceases the spouse;
2. The spouse continues to reside on the property and use it as his or her domicile;
3. The spouse does not remarry; and
4. The spouse holds legal or beneficial title and held the property with the veteran by tenancy by the entireties at the veteran's death.

(b) Where the deceased veteran was totally and permanently disabled with a service-connected disability requiring use of a wheelchair at the time of the veteran's death but did not possess the exemption upon death, the surviving spouse is not entitled to the exemption.

(3) The surviving spouse is not entitled to the veteran's exemption if the spouse establishes a new homestead after selling the homestead upon which the exemption was initially granted.

(4) The surviving spouse is not entitled to the homestead assessment increase limitation on the homestead property unless the spouse's residence on the property is continuous and permanent, regardless of the potential applicability of a disabled veteran's exemption. In such circumstances, where the spouse remarries, as provided in section 196.091(3), Florida Statutes, the property shall continue to qualify for the homestead assessment increase limitation. Where the spouse sells or otherwise disposes of the property, it and

any new homestead the spouse may establish shall be assessed pursuant to Rule 12D-8.0061(1), F.A.C.

12D-7.006. Exemption for Totally and Permanently Disabled Persons.

- (1) This rule applies to the total exemption from taxation for the homestead property of a totally and permanently disabled person.
- (2) The homestead property of a quadriplegic is exempt.
- (3) To provide evidence of entitlement to the exemption, a quadriplegic must furnish to the property appraiser one of the following:
 - (a) A certificate of disability, Form DR-416 (incorporated by reference in Rule 12D-16.002, F.A.C.), from two doctors of this state licensed under Chapter 458 or Chapter 459, Florida Statutes; or
 - (b) A certificate of disability from the United States Department of Veterans Affairs or its predecessor.
- (4) Subject to the income limitations pursuant to section 196.101, Florida Statutes, and Form DR-501S, (incorporated by reference in Rule 12D-16.002, F.A.C.) the homestead property of a paraplegic, hemiplegic, or any other totally and permanently disabled person who must use a wheelchair for mobility or who is legally blind is exempt from ad valorem taxation.
- (5) To provide evidence of entitlement to the exemption, a paraplegic, hemiplegic, or other totally and permanently disabled person who must use a wheelchair, or a person who is legally blind must furnish to the property appraiser, the following:
 - (a) A certificate of disability, Form DR-416 (incorporated by reference in Rule 12D-16.002, F.A.C.), from two doctors of this state licensed under Chapter 458 or Chapter 459, Florida Statutes; or
 - (b) A certificate of disability from the United States Department of Veterans Affairs or its predecessor; and
 - (c) A Statement of Gross Income, Form DR-501A (incorporated by reference in Rule 12D-16.002, F.A.C.).
- (6) Totally and permanently disabled persons must make application on Form DR-501, (incorporated by reference in Rule 12D-16.002, F.A.C.) in conjunction with the disability documentation, with the property appraiser on or before March 1 of each year.
- (7) In order to qualify for the homestead exemption under this rule section, the totally and permanently disabled person must have been a permanent resident on January 1 of the year in which the exemption is claimed.
- (8) The exemption documentation required of permanently and totally disabled persons is prima facie evidence of the fact of entitlement to the exemption; however, the property appraiser may deny the exemption if, upon his investigation, facts are disclosed which show absence of sufficient disability for the exemption.

12D-7.007. Homestead Exemptions -- Residence Requirement.

(1) For one to make a certain parcel of land his permanent home, he must reside thereon with a present intention of living there indefinitely and with no present intention of moving therefrom.

(2) A property owner who, in good faith, makes real property in this state his permanent home is entitled to homestead tax exemption, notwithstanding he is not a citizen of the United States or of this State. (Smith v. Voight, 28 So.2d 426 (Fla. 1946)).

(3) A person in this country under a temporary visa cannot meet the requirement of permanent residence or home and, therefore, cannot claim homestead exemption.

(4) A person not residing in a taxing unit but owning real property therein may claim such property as tax exempt under Section 6, Article VII of the State Constitution by reason of residence on the property of natural or legal dependents provided he can prove to the satisfaction of the property appraiser that he claims no other homestead tax exemption in Florida for himself or for others legally or naturally dependent upon him for support. It must also be affirmatively shown that the natural or legal dependents residing on the property which is claimed to be exempt by reason of a homestead are entirely or largely dependent upon the landowner for support and maintenance.

