

By the Committee on Finance and Taxation; and Senator Margolis

314-2486C-04

1                                   A bill to be entitled  
2           An act relating to property tax; amending s.  
3           194.011, F.S.; revising requirements for  
4           petitioners and property appraisers with  
5           respect to providing evidence lists and  
6           documentation for proceedings of the value  
7           adjustment board; amending s. 194.032, F.S.;  
8           requiring that a petitioner be notified earlier  
9           of a scheduled appearance before the value  
10          adjustment board; amending s. 195.062, F.S.;  
11          authorizing the Department of Revenue to  
12          provide additional information in its update of  
13          the manual of instructions for property  
14          appraisers and other officials; repealing s.  
15          373.516, F.S., relating to the assessment of  
16          rights-of-way of railroads and other public  
17          service corporations; creating s. 689.261,  
18          F.S.; requiring a seller to give notice to the  
19          prospective purchaser of homestead property  
20          concerning ad valorem taxes on the property;  
21          specifying the form of notice; creating s.  
22          193.017, F.S.; providing for assessment of  
23          property used for affordable housing and  
24          subject to a low-income housing tax credit;  
25          amending s. 194.181, F.S.; authorizing a person  
26          other than the taxpayer to contest the  
27          assessment of any tax; designating the tax  
28          collector as the defendant with respect to  
29          questions relating to applications for tax  
30          deeds; amending s. 197.502, F.S.; providing for  
31          the escheatment of lands available for taxes;

1 defining the term "contiguous" for purposes of  
2 ch. 197, F.S.; providing that submerged  
3 sovereignty lands are not contiguous for  
4 purposes of certain notice requirements;  
5 requiring that a search of official records for  
6 purposes of obtaining a tax deed be made by a  
7 direct and inverse search; authorizing the tax  
8 collector to contract for higher limits of  
9 liability than otherwise provided; amending s.  
10 193.501, F.S.; clarifying a prohibition on the  
11 restriction of the normal use and maintenance  
12 of land that is subject to conservation  
13 restrictions; amending s. 1011.62, F.S.;  
14 prescribing the method by which the Department  
15 of Revenue is required to calculate the  
16 assessment level for purposes of equalizing the  
17 required local effort to fund the operation of  
18 schools; specifying that the provisions of the  
19 act apply to the assessment level for 2004 and  
20 after; ratifying any certification made under  
21 prior provisions of law; providing an effective  
22 date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Subsection (4) of section 194.011, Florida  
27 Statutes, is amended to read:

28 194.011 Assessment notice; objections to  
29 assessments.--

30 (4)(a) At least 15 ~~10~~ days before the hearing, the  
31 petitioner shall provide to the property appraiser a list of

1 evidence to be presented at the hearing, together with copies  
2 of all documentation to be considered by the value adjustment  
3 board and a summary of evidence to be presented by witnesses.

4 (b) No later than 7 5 days before the hearing, if  
5 ~~after~~ the petitioner has provided ~~provides~~ the information  
6 required under paragraph (a), and if requested in writing by  
7 the petitioner, the property appraiser shall provide to the  
8 petitioner a list of evidence to be presented at the hearing,  
9 together with copies of all documentation to be considered by  
10 the value adjustment board and a summary of evidence to be  
11 presented by witnesses. The evidence list must contain the  
12 property record card if provided by the clerk. Failure of the  
13 property appraiser to timely comply with the requirements of  
14 this paragraph shall result in a rescheduling of the hearing.

15 Section 2. Subsection (2) of section 194.032, Florida  
16 Statutes, is amended to read:

17 194.032 Hearing purposes; timetable.--

18 (2) The clerk of the governing body of the county  
19 shall prepare a schedule of appearances before the board based  
20 on petitions timely filed with him or her. The clerk shall  
21 notify each petitioner of the scheduled time of his or her  
22 appearance no less than 25 ~~20~~ calendar days prior to the day  
23 of such scheduled appearance. Upon receipt of this  
24 notification, the petitioner shall have the right to  
25 reschedule the hearing a single time by submitting to the  
26 clerk of the governing body of the county a written request to  
27 reschedule, no less than 5 calendar days before the day of the  
28 originally scheduled hearing. A copy of the property record  
29 card containing relevant information used in computing the  
30 taxpayer's current assessment shall be included with such  
31 notice, if said card was requested by the taxpayer. Such

1 request shall be made by checking an appropriate box on the  
2 petition form. No petitioner shall be required to wait for  
3 more than 4 hours from the scheduled time; and, if his or her  
4 petition is not heard in that time, the petitioner may, at his  
5 or her option, report to the chairperson of the meeting that  
6 he or she intends to leave; and, if he or she is not heard  
7 immediately, the petitioner's administrative remedies will be  
8 deemed to be exhausted, and he or she may seek further relief  
9 as he or she deems appropriate. Failure on three occasions  
10 with respect to any single tax year to convene at the  
11 scheduled time of meetings of the board shall constitute  
12 grounds for removal from office by the Governor for neglect of  
13 duties.

