

To: Property Appraisers, Tax Collectors, Clerks of the Court, Boards of County Commissioners, Taxing Authorities, and Interested Parties
From: Property Tax Oversight Program
Date: June 11, 2020
Bulletin: PTO 20-04

**FLORIDA DEPARTMENT OF REVENUE
PROPERTY TAX INFORMATIONAL BULLETIN**

**Exemption of Affordable Housing Property;
Provisions for Vacant Units Effective for 2020;
Provisions for Limited Liability Company Property and Occupied Units
Which No Longer Meet Income Limits Effective for 2021**

The 2020 Legislature enacted two amendments to section 196.1978(1), F.S. in Chapter 2020-10, section 10, Laws of Florida (HB 7097), effective upon becoming a law April 8, 2020 and operating retroactive to January 1, 2020; and in Chapter 2020-10, section 11, Laws of Florida, effective January 1, 2021.

Section 10 amended section 196.1978(1), F.S., to provide additional criteria for the exemption of affordable housing property. This amendment treats vacant units as exempt portions of the affordable housing property. These criteria are: if a recorded land use restriction agreement requires all residential units within the property to be used in a manner that qualifies for the exemption under this subsection and if the vacant units are being offered for rent.

Section 11 amended section 196.1978(1), F.S., to expressly provide legislative intent for affordable housing property where a sole member of a limited liability company that owns the property is also a limited liability company that is disregarded as an entity for federal income tax purposes. In this case, the property will be treated as owned by the sole member of the limited liability company that owns the limited liability company that owns the property. Also, units whose occupants' income no longer meet the income limits, but whose income met the income limits at the time they became tenants, shall be treated as exempt portions of the affordable housing property.

The text of these two amendments is as follows (words ~~stricken~~ are deletions; words underlined are additions):

Section 10. Effective upon becoming a law and operating retroactively to January 1, 2020, subsection (1) of section 196.1978, Florida Statutes, is amended to read:

196.1978 Affordable housing property exemption.—

(1) Property used to provide affordable housing to eligible persons as defined by s. 159.603 and natural persons or families meeting the extremely low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004, which is owned entirely by a nonprofit entity that is a corporation not for profit, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-

32, 1996-1 C.B. 717, is considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property that provide housing to natural persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 are exempt from ad valorem taxation to the extent authorized under s. 196.196. All property identified in this ~~subsection~~ ~~section~~ must comply with the criteria provided under s. 196.195 for determining exempt status and applied by property appraisers on an annual basis. The Legislature intends that any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole member. **Units that are vacant shall be treated as portions of the affordable housing property exempt under this subsection if a recorded land use restriction agreement in favor of the Florida Housing Finance Corporation or any other governmental or quasi-governmental jurisdiction requires that all residential units within the property be used in a manner that qualifies for the exemption under this subsection and if the units are being offered for rent.**

Section 11. Effective January 1, 2021, subsection (1) of section 196.1978, Florida Statutes, as amended by this act, is amended to read:

196.1978 Affordable housing property exemption.—

(1) Property used to provide affordable housing to eligible persons as defined by s. 159.603 and natural persons or families meeting the extremely low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004, which is owned entirely by a nonprofit entity that is a corporation not for profit, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property that provide housing to natural persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 are exempt from ad valorem taxation to the extent authorized under s. 196.196. All property identified in this subsection must comply with the criteria provided under s. 196.195 for determining exempt status and applied by property appraisers on an annual basis. The Legislature intends that any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole member. **If the sole member of the limited liability company that owns the property is also a limited liability company that is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii), the Legislature intends that the property be treated as owned by the sole member of the limited liability company that owns the limited liability company that owns the property.** Units that are vacant **and units that are occupied by natural persons or families whose income no longer meets the income limits of this subsection, but whose income met those income limits at the time they became tenants,** shall be treated as portions of the affordable housing property exempt under this subsection if a recorded land use restriction agreement in favor of the Florida Housing Finance Corporation or any other governmental or quasi-governmental jurisdiction requires that all residential units within the property be used in a manner that

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qualifies for the exemption under this subsection and if the units are being offered for rent.

The full text of the law changes is available at <http://laws.flrules.org/2020/10>.

The Department of Revenue has provided this bulletin for your general information. Please distribute to your staff who may be affected by the changes in the law. If you have questions about its contents, please send them to DORPTO@floridarevenue.com.