

By Senator Storms

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1 A bill to be entitled

2 An act relating to real property assessments; amending s.
3 194.301, F.S.; revising the burden of proof in challenges
4 to the property appraiser's assessment of just value;
5 deleting the presumption of correctness and placing the
6 burden of proof on the appraiser; providing an effective
7 date.

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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Section 194.301, Florida Statutes, is amended to
12 read:

13 194.301 Ad valorem tax assessment; burden of proof
14 ~~presumption of correctness.--In an any administrative or judicial~~
15 ~~action in which a taxpayer challenges an ad valorem tax~~
16 ~~assessment of just value, the property appraiser has the burden~~
17 ~~of proving by a preponderance of the evidence that his or her~~
18 ~~assessment complies with s. 193.011 and professionally accepted~~
19 ~~appraisal practices appraiser's assessment shall be presumed~~
20 ~~correct. This presumption of correctness is lost if the taxpayer~~
21 ~~shows by a preponderance of the evidence that either the property~~
22 ~~appraiser has failed to consider properly the criteria in s.~~
23 ~~193.011 or if the property appraiser's assessment is arbitrarily~~
24 ~~based on appraisal practices which are different from the~~
25 ~~appraisal practices generally applied by the property appraiser~~
26 ~~to comparable property within the same class and within the same~~
27 ~~county. If the presumption of correctness is lost, the taxpayer~~
28 ~~shall have the burden of proving by a preponderance of the~~
29 ~~evidence that the appraiser's assessment is in excess of just~~

10-03003-08

20081522__

30 value. ~~If the presumption of correctness is retained, the~~
31 ~~taxpayer shall have the burden of proving by clear and convincing~~
32 ~~evidence that the appraiser's assessment is in excess of just~~
33 ~~value. In no case shall the taxpayer have the burden of proving~~
34 ~~that the property appraiser's assessment is not supported by any~~
35 ~~reasonable hypothesis of a legal assessment. If the property~~
36 appraiser fails to meet the burden of proof or the appraiser's
37 assessment is determined to be erroneous, the value adjustment
38 board or the court may ~~can~~ establish the assessment if there is
39 ~~exists~~ competent, substantial evidence in the record, which
40 cumulatively meets the requirements of s. 193.011. If the record
41 lacks competent, substantial evidence ~~meeting the just value~~
42 ~~criteria of s. 193.011~~, the matter shall be remanded to the
43 property appraiser with appropriate directions from the value
44 adjustment board or the court.

45 Section 2. This act shall take effect July 1, 2008.