14 Section 3. Subsection (1) of section 195.062, Florida  
15 Statutes, is amended to read:

16 195.062 Manual of instructions.--

17 (1) The department shall prepare and maintain a  
18 current manual of instructions for property appraisers and  
19 other officials connected with the administration of property  
20 taxes. This manual shall contain all:

21 (a) Rules and regulations.

22 (b) Standard measures of value.

23 (c) Forms and instructions relating to the use of  
24 forms and maps.

25

26 Consistent with s. 195.032, the standard measures of value  
27 shall be adopted in general conformity with the procedures set  
28 forth in s. 120.54, but shall not have the force or effect of  
29 such rules and shall be used only to assist tax officers in  
30 the assessment of property as provided by s. 195.002.

31 Guidelines may be updated annually to incorporate new market

1 data, which may be in tabular form, technical changes, changes  
2 indicated by established decisions of the Supreme Court, and,  
3 if a summary of justification is set forth in the notice  
4 required under s. 120.54, other changes relevant to  
5 appropriate assessment practices or standard measurement of  
6 value. Such new data may be incorporated into the guidelines  
7 on the approval of the executive director if after notice in  
8 substantial conformity with s. 120.54 there is no objection  
9 filed with the department within 45 days, and the procedures  
10 set forth in s. 120.54 do not apply.

11 Section 4. Section 373.516, Florida Statutes, is  
12 repealed.

13 Section 5. Section 689.261, Florida Statutes, is  
14 created to read:

15 689.261 Sale of residential property; disclosure of ad  
16 valorem taxes to prospective purchaser.--

17 (1) A prospective purchaser of residential property  
18 must be presented a disclosure summary at or before execution  
19 of the contract for sale. Unless a substantially similar  
20 disclosure summary is included in the contract for sale, a  
21 separate disclosure summary must be attached to the contract  
22 for sale. The disclosure summary, whether separate or included  
23 in the contract, must be in a form substantially similar to  
24 the following:

25  
26 PROPERTY TAX

27 DISCLOSURE SUMMARY

28  
29 BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES  
30 AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE  
31 OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE

1 OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS  
2 OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF  
3 YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE  
4 COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

5  
6 (2) Unless included in the contract, the disclosure  
7 summary must be provided by the seller. If the disclosure  
8 summary is not included in the contract for sale, the contract  
9 for sale must refer to and incorporate by reference the  
10 disclosure summary and include, in prominent language, a  
11 statement that the potential purchaser should not execute the  
12 contract until he or she has read the disclosure summary  
13 required by this section.

14 Section 6. Section 193.017, Florida Statutes, is  
15 created to read:

16 193.017 Low-income housing tax credit.--Property used  
17 for affordable housing which has received a low-income housing  
18 tax credit from the Florida Housing Finance Corporation, as  
19 authorized by s. 420.5099, shall be assessed under s. 193.011  
20 and, consistent with s. 420.5099(5) and (6), pursuant to this  
21 section.

22 (1) The tax credits granted and the financing  
23 generated by the tax credits may not be considered as income  
24 to the property.

25 (2) The actual rental income from rent-restricted  
26 units in such a property shall be recognized by the property  
27 appraiser.

28 (3) Any costs paid for by tax credits and costs paid  
29 for by additional financing proceeds received under chapter  
30 420 may not be included in the valuation of the property.

31

1           (4) If an extended low-income housing agreement is  
2 filed in the official public records of the county in which  
3 the property is located, the agreement, and any recorded  
4 amendment or supplement thereto, shall be considered a  
5 land-use regulation and a limitation on the highest and best  
6 use of the property during the term of the agreement,  
7 amendment, or supplement.

