

By Senator Fasano

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1 A bill to be entitled

2 An act relating to ad valorem tax assessments; amending s.  
3 194.301, F.S.; eliminating the automatic presumption of  
4 correctness accorded to the property appraiser; requiring  
5 the property appraiser to prove that his or her ad valorem  
6 assessment resulted from applying the factors set forth in  
7 law using established standards of professional appraisal  
8 practice before the assessment is presumed correct;  
9 providing that the taxpayer has the burden of proving that  
10 the assessment is in excess of just value or that the  
11 assessment is based on appraisal practices that are  
12 different from the appraisal practices generally applied  
13 by the property appraiser to comparable property within  
14 the same class in the same county; providing that in an  
15 administrative or judicial proceeding the property  
16 appraiser has the burden of proving compliance with laws  
17 governing tax exemptions and tax assessment  
18 classifications; providing legislative intent that the act  
19 is remedial in nature; specifying that the act applies to  
20 pending petitions and complaints; providing an effective  
21 date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 194.301, Florida Statutes, is amended to  
26 read:

27 194.301 Presumption of correctness.--

28 (1) In any administrative or judicial action in which a  
29 taxpayer challenges an ad valorem tax assessment of value, the

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30 property appraiser has the burden of proving that his or her  
31 assessment value resulted from applying the factors set forth in  
32 s. 193.011 using established standards of professional appraisal  
33 practice, in which case the assessment shall be presumed correct.  
34 The taxpayer has the burden of proving by a preponderance of the  
35 evidence that the assessment is in excess of the just value or  
36 that the assessment is based on appraisal practices that are  
37 different from the appraisal practices generally applied by the  
38 property appraiser to comparable property within the same class  
39 in the same county. ~~appraiser's assessment shall be presumed~~  
40 ~~correct. This presumption of correctness is lost if the taxpayer~~  
41 ~~shows by a preponderance of the evidence that either the property~~  
42 ~~appraiser has failed to consider properly the criteria in s.~~  
43 ~~193.011 or if the property appraiser's assessment is arbitrarily~~  
44 ~~based on appraisal practices which are different from the~~  
45 ~~appraisal practices generally applied by the property appraiser~~  
46 ~~to comparable property within the same class and within the same~~  
47 ~~county. If the presumption of correctness is lost, the taxpayer~~  
48 ~~shall have the burden of proving by a preponderance of the~~  
49 ~~evidence that the appraiser's assessment is in excess of just~~  
50 ~~value. If the presumption of correctness is retained, the~~  
51 ~~taxpayer shall have the burden of proving by clear and convincing~~  
52 ~~evidence that the appraiser's assessment is in excess of just~~  
53 ~~value. In no case shall the taxpayer have the burden of proving~~  
54 ~~that the property appraiser's assessment is not supported by any~~  
55 ~~reasonable hypothesis of a legal assessment. If the property~~  
56 ~~appraiser's assessment is determined to be erroneous, the Value~~  
57 ~~Adjustment Board or the court can establish the assessment if~~  
58 ~~there exists competent, substantial evidence in the record, which~~

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59 cumulatively meets the requirements of s. 193.011. If the record  
60 lacks such competent, substantial evidence ~~meeting the just value~~  
61 ~~criteria of s. 193.011~~, the matter shall be remanded to the  
62 property appraiser with appropriate directions from the Value  
63 Adjustment Board or the court.

64 (2) In any administrative or judicial action in which a  
65 grant or denial of an exemption or assessment classification is  
66 challenged, the property appraiser has the burden of proving that  
67 the grant or denial is in compliance with laws governing the  
68 exemption or assessment classification.

69 Section 2. It is the intent of the Legislature that a  
70 taxpayer does not have the burden of proving that the property  
71 appraiser's assessment is not supported by any reasonable  
72 hypothesis of a legal assessment. Any court decision setting  
73 forth such a standard was expressly rejected by the adoption of  
74 chapter 97-85, Laws of Florida. It is the further intent of the  
75 Legislature that any court decision rendered since 1997 upholding  
76 the "any reasonable hypothesis" standard is expressly rejected to  
77 the extent that the case is interpretive of legislative intent.  
78 This section is intended to clarify the law and is remedial in  
79 nature.

80 Section 3. This act shall take effect upon becoming a law  
81 and applies to petitions and complaints pending on that date  
82 which have not received a hearing.