(5) The Constitution contemplates that one person may claim only one homestead exemption without regard to the number of residences owned by him and occupied by "another or others naturally dependent upon" such owner. This being true no person residing in another county should be granted homestead exemption unless and until he presents competent evidence that he only claims homestead exemption from taxation in the county of the application.

(6) The survivor of a deceased person who is living on the property on January 1 and making same his permanent home, as provided by Section 6, Article VII of the Constitution is entitled to claim homestead exemption if the will of the deceased designates the survivor as the sole beneficiary. This is true even though the owner died before January 1 and by the terms of his will declared the sole beneficiary as the executor of his will. The application should be signed as sole beneficiary and as executor.

(7) A married woman and her husband may establish separate permanent residences without showing "impelling reasons" or "just ground" for doing so. If it is determined by the property appraiser that separate permanent residences and separate "family units" have been established by the husband and wife, and they are otherwise qualified, each may be granted homestead exemption from ad valorem taxation under Article VII, Section 6, 1968 State Constitution. The fact that both residences may be owned by both husband and wife as tenants by the entireties will not defeat the grant of homestead ad valorem tax exemption to the permanent residence of each.

12D-7.008. Homestead Exemptions -- Legal or Equitable Title.

(1) The Constitution requires that the homestead claimant have the legal title or beneficial title in equity to the real property claimed as his tax-exempt homestead. Section 196.031(1), Florida Statutes, requires that the deed or other instrument to homestead property be recorded in order to qualify for homestead exemption.

(2) Vendees in possession of real estate under bona fide contracts to purchase shall be deemed to have equitable title to real estate.

(3) A recitation in a contract for the purchase and sale of real property, that the equitable title shall not pass until the full purchase price is paid, does not bar the purchaser thereof from claiming homestead exemption upon the same if he otherwise qualifies.

(4) Assignment of a contract for deed to secure a loan will not defeat a claim for homestead exemption by the vendee in possession.

(5) A forfeiture clause in a contract for deed for non-payment of installments will not prevent the vendee from claiming homestead exemption.

(6) A vendee under a contract to purchase, in order to be entitled to homestead exemption, must show that he is vested with the beneficial title in the real property by reason of said contract and that his possession is under and pursuant to such contract.

(7) A grantor may not convey property to a grantee and still claim homestead exemption even though there is a mutual agreement between the two that the deed is not to be recorded until some date in the future. The appraiser is justified in presuming that the delivery took place on the date of conveyance until such evidence is presented showing otherwise sufficient to overcome such presumption. The appraiser may back assess the property upon discovery that the exemption was granted erroneously.

(8) A person who owns a leasehold interest in either a residential or a condominium parcel pursuant to a bona fide lease, having an original term of 98 years or more, shall be deemed to have legal or beneficial and equitable title to that property for the purpose of homestead exemption and no other purpose.

12D-7.009. Homestead Exemptions -- Life Estates.

(1) A life estate will support a claim for homestead exemption.

(2) Where the owner of a parcel of real property conveys it to another who is a member of a separate family unit retaining a life estate in an undivided one-half interest therein, and each of such parties make their permanent homes in separate residential units located upon the said property, each would be entitled to homestead exemption on that part of the land occupied by them and upon which they make their permanent home.

12D-7.010. Homestead Exemptions -- Remainders.

(1) A future estate, whether vested or contingent, will not support a claim for homestead exemption during the continuance of a prior estate. (*Aetna Insurance Co. v. La Gasse*, 223 So.2d 727 (Fla. 1969)).

(2) If the remainderman is in possession of the property during a prior estate, he must be claiming such right to possession under the prior estate and not by virtue of his own title;

it must be presumed that the right granted under the life estate is something less than real property and incapable of supporting a claim for homestead exemption.

12D-7.011. Homestead Exemptions -- Trusts.

The beneficiary of a passive or active trust has equitable title to real property if he is entitled to the use and occupancy of such property under the terms of the trust; therefore, he has sufficient title to claim homestead exemption. AGO 90-70. Homestead tax exemption may not be based upon residence of a beneficiary under a trust instrument which vests no present possessory right in such beneficiary.

12D-7.012. Homestead Exemptions -- Joint Ownership.

