

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
EMERGENCY RULE 12DER09-XX

12DER09-XX Notice of Change of Ownership or Control of Non-Homestead Property.

(1) This rule provides procedures regarding notification to the property appraiser of any change of ownership or control under section 6 of Chapter 2008-173, Laws of Florida (Senate Bill 1588), amending section 193.1556, Florida Statutes, (as created by section 14 of Chapter 2007-339, Laws of Florida). These laws place additional duties on certain landowners and local government officials.

(2)(a) Any person or entity that owns non-homestead property that is currently receiving, or subject to receiving, the 10 percent assessment increase limitation under section 193.1554 or 193.1555, Florida Statutes, must promptly notify the property appraiser of the county where the property is located of any change of ownership or control as defined in sections 193.1554(5) and 193.1555(5), Florida Statutes.

(b) This notification is required for non-homestead property that has changed ownership or control after the January 1 when the property was most recently assessed at just value. This notification is required for changes in ownership or control occurring after January 1, 2008.

(3) As provided in sections 193.1554(5) and 193.1555(5), Florida Statutes, a change of ownership or control means:

(a) any sale, foreclosure, transfer of legal title or beneficial title in equity to any person,

or;

(b) the cumulative transfer of control of more than fifty (50) percent of the ownership of the legal entity that owned the property when it was most recently assessed at just value.

(4)“Controlling ownership rights”, for purposes of a transfer of control, means voting capital stock or other ownership interest that legally carries voting rights or the right to participate in management and control of the legal entity’s activities. The term also includes an ownership interest in property owned by a limited liability company or limited partnership that is treated as owned by its sole member or sole general partner.

(5)(a) There is a cumulative transfer of control of the legal entity that owns the property when any of the following occurs:

1. the ownership of the controlling ownership rights changes, which results in either:
a. a shareholder or other owner that owned fifty (50) percent or less of the controlling ownership becomes an owner of more than fifty (50) percent of the controlling ownership; or
b. a shareholder or other owner that owned more than fifty (50) percent of the controlling ownership rights becomes an owner of less than fifty (50) percent of the controlling ownership rights.

2.a. there is a change of all general partners or
b. within all general partners the ownership of the controlling ownership rights changes as described in subparagraph 1 above.

(b) If the articles of incorporation and bylaws or other governing organizational documents of a legal entity require a two-thirds majority or other supermajority vote of voting shareholders or other owners in order to approve a decision, the supermajority shall be used instead of fifty (50) percent for purposes of paragraph (a) above.

(c) An owner of non-homestead property that has changed ownership or control after the January 1 when the property was most recently assessed at just value is required to notify the property appraiser of the change if any of the events described in this subsection occurs.

(6) There is no change of ownership if:

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

(b) the transfer is between legal and equitable title; or

(c) for "non-homestead residential property" as defined in section 193.1554(1), Florida Statutes, the transfer is between husband and wife, including a transfer to a surviving spouse or a transfer due to a dissolution of marriage. This paragraph does not apply to non-residential property that is subject to section 193.1555, Florida Statutes.

(7)(a) For changes of ownership or control, as referenced in subsection (3) of this rule, occurring after January 1, 2008, the owner must complete and send Form DR-430, Notice of Change of Ownership or Control, Non-Homestead Property, (N.xx/09), to the property appraiser unless a deed or other instrument of title has been recorded in the county where the parcel is located. Form DR-430, Notice of Change of Ownership or Control, Non-Homestead Property is adopted by the Department of Revenue and incorporated in this rule by reference. A separate Form DR-430 must be completed and sent for each parcel of non-homestead property that changed ownership or control. If one owner completes and sends a Form DR-430 to the property appraiser, another owner is not required to send an additional Form DR-430.

(b) Beginning on January 1, 2009, and on each succeeding January 1, property assessed under sections 193.1554 and 193.1555, Florida Statutes, must be assessed at just value if the property had a change of ownership or control since the January 1 when the property was most recently assessed at just value.

(c) Beginning January 1, 2009, the property appraiser is required to record a tax lien on any property owned by a person or entity that was granted but not entitled to the property assessment limitation under section 193.1554 or 193.1555, Florida Statutes.

(d) The property appraiser shall use the Form DR-430 to assess property as provided in sections 193.1554, 193.1555, and 193.1556, Florida Statutes. For listing ownership on the assessment rolls, the property appraiser shall not use Form DR-430 as a substitute for a deed or other instrument of title in the public records.

(8) Copies of these forms are available, without cost, by downloading selected forms from the Department's Internet website at:

<http://dor.myflorida.com/dor/property/amendment1.html>. Persons with hearing or speech impairments may call the Department's TDD at (800) 367-8331.

Rulemaking Authority Section 13 of Ch. 2008-173, L.O.F. (Senate Bill 1588), Law Implemented 193.1554, 193.1555, 193.1556, FS History –New-XX/XX/09.