8           Section 7. Subsections (1) and (3) of section 194.181,  
9 Florida Statutes, are amended to read:

10           194.181 Parties to a tax suit.--

11           (1) The plaintiff in any tax suit shall be:

12           (a) The taxpayer or other person contesting the  
13 assessment of any tax, the payment of which he or she is  
14 responsible for under a statute or a person who is responsible  
15 for the entire tax payment pursuant to a contract and has the  
16 written consent of the property owner, ~~the law~~ or the  
17 condominium association, cooperative association, or  
18 homeowners' association as defined in s. 723.075 which  
19 operates the units subject to the assessment; or

20           (b) The property appraiser pursuant to s. 194.036.

21           (3) In any suit involving the collection of any tax on  
22 property, as well as questions relating to tax certificates or  
23 applications for tax deeds, the tax collector charged under  
24 the law with collecting such tax shall be the defendant.

25           Section 8. Subsection (4), paragraph (a) of subsection  
26 (5), and subsection (8) of section 197.502, Florida Statutes,  
27 are amended to read:

28           197.502 Application for obtaining tax deed by holder  
29 of tax sale certificate; fees.--

30           (4) The tax collector shall deliver to the clerk of  
31 the circuit court a statement that payment has been made for

1 all outstanding certificates or, if the certificate is held by  
2 the county, that all appropriate fees have been deposited, and  
3 stating that the following persons are to be notified prior to  
4 the sale of the property:

5 (a) Any legal titleholder of record if the address of  
6 the owner appears on the record of conveyance of the lands to  
7 the owner. However, if the legal titleholder of record is the  
8 same as the person to whom the property was assessed on the  
9 tax roll for the year in which the property was last assessed,  
10 then the notice may only be mailed to the address of the legal  
11 titleholder as it appears on the latest assessment roll.

12 (b) Any lienholder of record who has recorded a lien  
13 against the property described in the tax certificate if an  
14 address appears on the recorded lien.

15 (c) Any mortgagee of record if an address appears on  
16 the recorded mortgage.

17 (d) Any vendee of a recorded contract for deed if an  
18 address appears on the recorded contract or, if the contract  
19 is not recorded, any vendee who has applied to receive notice  
20 pursuant to s. 197.344(1)(c).

21 (e) Any other lienholder who has applied to the tax  
22 collector to receive notice if an address is supplied to the  
23 collector by such lienholder.

24 (f) Any person to whom the property was assessed on  
25 the tax roll for the year in which the property was last  
26 assessed. ~~The certificate shall be signed by the collector and~~  
27 ~~the collector's seal affixed. The collector may purchase a~~  
28 ~~reasonable bond for errors and omissions of his or her office~~  
29 ~~in making such certificate.~~

30 (g) Any lienholder of record who has recorded a lien  
31 against a mobile home located on the property described in the



1 tax certificate if an address appears on the recorded lien and  
2 if the lien is recorded with the clerk of the circuit court in  
3 the county where the mobile home is located.

4 (h) Any legal titleholder of record of property that  
5 is contiguous to the property described in the tax  
6 certificate, when the property described is either submerged  
7 land or common elements of a subdivision, if the address of  
8 the titleholder of contiguous property appears on the record  
9 of conveyance of the land to that legal titleholder. However,  
10 if the legal titleholder of property contiguous to the  
11 property described in the tax certificate is the same as the  
12 person to whom the property described in the tax certificate  
13 was assessed on the tax roll for the year in which the  
14 property was last assessed, the notice may be mailed only to  
15 the address of the legal titleholder as it appears on the  
16 latest assessment roll. As used in this chapter, the term  
17 "contiguous" means touching, meeting, or joining at the  
18 surface or border, other than at a corner or a single point,  
19 and not separated by submerged lands. Submerged lands lying  
20 below the ordinary high-water mark which are sovereignty lands  
21 are not part of the upland contiguous property for purposes of  
22 notification.

23  
24 The statement must be signed by the tax collector, with the  
25 tax collector's seal affixed. The tax collector may purchase a  
26 reasonable bond for errors and omissions of his or her office  
27 in making such statement. The search of the official records  
28 must be made by a direct and inverse search. "Direct" means  
29 the index in straight and continuous alphabetic order by  
30 grantor, and "inverse" means the index in straight and  
31 continuous alphabetic order by grantee.