- (1) No residential unit shall be entitled to more than one homestead tax exemption.
- (2) No family unit shall be entitled to more than one homestead tax exemption.
- (3) No individual shall be entitled to more than one homestead tax exemption.
- (4)(a) This paragraph shall apply where property is held by the entireties or jointly with a right of survivorship.
 1. Provided no other co-owner resides on the property, a resident co-owner of such an estate, if otherwise qualified, may receive the entire exemption.
 2. Where another co-owner resides on the property, in the same residential unit, the resident co-owners of such an estate, if otherwise qualified, must share the exemption in proportion to their ownership interests.
- (b) Where property is held jointly as a tenancy in common, and each co-owner makes their residence in a separate family unit and residential unit on such property, each resident co-owner of such an estate, if otherwise qualified, may receive the exemption in the amount of the assessed value of his or her interest, up to \$25,000. No tenant in common shall receive the homestead tax exemption in excess of the assessed valuation of the proportionate interest of the person claiming the exemption.
- (5) Property held jointly will support multiple claims for homestead tax exemption; however, only one exemption will be allowed each residential unit and no family unit will be entitled to more than one exemption.
- (6)(a) Where a parcel of real property, upon which is located a residential unit held by "A" and "B" jointly as tenants in common or joint tenants without a right of survivorship, and "A" makes his permanent home upon the said property, but "B" resides and makes his permanent home elsewhere, "A" may not claim as exempt more than his interest in the property up to a total of \$25,000 of assessed valuation on which he is residing and making the same his permanent home. The remainder of the interest of "A" and the interest of "B" would be taxed, without exemption, because "B" is not residing on the property or making the same his permanent residence.
 - (b) If that same parcel were held by "A" and "B" as joint tenants with a right of survivorship or tenants by the entirety under the circumstances described above, "A" would be eligible for the entire \$25,000 exemption.
- (7) In the situation where two or more joint owners occupy the same residential unit, a single homestead tax exemption shall be apportioned among the owners as their respective interests may appear.

12D-7.013. Homestead Exemptions -- Abandonment.

(1) Temporary absence from the homestead for health, pleasure or business reasons would not deprive the property of its homestead character. (*Lanier v. Lanier*, 116 So. 867 (Fla. 1928)).

(2) When a resident and citizen of Florida, now entitled to tax exemption under Section 6, Article VII of the State Constitution upon certain real property owned and occupied by him, obtains an appointment of employment in Federal Government services that requires him to reside in Washington, District of Columbia, he does not lose his right to homestead exemption if his absence is temporary. He may not, however, acquire another homestead at the place of his employment, nor may he rent the property during his absence as this would be considered abandonment under section 196.061, Florida Statutes.

(3) Temporary absence, regardless of the reason for such, will not deprive the property of its homestead character, providing an abiding intention to return is always present. This abiding intention to return is not to be determined from the words of the homesteader, but is a conclusion to be drawn from all the applicable facts. (*City of Jacksonville v. Bailey*, 39 So.2d 529 (Fla. 1947)).

(4) Commitment to an institution as an incompetent will not of itself constitute an abandonment of homestead rights.

(5) Property used as a residence and also used by the owner as a place of business does not lose its homestead character.

(a) The head of the family occupying the second story of a building as his home and the first story of the building as his business house is entitled to claim homestead exemption on the building, except that portion not used by him either as his business house or as his home. Any portion of the property not used as his business house may not be exempted as a homestead. In other words, if any portion of the first floor or second floor of the building is rented to another party and used by the other party for other purposes, it would not be within the exemption provided for under Article VII of the State Constitution. (*Smith v. Guckenheimer*, 27 So. 900 (Fla. 1900)).

(b) The two uses should be separated with that used as a residence and business house being granted the exemption and the remainder being taxed.

12D-7.0135. Homestead Exemptions -- Mobile Homes.

(1) For purposes of qualifying for the homestead exemption, the mobile home must be determined to be permanently affixed to realty, as provided in rule Chapter 12D-6, F.A.C. Otherwise the applicant must be found to be making his permanent residence on realty.

(2) Where a mobile home owner utilizes a mobile home as a permanent residence and owns the land on which the mobile home is located, the owner may, upon proper application, qualify for a homestead exemption.

(3) Joint tenants holding an undivided interest in residential property are each entitled to a full homestead exemption to the extent of each joint tenant's interest, provided all requisite conditions are met. Joint tenants owning a mobile home qualify for a homestead

exemption even though the property on which the mobile home is located is owned in joint tenancy by more persons than just those who own the mobile home. Each separate residential or family unit is entitled to a homestead exemption. The value of the applicant's proportionate interest in the land shall be added to the value of the applicant's proportionate interest in the mobile home and this value may be exempted up to the statutory limit.

