



Frequently Asked Questions for the Exemption of Affordable Housing Property, Implementing Sections 196.1978 and 196.1979, Florida Statutes

- 1. Q: Does the exemption under section 196.1978 or 196.1979, Florida Statutes (F.S.), apply to a portion of the land? If so, how does the property appraiser calculate or allocate the land value?**

A: The following statutes provide information on applying the exemption:

 - a. Section 196.1978(1)(a), F.S.: Explicitly allows portions of property used to provide affordable housing to qualify for the exemption. If a property appraiser makes a determination that portions of the property include the land and improvements and meet the statutory criteria, those portions could be determined to be exempt.
 - b. Section 196.1978(1)(b), F.S.: For land owned by a nonprofit and leased for a minimum of 99 years, the statute requires a predominant use of affordable housing to qualify for the exemption. The land must be predominantly used for qualifying purposes to be entirely exempt. Apportionment under this subsection is not contemplated.
 - c. Section 196.1978(3), F.S.: Explicitly allows portions of property used to provide affordable housing in a newly constructed multifamily project to qualify for the exemption. If a property appraiser makes a determination that portions of the property include the land and improvements and meet the statutory criteria, those portions could be determined to be exempt.
 - d. Section 196.1979, F.S.: Explicitly allows the governing board of a municipality to exempt portions of property used to provide affordable housing. If a property appraiser makes a determination that portions of the property include land and improvements and meet the statutory criteria, those portions could be determined to be exempt.
- 2. Q: Section 196.1979(1)(b)2, F.S., refers to “...100 percent of the assessed value is exempt if 100 percent of the multifamily project’s residential units are used to provide affordable housing.” Does this mean that 100 percent of the land will be exempt?**

A: Yes, if the property appraiser makes a determination that the land or some portion of the land is also 100 percent used to provide affordable housing.
- 3. Q: Does the exemption apply to a portion of the property’s common areas? If so, how does the property appraiser calculate or allocate the value of the common areas?**

A: If the property appraiser makes a determination that all or portions of common area property are used to provide affordable housing to persons and families, such property could be determined to be wholly exempt or allocable on a per unit basis, accordingly.
- 4. Q: Does the exemption apply to the tangible personal property within the qualifying units?**

A: Yes, if the property appraiser makes a determination that the tangible personal property (TPP) is used to provide affordable housing. For example, this might include furnished apartments, storage rooms, etc.

5. **Q: If two local taxing authorities (county and city) enacted valid local ordinances and a property owner only applies to the municipal or county, would the exemption be applied to both? Or does the property appraiser need an application for each taxing authority?**

A: The exemption can only apply to the taxes levied by the unit of government granting the exemption, so each taxing authority must pass its own ordinance.

Section 196.1979(3)(f), F.S., states the county or city ordinance must “(f) Require the property owner to submit an application for exemption, on a form prescribed by the department, accompanied by the certification of qualified property, to the property appraiser no later than March 1.”

As currently drafted, the Department’s application form allows for a single application, that can be accompanied by a certification of qualified property by a city, and that can also be accompanied by a certification of qualified property by a county. This means that an applicant can file one application form and accompany the form by two certifications, one from the county and one from the city.

6. **Q: Does a property appraiser independently have the authority to verify the number of units that are eligible for the exemption or is the property appraiser compelled to accept at face value the number of units based on the Florida Housing Finance Corporation or a local housing agency certificate?**

A: The property appraiser may verify any information he/she needs to make a determination that the entity meets the statutory requirements in order to grant the exemption.

7. **Q: Is the property appraiser required to send a “Notice of Disapproval” to the property owner, notifying the property owner of the number of units that were denied and the basis for such denial? If so, does the property owner have the right to appeal the denial before the value adjustment board?**

A: The property appraiser should follow normal denial procedures and provide the taxpayer with the basis of a denial. The property owner has the right to appeal the denial before the value adjustment board.

8. **Q: If property owners have the right to appeal to the value adjustment board the number of units denied, who defends the denial if the denial is based on authorization from the respective taxing authority?**

A: The property appraiser defends challenges to an exemption or assessment. Section 196.193, F.S., says the property appraiser shall determine all exemption applications. The property appraiser would defend their decision based on the information in the property appraiser’s records demonstrating that statutory criteria were not met by the application for exemption.

9. **Q: Can the application be filed after March 1st deadline? If late filed, is the extenuating circumstance form required?**

A: The exemption application is subject to all provisions for late filed exemption applications that any other exemption application is subject.

