

1 A bill to be entitled
2 An act relating to ad valorem taxation; amending s.
3 193.155, F.S.; revising the assessment of homestead
4 property damaged or destroyed by misfortune or calamity;
5 amending s. 193.461, F.S.; revising criteria for
6 classifying agricultural lands; amending s. 194.011, F.S.;
7 requiring the Division of Administrative Hearings to
8 develop a uniform policies and procedures manual and forms
9 for use in proceedings before value adjustment boards;
10 providing requirements for the manual and procedures;
11 specifying certain hearings as not governed by certain
12 provisions of the Administrative Procedures Act; amending
13 s. 194.015, F.S.; revising the membership of value
14 adjustment boards; providing for citizen members; revising
15 criteria related to appointment to such boards; revising
16 quorum requirements; deleting provisions authorizing
17 county attorneys to act as counsel for value adjustment
18 boards; limiting private counsel representation of certain
19 persons; amending s. 194.035, F.S.; providing that a
20 requirement that value adjustment boards appoint special
21 magistrates for certain purposes applies to all counties;
22 requiring value adjustment boards to verify the
23 qualifications of special magistrates prior to
24 appointment; providing selection criteria; requiring the
25 department to provide and conduct training for special
26 magistrates; providing training requirements; requiring
27 the department to charge tuition fees; providing for
28 deposit of such fees; creating s. 194.0355, F.S.;

29 providing application; providing requirements for motions
 30 asserting violations of law or rules governing hearing
 31 petitions; providing for appeal to the board of county
 32 commissioners; providing requirements for appeal;
 33 providing requirements for boards of county commissioners
 34 in hearing such appeals; requiring the board to issue
 35 instructions to the value adjustment board under certain
 36 circumstances; prohibiting value adjustment boards from
 37 rendering decisions until certain procedures are
 38 exhausted; amending s. 194.037, F.S.; revising information
 39 required to be provided on the disclosure of tax impact
 40 form; providing legislative intent; specifying that
 41 taxpayers are precluded from having certain burdens of
 42 proof; providing an effective date.

43

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

45

46 Section 1. Paragraph (c) of subsection (4) of section
 47 193.155, Florida Statutes, is amended to read:

48 193.155 Homestead assessments.--Homestead property shall
 49 be assessed at just value as of January 1, 1994. Property
 50 receiving the homestead exemption after January 1, 1994, shall
 51 be assessed at just value as of January 1 of the year in which
 52 the property receives the exemption unless the provisions of
 53 subsection (8) apply.

54 (4)

55 (c) Changes, additions, or improvements that replace all
 56 or a portion of real property that was damaged or destroyed by

57 misfortune or calamity shall be assessed upon substantial
 58 completion as if such damage or destruction had not occurred and
 59 in accordance with paragraph (b) if the owner of such property:

60 1. Was permanently residing on such property or
 61 improvements were under construction and subject to completion
 62 prior to January 1 of the year when the damage or destruction
 63 occurred.~~†~~

64 2. Was not entitled to receive homestead exemption on such
 65 property as of January 1 of that year.~~†~~ ~~and~~

66 3. Applies for and receives homestead exemption on such
 67 property the year following the completion of improvements made
 68 in compliance with paragraph (b) year.

69 Section 2. Paragraph (b) of subsection (3) of section
 70 193.461, Florida Statutes, is amended to read:

71 193.461 Agricultural lands; classification and assessment;
 72 mandated eradication or quarantine program.--

73 (3)

74 (b) Subject to the restrictions set out in this section,
 75 only lands which are used primarily for bona fide agricultural
 76 purposes shall be classified agricultural. "Bona fide
 77 agricultural purposes" means good faith commercial agricultural
 78 use of the land. In determining whether the use of the land for
 79 agricultural purposes is bona fide, the following factors may be
 80 taken into consideration:

- 81 1. The length of time the land has been so used. ~~utilized.~~~~†~~
- 82 2. Whether the use has been continuous.~~†~~
- 83 3. The purchase price paid.~~†~~
- 84 4. Size, as it relates to specific agricultural use, but

85 in no event shall a minimum acreage be required for agricultural
 86 assessment.~~†~~

87 5. Whether an indicated effort has been made to care
 88 sufficiently and adequately for the land in accordance with
 89 accepted commercial agricultural practices, including, without
 90 limitation, fertilizing, liming, tilling, mowing, reforestation,
 91 and other accepted agricultural practices.~~†~~

92 6. Whether such land is under lease and, if so, the
 93 effective length, terms, and conditions of the lease.~~†~~~~and~~

94 7. Such other factors as may from time to time become
 95 applicable.

96 Section 3. Subsection (5) of section 194.011, Florida
 97 Statutes, is amended to read:

98 194.011 Assessment notice; objections to assessments.--

99 (5) (a) The department shall by rule prescribe uniform
 100 procedures for hearings before the value adjustment board which
 101 include requiring:

102 ~~1.(a)~~ Procedures for the exchange of information and
 103 evidence by the property appraiser and the petitioner consistent
 104 with s. 194.032.~~†~~~~and~~

105 ~~2.(b)~~ That the value adjustment board hold an
 106 organizational meeting for the purpose of making these
 107 procedures available to petitioners.

