

1 A bill to be entitled
2 An act relating to just valuation of property; amending s.
3 193.011, F.S.; providing for consideration of zoning
4 changes and permits in determining the highest and best
5 use; revising the just valuation factor relating to the
6 condition of property; including cost of removal of
7 tangible personal property as a consideration in the net
8 sale proceeds factor; requiring property appraisers to use
9 only market rent in arriving at just value of certain
10 income-producing properties; providing a definition;
11 providing applicability; amending s. 193.016, F.S.;
12 providing for consideration of value adjustment board
13 decisions for all properties; creating s. 193.018, F.S.;
14 authorizing owners of certain properties to enter into
15 deed-restriction agreements with counties for certain
16 purposes; requiring property appraisers to consider deed-
17 restriction agreements in determining just value;
18 providing for payment of back taxes plus interest if the
19 deed-restriction agreement is terminated early; amending
20 s. 194.011, F.S.; revising provisions relating to
21 provision of evidence by petitioners and property
22 appraisers; amending s. 194.013, F.S.; requiring value
23 adjustment boards to waive a petition filing fee for
24 taxpayers eligible for certain constitutional exemptions;
25 amending s. 194.015, F.S.; revising the membership of
26 value adjustment boards, appointment criteria, and quorum
27 requirements; amending s. 194.032, F.S.; providing for
28 criteria for rescheduling certain hearings under certain

29 | circumstances; amending s. 194.034, F.S.; requiring value
 30 | adjustment boards to order refund of certain filing fees
 31 | if a determination of a property appraiser is overturned;
 32 | amending s. 194.192, F.S.; providing for judgments against
 33 | property appraisers under certain circumstances; providing
 34 | for assessment and award of attorney fees to taxpayers
 35 | under certain circumstances; amending s. 420.507, F.S.;
 36 | correcting a cross-reference; providing an effective date.

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38 | Be It Enacted by the Legislature of the State of Florida:

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40 | Section 1. Effective upon this act becoming a law and
 41 | applicable to assessments beginning January 1, 2009, section
 42 | 193.011, Florida Statutes, is amended to read:

43 | 193.011 Factors to consider in deriving just valuation.--

44 | (1) In arriving at just valuation as required under s. 4,
 45 | Art. VII of the State Constitution, the property appraiser shall
 46 | take into consideration the following factors:

47 | (a)~~(1)~~ The present cash value of the property, which is
 48 | the amount a willing purchaser would pay a willing seller,
 49 | exclusive of reasonable fees and costs of purchase, in cash or
 50 | the immediate equivalent thereof in a transaction at arm's
 51 | length;

52 | (b)~~(2)~~ The highest and best use to which the property can
 53 | be expected to be put in the immediate future and the present
 54 | use of the property, taking into consideration any applicable
 55 | judicial limitation, local or state land use regulation, or
 56 | historic preservation ordinance, and any zoning changes and

57 permits necessary to achieve the highest and best use, and
 58 considering any moratorium imposed by executive order, law,
 59 ordinance, regulation, resolution, or proclamation adopted by
 60 any governmental body or agency or the Governor when the
 61 moratorium or judicial limitation prohibits or restricts the
 62 development or improvement of property as otherwise authorized
 63 by applicable law. The applicable governmental body or agency or
 64 the Governor shall notify the property appraiser in writing of
 65 any executive order, ordinance, regulation, resolution, or
 66 proclamation it adopts imposing any such limitation, regulation,
 67 or moratorium;

68 (c)~~(3)~~ The location of said property;

69 (d)~~(4)~~ The quantity or size of said property;

70 (e)~~(5)~~ The cost of said property and the present
 71 replacement value of any improvements thereon;

72 (f)~~(6)~~ The condition of said property. When determining
 73 the condition of the property, the property appraiser shall
 74 consider physical deterioration, functional obsolescence, and
 75 external obsolescence;