1           (5)(a) The tax collector may contract with a title  
2 company or an abstract company at a reasonable fee to provide  
3 the minimum information required in subsection (4), consistent  
4 with rules adopted by the department. If additional  
5 information is required, the tax collector must make a written  
6 request to the title or abstract company stating the  
7 additional requirements. The tax collector may select any  
8 title or abstract company, regardless of its location, as long  
9 as the fee is reasonable, the minimum information is  
10 submitted, and the title or abstract company is authorized to  
11 do business in this state. The tax collector may advertise and  
12 accept bids for the title or abstract company if he or she  
13 considers it appropriate to do so.

14           1. The ownership and encumbrance report must be  
15 printed or typed on stationery or other paper showing a  
16 letterhead of the person, firm, or company that makes the  
17 search, and the signature of the person who makes the search  
18 or of an officer of the firm must be attached. The tax  
19 collector is not liable for payment to the firm unless these  
20 requirements are met.

21           2. The tax collector may not accept or pay for any  
22 title search or abstract if no financial responsibility is  
23 assumed for the search. However, reasonable restrictions as to  
24 the liability or responsibility of the title or abstract  
25 company are acceptable. Notwithstanding s. 627.7843(3), the  
26 tax collector may contract for higher maximum liability  
27 limits.

28           3. In order to establish uniform prices for ownership  
29 and encumbrance reports within the county, the tax collector  
30 shall ensure that the contract for ownership and encumbrance  
31

1 reports include all requests for title searches or abstracts  
2 for a given period of time.

3 (8) Taxes shall not be extended against parcels listed  
4 as lands available for taxes, but in each year the taxes that  
5 would have been due shall be treated as omitted years and  
6 added to the required minimum bid. Three years after ~~from~~ the  
7 day the land was offered for public sale, the land shall  
8 escheat to the county in which it is located, free and clear.  
9 All tax certificates, accrued taxes, and liens of any nature  
10 against the property shall be deemed canceled as a matter of  
11 law and of no further legal force and effect, and the clerk  
12 shall execute an escheatment ~~a~~ tax deed vesting title in the  
13 board of county commissioners of the county in which the land  
14 ~~it~~ is located.

15 Section 9. Subsection (1) of section 193.501, Florida  
16 Statutes, is amended to read:

17 193.501 Assessment of lands subject to a conservation  
18 easement, environmentally endangered lands, or lands used for  
19 outdoor recreational or park purposes when land development  
20 rights have been conveyed or conservation restrictions have  
21 been covenanted.--

22 (1) The owner or owners in fee of any land subject to  
23 a conservation easement as described in s. 704.06(1); land  
24 qualified as environmentally endangered pursuant to paragraph  
25 (6)(i) and so designated by formal resolution of the governing  
26 board of the municipality or county within which such land is  
27 located; land designated as conservation land in a  
28 comprehensive plan adopted by the appropriate municipal or  
29 county governing body; or any land which is utilized for  
30 outdoor recreational or park purposes may, by appropriate  
31 instrument, for a term of not less than 10 years:

1 (a) Convey the development right of such land to the  
2 governing board of any public agency in this state within  
3 which the land is located, or to the Board of Trustees of the  
4 Internal Improvement Trust Fund, or to a charitable  
5 corporation or trust as described in s. 704.06(3); or

6 (b) Covenant with the governing board of any public  
7 agency in this state within which the land is located, or with  
8 the Board of Trustees of the Internal Improvement Trust Fund,  
9 or with a charitable corporation or trust as described in s.  
10 704.06(3), that such land be subject to one or more of the  
11 conservation restrictions provided in s. 704.06(1) or not be  
12 used by the owner for any purpose other than outdoor  
13 recreational or park purposes. If land is covenanted and used  
14 for an outdoor recreational purpose, the normal use and  
15 maintenance of the land for that purpose, consistent with the  
16 covenant, shall not be restricted.

17 Section 10. Paragraph (c) of subsection (4) of section  
18 1011.62, Florida Statutes, is amended to read:

19 1011.62 Funds for operation of schools.--If the annual  
20 allocation from the Florida Education Finance Program to each  
21 district for operation of schools is not determined in the  
22 annual appropriations act or the substantive bill implementing  
23 the annual appropriations act, it shall be determined as  
24 follows:

25 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL  
26 EFFORT.--The Legislature shall prescribe the aggregate  
27 required local effort for all school districts collectively as  
28 an item in the General Appropriations Act for each fiscal  
29 year. The amount that each district shall provide annually  
30 toward the cost of the Florida Education Finance Program for  
31

1 kindergarten through grade 12 programs shall be calculated as  
2 follows:

3 (c) Equalization of required local effort.--

4 1. The Department of Revenue shall include with its  
5 certifications provided pursuant to paragraph (a) its most  
6 recent determination of the assessment level of the prior  
7 year's assessment roll for each county and for the state as a  
8 whole.