(4) If a mobile home is owned as an estate by the entireties, the homestead exemptions of section 196.031, Florida Statutes, and the additional homestead exemptions are applicable if either spouse qualifies.

(5) No homestead exemption shall be allowed by the property appraiser if there is no current license sticker on January 1, unless the property appraiser determines prior to the July 1 deadline for denial of the exemption that the mobile home was in fact permanently affixed on January 1 to real property and the owner of the mobile home is the same as the owner of the land.

12D-7.014. Homestead Exemptions -- Civil Rights.

(1) Although loss of suffrage is one consequence of a felony conviction, the person so convicted is not thereby deprived of his right to obtain homestead exemption.

(2) An unmarried minor whose disabilities of non-age have not been removed may not maintain a permanent home away from his parents such as to entitle him or her to homestead exemption. (Beckman v. Beckman, 43 So. 923 (Fla. 1907)).

12D-7.0143. Additional Homestead Exemption Up to \$25,000 for Persons 65 and Older Whose Household Income Does Not Exceed \$20,000 Per Year.

(1) The following procedures shall apply in counties and municipalities that have granted an additional homestead exemption up to \$25,000 for persons 65 and older on January 1, whose household adjusted gross income for the prior year does not exceed \$20,000, adjusted beginning January 1, 2001, by the percentage change in the average cost-of-living index.

(2) A taxpayer claiming the additional exemption is required to submit a sworn statement of adjusted gross income of the household (Form DR-501SC, Sworn Statement of Adjusted Gross Income of Household and Return, incorporated by reference in Rule 12D-16.002, F.A.C.) to the property appraiser by March 1, comprising a confidential return of household income for the specified applicant and property. The sworn statement must be supported by copies of the following documents to be submitted for inspection by the property appraiser:

- (a) Federal income tax returns for the prior year for each member of the household, which shall include the federal income tax returns 1040, 1040A, and 1040EZ, if any; and
- (b) Any request for an extension of time to file federal income tax returns; and
- (c) Any wage earnings statements for each member of the household, which shall include Forms W-2, RRB-1042S, SSA-1042S, 1099, 1999A, RRB 1099 and SSA-1099, if any.

(3) Proof of age shall be prima facie established for persons 65 and older by submission of one of the following: certified copy of birth certificate; drivers license or Florida identification card; passport; life insurance policy in effect for more than two years; marriage certificate; Permanent Resident Card (formerly known as Alien Registration Card); certified school records; or certified census record. In the absence of one of these forms of identification, the property appraiser may rely on appropriate proof.

(4) Supporting documentation is not required to be submitted with the sworn statement for renewal of the exemption, unless requested by the property appraiser.

(5) The property appraiser may not grant or renew the exemption if the required documentation including what is requested by the property appraiser is not provided.

12D-7.015. Educational Exemption.

(1) Actual membership in or a bona fide application for membership in the accreditation organizations or agencies enumerated in Section 196.012(5), Florida Statutes, shall constitute prima facie evidence that the applicant is an educational institution, the property of which may qualify for exemption.

(2) If the aforementioned application has not been made, the property appraiser in determining whether the requirements of Section 196.198, Florida Statutes, have been satisfied may consider information such as that considered by the accreditation organizations or agencies enumerated in Section 196.012(5), Florida Statutes, in granting membership, certification, or accreditation.

(3) A child care facility that achieves Gold Seal Quality status under Section 402.281, Florida Statutes, and that is either licensed under Section 402.305, Florida Statutes, or exempt from licensing under Section 402.316, Florida Statutes, is considered an educational institution for the education exemption from ad valorem tax.

(4) Facilities, or portions thereof, used to house a charter school which meet the qualifications for exemption are exempt from ad valorem taxation as provided under Section 196.1983, Florida Statutes.

(5) An institution of higher education participating in the Higher Educational Facilities Financing Act, created under Chapter 2001-79, Laws of Florida, is considered an educational institution for exemption from ad valorem tax. An institution of higher education, as defined, means an independent nonprofit college or university which is located in and chartered by the state; which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; which grants baccalaureate degrees; and which is not a state university or state community college.

12D-7.0155. Enterprise Zone Exemption for Child Care Facilities.

The production by the operator of a child care facility, as defined in section 402.302, Florida Statutes, of a current license by the Department of Children and Family Services or local licensing authority and certification of the child care facility's application by the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the child care facility is located, is prima facie evidence that the facility owner is entitled to exemption. To receive such certification, the facility must file an application under oath with the governing body or enterprise zone development

agency having jurisdiction over the enterprise zone where the child care center is located. Form DR-418E, (incorporated by reference in Rule 12D-16.002, F.A.C.) shall be used for this purpose.