An example is section 196.011(8), F.S.:

“(8) Any applicant who is qualified to receive any exemption under subsection (1) and who fails to file an application by March 1, must file an application for the exemption with the property appraiser on or before the 25th day following the mailing by the property appraiser of the notices

required under s. 194.011(1). Upon receipt of sufficient evidence, as determined by the property appraiser, demonstrating the applicant was unable to apply for the exemption in a timely manner or otherwise demonstrating extenuating circumstances judged by the property appraiser to warrant granting the exemption, the property appraiser may grant the exemption. If the applicant fails to produce sufficient evidence demonstrating the applicant was unable to apply for the exemption in a timely manner or otherwise demonstrating extenuating circumstances as judged by the property appraiser, the applicant may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the exemption be granted. Such petition must be filed 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).”

This statute was discussed in Attorney General Opinion 2021-83.

Rule 12D-9.015(13)(f), Florida Administrative Code, provides: “With respect to exemption or classification claims relating to an exemption or classification that is not reflected on the notice of property taxes, including late filed exemption claims, on or before the 25th day following the mailing of the notice of proposed property taxes, or on or before the 30th day following the mailing of the written notification of the denial of the exemption or classification, whichever date is later;”

See also section 200.069(7), F.S., relating to the TRIM notice [the notice by the property appraiser as provided in s. 194.011(1)]: “(7) The following statement shall appear after the values listed on the front of the second page: If you feel that the market value of your property is inaccurate or does not reflect fair market value, or if you are entitled to an exemption or classification that is not reflected above, contact your county property appraiser at ...(phone number)... or ...(location).... If the property appraiser’s office is unable to resolve the matter as to market value, classification, or an exemption, you may file a petition for adjustment with the Value Adjustment Board. Petition forms are available from the county property appraiser and must be filed ON OR BEFORE ...(date)....”
(*Emphasis added*).

10. Q: Currently, there is no requirement for the county or municipality to send their local ordinance to the property appraiser by a certain date. We believe a deadline is necessary in order to allow the property appraiser sufficient time to accept and process applications from property owners. For example, see section 196.075(6), F.S. Can we assume local ordinances passed after January 1 will apply to the subsequent year?

A: There is no deadline contemplated by the statute, it only states that the deadline to submit an application for certification must be published on the county or municipality’s website and allow adequate time for a property owner to make a timely application for exemption to the property appraiser by March 1. Section 196.1979(3)(d), F.S., says the ordinance must: “Require the local entity to verify and certify property that meets the requirements of the ordinance as qualified property and forward the certification to the property owner and the property appraiser.”

Therefore, it appears that the ordinance must be in place well before the deadline to submit an application for certification. The ordinance must direct publishing of that deadline, and the ordinance must allow adequate time before the deadline for owners to prepare and file the application for certification. The application for certification must be prepared by referring to the

ordinance and the application for certification must list property that meets the requirements of the ordinance as qualified property.

If an application is submitted to the property appraiser before the March 1 deadline, it must be reviewed accordingly. If there are concerns about the timeliness of the certifications, concerns should be addressed with the Florida Housing Finance Corporation and local taxing jurisdictions.

11. Q: Under section 196.1978 (1)(b), F.S., can the land receive an exemption for Non-Profit Land 99 Year Lease Exemption while the land is vacant? Can the land receive the exemption while the property is undergoing affirmative steps?

A: Yes. Section 196.196(5), F.S., provides an exemption for property owned by a 501(c)(3) that is taking affirmative steps to prepare the property to provide affordable housing to persons or families that meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004. Subsection 196.196(5)(b)1., F.S., refers to “property owned by an organization granted an exemption under this subsection”. That paragraph provides the property must not be “transferred for a purpose other than directly providing affordable homeownership or rental housing to persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004,” and must be “in actual use to provide such affordable housing within 5 years after the date the organization is granted the exemption.”

The 5-year limitation specified in this subsection may be extended if the holder of the exemption continues to take affirmative steps to develop the property for the purposes specified in this subsection.

The exemption in section 196.196(5), F.S., of property that is undergoing affirmative steps appears to be a standalone exemption which if met, would not be subject to the requirement in section 196.1978(1)(b), F.S., that the square footage of the improvements on the land providing affordable housing are greater than 50 percent of the square footage of all the improvements.

12. Q: For the Affordable Housing Land Exemption for Non-Profit, does the lessee also need to be not for profit to qualify for the exemption?

A: Section 196.1978(1)(b), F.S. does not state that the lessee must be non-profit. The property appraiser must make a determination that the property’s use is consistent with the requirements in s. 196.1978(1)(b), F.S.

This document is intended to alert you to the requirements contained in Florida laws. It does not by its own effect create rights or require compliance. Please refer to the Florida Statutes for further information.

Information pertaining to the Multifamily Middle Market Certification process can be found on the Florida Housing Finance Corporation’s website here [Multifamily Middle Market Certification \(floridahousing.org\)](https://www.floridahousing.org).