76 (g)~~(7)~~ The income from said property; and

77 (h)~~(8)~~ The net proceeds of the sale of the property, as
 78 received by the seller, after deduction of all of the usual and
 79 reasonable fees and costs of the sale, including the costs and
 80 expenses of financing, and allowance for unconventional or
 81 atypical terms of financing arrangements, and including the
 82 costs of removal of tangible personal property. When the net
 83 proceeds of the sale of any property are utilized, directly or
 84 indirectly, in the determination of just valuation of realty of

85 the sold parcel or any other parcel under the provisions of this
 86 section, the property appraiser, for the purposes of such
 87 determination, shall exclude any portion of such net proceeds
 88 attributable to payments for household furnishings or other
 89 items of personal property.

90 (2) Notwithstanding the requirement that property
 91 appraisers consider all of the factors enumerated in subsection
 92 (1) in arriving at just valuation, property appraisers, upon
 93 request of the property owner, shall consider only the market
 94 rent from income-producing property in the case of all
 95 residential rental property and all commercial property that is
 96 leased to more than one legal entity, each of which conducts a
 97 separate business activity on the property. For purposes of this
 98 subsection, the term "market rent" means the most likely rent
 99 that an income-producing property would command if offered for
 100 lease in the open market.

101 Section 2. Section 193.016, Florida Statutes, is amended
 102 to read:

103 193.016 Property appraiser's assessment; effect of
 104 determinations by value adjustment board.--If the property
 105 appraiser's assessment of the same ~~items of tangible personal~~
 106 property in the previous year was adjusted by the value
 107 adjustment board and the decision of the board to reduce the
 108 assessment was not successfully appealed by the property
 109 appraiser, the property appraiser shall consider the reduced
 110 value values determined by the value adjustment board in
 111 assessing the ~~those items of tangible personal~~ property. If the
 112 property appraiser adjusts upward the reduced value values

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113 previously determined by the value adjustment board, the
114 property appraiser shall assert additional basic and underlying
115 facts not properly considered by the value adjustment board as
116 the basis for the increased valuation notwithstanding the prior
117 adjustment by the board.

118 Section 3. Section 193.018, Florida Statutes, is created
119 to read:

120 193.018 Assessment of deed-restricted property.--

121 (1) The owner of residential rental property, multiunit
122 commercial rental property, property used as a marina,
123 waterfront property used exclusively for commercial fishing
124 purposes, or property rented for use by mobile homes may enter
125 into a deed-restriction agreement with the county to maintain
126 the property at its current use for a period of at least 5
127 years.

128 (2) The property appraiser shall consider the deed-
129 restriction agreement in determining the just value of the
130 property.

131 (3) If, prior to the expiration of the deed-restriction
132 agreement, the property is not used for the purposes set forth
133 in the deed-restriction agreement, the deed-restriction
134 agreement shall be terminated and the property owner shall pay
135 to the county an amount equal to the additional taxes that would
136 have been paid in prior years had the deed-restriction agreement
137 not been in effect, plus 12 percent interest.

138 Section 4. Subsection (4) of section 194.011, Florida
139 Statutes, is amended to read:

140 194.011 Assessment notice; objections to assessments.--

141 (4) (a) At least 15 days before the hearing, the petitioner
 142 shall provide to the property appraiser a list of evidence to be
 143 presented at the hearing, together with copies of all
 144 documentation to be considered by the value adjustment board and
 145 a summary of evidence to be presented by witnesses.

146 (b) At least 15 ~~No later than 7~~ days before the hearing,
 147 ~~if the petitioner has provided the information required under~~
 148 ~~paragraph (a), and if requested in writing by the petitioner,~~
 149 the property appraiser shall provide to the petitioner a list of
 150 evidence to be presented at the hearing, together with copies of
 151 all documentation to be considered by the value adjustment board
 152 and a summary of evidence to be presented by witnesses. The
 153 evidence list must contain the property record card if provided
 154 by the clerk. Failure of the property appraiser to timely comply
 155 with the requirements of this paragraph shall result in a
 156 rescheduling of the hearing.