12D-7.016. Governmental Exemptions.

(1) State property used for a governmental purpose shall include such property used for a purpose for the benefit of the people of this state and which is essential to the existence of the state as a governmental agency or serves a function or purpose which would otherwise be a valid allocation of public funds.

(2) Real property of a county authority utilized for a governmental purpose shall be exempt from taxation. (*Hillsborough Co. Aviation Authority v. Walden*, 210 So.2d 193 (Fla. 1968)).

(3) Exclusive use of property for a municipal purpose shall be construed to mean a public purpose and exemption shall inure to the property itself, wherever located within the state when owned and used for municipal purposes. (*Gwin v. City of Tallahassee*, 132 So.2d 273 (Fla. 1961); *Overstreet v. Indian Creek Village*, 248 So.2d 2 (Fla. 1971)).

(4) Property exempt from ad valorem taxation as property of the United States includes:

- (a) Any real property received or owned by the National Park Foundation.
- (b) Any real property held by the Roosevelt Campobello International Park Commission.
- (c) Any real property of the United States Housing Authority.

(5) Property not exempt from ad valorem taxation as property of the United States includes:

- (a) Real property of federal and joint-stock land banks, national farm loan associations and federal land bank associations.
- (b) Real property of national banking associations.
- (c) Real property of federal home loan banks.
- (d) Real property of federal savings and loan associations.
- (e) Real property of federal credit unions.
- (f) Leasehold interests in certain housing projects located on property held by the federal government. (*Offutt Housing Co. v. Sarpy*, 351 U.S. 253, 256).
- (g) Real property of federal home loan mortgage corporations.
- (h) Any real property acquired by the Secretary of Housing and Urban Development as a result of reinsurance pursuant to actions of the National Insurance Development Fund.
- (i) Real property of Governmental National Mortgage Association and National Mortgage Association.

(6) Leasehold interests in governmentally owned real property used in an aeronautical activity as a full-service fixed-base operation which provides goods and services to the general aviation public in the promotion of air commerce are exempt from ad valorem taxation, provided the real property is designated as an aviation area which has aircraft taxiway access to an active runway for take-off on an airport layout plan approved by the Federal Aviation Authority.

- (a) A fixed-base operator is an individual or firm operating at an airport and providing general aircraft services such as maintenance, storage, ground and flight

instruction. See Appendix 5, Federal Aviation Authority Order 5190.6A.

(b) An "aeronautical activity" has been defined as any activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of such operation. See Federal Aviation Authority Advisory Circular 150/5190-1A. The following examples are not considered aeronautical activities: ground transportation (taxis, car rentals, limousines); hotels and motels; restaurants; barber shops; travel agencies and auto parking lots.

12D-7.017. Exemption of Homes for the Aged. (REPEALED)

12D-7.018. Fraternal and Benevolent Organizations.

(1) The property of non-profit fraternal and benevolent organizations is entitled to full or predominant exemption from ad valorem taxation when used exclusively or predominantly for charitable, educational, literary, scientific or religious purposes. The extent of the exemption to be granted to fraternal and benevolent organizations shall be determined in accordance with those provisions of Chapter 196, Florida Statutes, which govern the exemption of all property used for charitable, educational, literary, scientific or religious purposes.

(2) The exclusive or predominant use of property or portions of property owned by fraternal and benevolent organizations and used for organization, planning, and fund-raising activity under section 196.193(3), Florida Statutes, for charitable purposes constitutes the use of the property for exempt purposes to the extent of the exclusive or predominant use. The incidental use of said property for social, fraternal, or similar meetings shall not deprive the property of its exempt status. It is not necessary that public funds actually be allocated for such function or service pursuant to section 196.012(7), Florida Statutes.

(3) Any part or portion of the real or personal property of a fraternal or benevolent organization leased or rented for commercial or other non-exempt purposes, or used by such organization for commercial purposes, such as a bar, restaurant, or swimming pool, shall not be exempt from ad valorem taxes but shall be taxable to the extent specified in sections 196.192 and 196.012(3), Florida Statutes. In determining commercial purposes, pursuant to sections 196.195(2)(e) and 196.196(1)(b), Florida Statutes, the reasonableness of the charges in relation to the value of the services shall be considered as well as whether the excess is used to pay maintenance and operational expenses in furthering the exempt purposes or to provide services to persons unable to pay for the services.