9 2. The Commissioner of Education shall adjust the  
10 required local effort millage of each district for the current  
11 year, computed pursuant to paragraph (a), as follows:

12 a. The equalization factor for the prior year's  
13 assessment roll of each district shall be multiplied by 95  
14 percent of the taxable value for school purposes shown on that  
15 roll and by the prior year's required local-effort millage,  
16 exclusive of any equalization adjustment made pursuant to this  
17 paragraph. The dollar amount so computed shall be the  
18 additional required local effort for equalization for the  
19 current year.

20 b. Such equalization factor shall be computed as the  
21 quotient of the prior year's assessment level of the state as  
22 a whole divided by the prior year's assessment level of the  
23 county, from which quotient shall be subtracted 1.

24 c. The dollar amount of additional required local  
25 effort for equalization for each district shall be converted  
26 to a millage rate, based on 95 percent of the current year's  
27 taxable value for that district, and added to the required  
28 local effort millage determined pursuant to paragraph (a).

29 3. Notwithstanding the limitations imposed pursuant to  
30 s. 1011.71(1), the total required local-effort millage,  
31 including additional required local effort for equalization,

1 shall be an amount not to exceed 10 minus the maximum millage  
2 allowed as nonvoted discretionary millage, exclusive of  
3 millage authorized pursuant to s. 1011.71(2). Nothing herein  
4 shall be construed to allow a millage in excess of that  
5 authorized in s. 9, Art. VII of the State Constitution.

6 4. For the purposes of this chapter, the term  
7 "assessment level" means the value-weighted mean assessment  
8 ratio for the county or state as a whole, as determined  
9 pursuant to s. 195.096, or as subsequently adjusted. However,  
10 for those parcels studied pursuant to s. 195.096(3)(a)1. which  
11 are receiving the assessment limitation set forth in s.  
12 193.155, and for which the assessed value is less than the  
13 just value, the department shall use the assessed value in the  
14 numerator and the denominator of such assessment ratio. In the  
15 event a court has adjudicated that the department failed to  
16 establish an accurate estimate of an assessment level of a  
17 county and recomputation resulting in an accurate estimate  
18 based upon the evidence before the court was not possible,  
19 that county shall be presumed to have an assessment level  
20 equal to that of the state as a whole.

21 5. If, in the prior year, taxes were levied against an  
22 interim assessment roll pursuant to s. 193.1145, the  
23 assessment level and prior year's nonexempt assessed valuation  
24 used for the purposes of this paragraph shall be those of the  
25 interim assessment roll.

26 Section 11. The amendment made by this act to section  
27 1011.62(4)(c)4., Florida Statutes, applies to the  
28 certifications of the 2004 and later levels of assessment. It  
29 is the intent of the Legislature that the use of just value  
30 instead of assessed value for property assessed pursuant to  
31 section 193.155, Florida Statutes, for the calculation of such

1 levels for any certification made pursuant to section  
2 1011.62(4)(c)4. or former section 236.081(4)(c)4., Florida  
3 Statutes, prior to the 2004 tax roll is validated and  
4 ratified.

5 Section 12. This act shall take effect January 1,  
6 2005.

7  
8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
9 COMMITTEE SUBSTITUTE FOR  
10 SB 2444

11 The committee substitute:

12 Provides that the tax collector is the defendant in any suit  
13 involving an application for tax deeds, and allows a person  
14 other than the property owner to contest its assessment for  
property tax purposes if that person is responsible for paying  
the tax and has the written permission of the property owner;

15 Streamlines the process by which lands available for taxes  
16 escheat to the county where they are located, provides that  
submerged sovereignty lands are not considered contiguous  
17 property under s. 197.502, F.S., and provides that the search  
of public records required under that section shall be by  
18 direct and inverse search. Also, the tax collector is allowed  
to contract for higher limits of liability for title or  
19 abstract companies that perform title searches or abstracts;

20 Provides that when land development rights have been  
restricted or conservation restrictions have been covenanted  
21 for land used for an outdoor recreation purpose, normal use  
and maintenance of the land for that purpose shall not be  
22 restricted; and

23 Directs the Department of Revenue to use the assessed value of  
parcels subject to Save Our Homes in determining the level of  
24 assessment for the purpose of equalizing required local effort  
of school funding.