157 Section 5. Subsection (2) of section 194.013, Florida
 158 Statutes, is amended to read:

159 194.013 Filing fees for petitions; disposition; waiver.--

160 (2) The value adjustment board shall waive the filing fee
 161 with respect to a petition filed by a taxpayer who is eligible
 162 to receive one or more of the exemptions under s. 6(c), (f), or
 163 (g), Art. VII of the State Constitution, regardless of whether
 164 the taxpayer's local government grants the additional local
 165 homestead exemptions. The filing fee also shall be waived for a
 166 taxpayer who demonstrates at the time of filing, by an
 167 appropriate certificate or other documentation issued by the
 168 Department of Children and Family Services and submitted with

169 the petition, that the petitioner is then an eligible recipient
 170 of temporary assistance under chapter 414.

171 Section 6. Section 194.015, Florida Statutes, is amended
 172 to read:

173 194.015 Value adjustment board.--

174 (1) There is hereby created a value adjustment board for
 175 each county, which shall consist of five members.

176 (2)(a)1. Three members shall be appointed by ~~of~~ the
 177 governing body of the county, as follows:

178 a. One member must own a homestead property within the
 179 county.

180 b. One member must own a business that occupies commercial
 181 space located within the county.

182 c. An appointee may not be a member or an employee of any
 183 taxing authority.

184 ~~2. as elected from the membership of the board of said~~
 185 ~~governing body,~~ One of such appointees ~~whom~~ shall be elected
 186 chairperson.

187 (b) , and Two members shall be appointed by ~~of~~ the school
 188 board, as follows:

189 1. One member must own a business that occupies commercial
 190 space located within the school district.

191 2. One member must be eligible to receive one or more of
 192 the exemptions under s. 6(c), (f), or (g), Art. VII of the State
 193 Constitution, regardless of whether the taxpayer's local
 194 government grants the additional local homestead exemptions.

195 3. An appointee may not be a member or an employee of any
 196 taxing authority ~~as elected from the membership of the school~~

197 ~~board. The members of the board may be temporarily replaced by~~
 198 ~~other members of the respective boards on appointment by their~~
 199 ~~respective chairpersons.~~

200 (3) Any three members shall constitute a quorum of the
 201 board, ~~except that each quorum must include at least one member~~
 202 ~~of said governing board and at least one member of the school~~
 203 ~~board,~~ and no meeting of the board shall take place unless a
 204 quorum is present.

205 (4) Members of the board may receive such per diem
 206 compensation as is allowed by law for state employees if both
 207 bodies elect to allow such compensation.

208 (5) The clerk of the governing body of the county shall be
 209 the clerk of the value adjustment board.

210 (6) (a) The office of the county attorney may be counsel to
 211 the board unless the county attorney represents the property
 212 appraiser, in which instance the board shall appoint private
 213 counsel who has practiced law for over 5 years and who shall
 214 receive such compensation as may be established by the board.

215 (b) Meetings ~~No meeting~~ of the board may not ~~shall~~ take
 216 place unless counsel to the board is present. However, counsel
 217 for the property appraiser shall not be required when the county
 218 attorney represents only the board at the board hearings, even
 219 though the county attorney may represent the property appraiser
 220 in other matters or at a different time.

221 (7) Two-fifths of the expenses of the board shall be borne
 222 by the district school board and three-fifths by the district
 223 county commission.

224 Section 7. Subsection (2) of section 194.032, Florida
 225 Statutes, is amended to read:
 226 194.032 Hearing purposes; timetable.--
 227 (2) The clerk of the governing body of the county shall
 228 prepare a schedule of appearances before the board based on
 229 petitions timely filed with him or her. The clerk shall notify
 230 each petitioner of the scheduled time of his or her appearance
 231 no less than 25 calendar days prior to the day of such scheduled
 232 appearance. Upon receipt of this notification, the petitioner
 233 shall have the right to reschedule the hearing for the failure
 234 of the property appraiser to comply with the requirements of s.
 235 194.011(4)(b). The hearing shall be rescheduled no sooner than
 236 15 days after the property appraiser complies with the
 237 requirements of s. 194.011(4)(b). The petitioner shall also have
 238 the right to reschedule the hearing a single time by submitting
 239 to the clerk of the governing body of the county a written
 240 request to reschedule, no less than 5 calendar days before the
 241 day of the originally scheduled hearing. Additional rescheduling
 242 of the hearing may be granted to the taxpayer upon receipt of an
 243 affidavit from a physician that states a medical reason as to
 244 why the petitioner needs to reschedule the hearing. A copy of
 245 the property record card containing relevant information used in
 246 computing the taxpayer's current assessment shall be included
 247 with such notice, if said card was requested by the taxpayer.
 248 Such request shall be made by checking an appropriate box on the
 249 petition form. No petitioner shall be required to wait for more
 250 than 2 4 hours from the scheduled time; and, if his or her
 251 petition is not heard in that time, the petitioner may, at his

252 or her option, report to the chairperson of the meeting that he
253 or she intends to leave; and, if he or she is not heard
254 immediately, the petitioner's hearing shall be rescheduled for a
255 time reserved exclusively for the petitioner ~~administrative~~
256 ~~remedies will be deemed to be exhausted, and he or she may seek~~
257 ~~further relief as he or she deems appropriate.~~ Failure on three
258 occasions with respect to any single tax year to convene at the
259 scheduled time of meetings of the board shall constitute grounds
260 for removal from office by the Governor for neglect of duties.

261 Section 8. Subsection (2) of section 194.034, Florida
262 Statutes, is amended to read:

263 194.034 Hearing procedures; rules.--

264 (2) In each case, except when a complaint is withdrawn by
265 the petitioner or is acknowledged as correct by the property
266 appraiser, the value adjustment board shall render a written
267 decision. All such decisions shall be issued within 20 calendar
268 days of the last day the board is in session under s. 194.032.
269 The decision of the board shall contain findings of fact and
270 conclusions of law and shall include reasons for upholding or
271 overturning the determination of the property appraiser. If the
272 determination of the property appraiser is overturned, the board
273 shall order the refunding of the filing fee required by s.
274 194.013. When a special magistrate has been appointed, the
275 recommendations of the special magistrate shall be considered by
276 the board. The clerk, upon issuance of the decisions, shall, on
277 a form provided by the Department of Revenue, notify by first-
278 class mail each taxpayer, the property appraiser, and the
279 department of the decision of the board.

280 Section 9. Subsection (3) is added to section 194.192,
 281 Florida Statutes, to read:

282 194.192 Costs; interest on unpaid taxes; penalty; attorney
 283 fees.--

284 (3) If the court finds that the amount owed by the
 285 taxpayer is less than the amount of tax paid, the court shall
 286 enter judgment against the appraiser for the difference and for
 287 interest on the difference at the rate of 12 percent per year
 288 from the date of payment. If the final assessment established by
 289 the court is lower than the value assessed by the property
 290 appraiser by more than 10 percent, the court shall assess and
 291 award reasonable attorney fees to the taxpayer.

292 Section 10. Subsection (46) of section 420.507, Florida
 293 Statutes, is amended to read:

294 420.507 Powers of the corporation.--The corporation shall
 295 have all the powers necessary or convenient to carry out and
 296 effectuate the purposes and provisions of this part, including
 297 the following powers which are in addition to all other powers
 298 granted by other provisions of this part:

299 (46) To require, as a condition of financing a multifamily
 300 rental project, that an agreement be recorded in the official
 301 records of the county where the real property is located, which
 302 requires that the project be used for housing defined as
 303 affordable in s. 420.0004(3) by persons defined in s.
 304 420.0004(8), (10), (11), and (15). Such an agreement is a state
 305 land use regulation that limits the highest and best use of the
 306 property within the meaning of s. 193.011(1)(b) ~~(2)~~.

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307 Section 11. This act shall take effect upon becoming a
308 law.