108 (b) The Division of Administrative Hearings shall adopt,
 109 with assistance from the department, uniform procedures that
 110 shall be used by value adjustment boards, certified attorney
 111 special magistrates, taxpayers, certified real property
 112 appraisal special magistrates, and certified tangible personal

113 property appraisal special magistrates in proceedings before
 114 value adjustment boards. The procedures shall be adopted as
 115 rules under the provisions of chapter 120 and shall be based on
 116 provisions in chapter 28-106 of the Uniform Rules of Procedure
 117 that are modified to promote procedures conducted by value
 118 adjustment boards and certified special magistrates that are
 119 accessible, fair, impartial, straightforward, and uniform
 120 throughout the state. These procedures shall include relevant
 121 provisions of chapter 194 and promote uniform and fair processes
 122 for the conduct of hearings on value adjustment board petitions
 123 that provide an equitable property tax appeal process in
 124 furtherance of statutory and constitutional requirements. The
 125 procedures shall be made available, at a minimum, on the
 126 division's website, the department's website, and on the
 127 existing websites of the clerks of circuit courts.

128 (c) The department shall adopt forms that govern the
 129 conduct of hearings on value adjustment board petitions.

130 (d) The department shall adopt a manual that shall contain
 131 at a minimum, the procedures adopted pursuant to paragraph (b)
 132 and the forms adopted pursuant to paragraph (c). The provisions
 133 of s. 120.536 shall not apply to this paragraph, and paragraphs
 134 (b) and (c).

135 (e) Hearings on petitions to value adjustment boards and
 136 hearings conducted by certified special magistrates are not
 137 proceedings governed by s. 120.569 or s. 120.57.

138 Section 4. Section 194.015, Florida Statutes, is amended
 139 to read:

140 194.015 Value adjustment board.--There is hereby created a

141 value adjustment board for each county, which shall consist of
 142 three members of the governing body of the county as elected
 143 from the membership of the board of said governing body, one of
 144 whom shall be elected chairperson, and one member ~~two members~~ of
 145 the school board as elected from the membership of the school
 146 board, and two citizen members, one of whom shall be appointed
 147 by the governing body of the county and must own homestead
 148 property within the county and one of whom must be appointed by
 149 the school board and must own a business occupying commercial
 150 space located within the school district. A citizen member may
 151 not be a member or an employee of any taxing authority, and may
 152 not be a person who represents property owners in any
 153 administrative or judicial review of property taxes. The members
 154 of the board may be temporarily replaced by other members of the
 155 respective boards on appointment by their respective
 156 chairpersons. Any three members shall constitute a quorum of the
 157 board, except that each quorum must include at least one member
 158 of said governing board, ~~and~~ at least one member of the school
 159 board, and at least one citizen member and no meeting of the
 160 board shall take place unless a quorum is present. Members of
 161 the board may receive such per diem compensation as is allowed
 162 by law for state employees if both bodies elect to allow such
 163 compensation. The clerk of the governing body of the county
 164 shall be the clerk of the value adjustment board. ~~The office of~~
 165 ~~the county attorney may be counsel to the board unless the~~
 166 ~~county attorney represents the property appraiser, in which~~
 167 ~~instance~~ The board shall appoint private counsel who has
 168 practiced law for over 5 years and who shall receive such

169 compensation as may be established by the board. The private
 170 counsel may not represent the property appraiser, the tax
 171 collector, any taxing authority, or any property owner in any
 172 administrative or judicial review of property taxes. No meeting
 173 of the board shall take place unless counsel to the board is
 174 present. ~~However, counsel for the property appraiser shall not~~
 175 ~~be required when the county attorney represents only the board~~
 176 ~~at the board hearings, even though the county attorney may~~
 177 ~~represent the property appraiser in other matters or at a~~
 178 ~~different time.~~ Two-fifths of the expenses of the board shall be
 179 borne by the district school board and three-fifths by the
 180 district county commission.

181 Section 5. Section 194.035, Florida Statutes, is amended
 182 to read:

183 194.035 Special magistrates; property evaluators.--

184 (1) Each value adjustment ~~In counties having a population~~
 185 ~~of more than 75,000,~~ the board shall appoint special magistrates
 186 for the purpose of taking testimony and making recommendations
 187 to the board, which recommendations the board may act upon
 188 without further hearing. These special magistrates may not be
 189 elected or appointed officials or employees of the county but
 190 shall be selected from a list of those qualified individuals who
 191 are willing to serve as special magistrates. Employees and
 192 elected or appointed officials of a taxing jurisdiction or of
 193 the state may not serve as special magistrates. The clerk of the
 194 board shall annually notify such individuals or their
 195 professional associations to make known to them that
 196 opportunities to serve as special magistrates exist. The

197 Department of Revenue shall provide a list of qualified special
198 magistrates to any county with a population of 75,000 or less.
199 Subject to appropriation, the department shall reimburse
200 counties with a population of 75,000 or less for payments made
201 to special magistrates appointed for the purpose of taking
202 testimony and making recommendations to the value adjustment
203 board pursuant to this section. The department shall establish a
204 reasonable range for payments per case to special magistrates
205 based on such payments in other counties. Requests for
206 reimbursement of payments outside this range shall be justified
207 by the county. If the total of all requests for reimbursement in
208 any year exceeds the amount available pursuant to this section,
209 payments to all counties shall be prorated accordingly. A
210 special magistrate appointed to hear issues of exemptions and
211 classifications shall be a member of The Florida Bar with no
212 less than 5 years' experience in the area of ad valorem
213 taxation. A special magistrate appointed to hear issues
214 regarding the valuation of real estate shall be a state
215 certified real estate appraiser with not less than 5 years'
216 experience in real property valuation. A special magistrate
217 appointed to hear issues regarding the valuation of tangible
218 personal property shall be a designated member of a nationally
219 recognized appraiser's organization with not less than 5 years'
220 experience in tangible personal property valuation. A special
221 magistrate need not be a resident of the county in which he or
222 she serves. A special magistrate may not represent a person
223 before the board in any tax year during which he or she has
224 served that board as a special magistrate. Before appointing a

225 special magistrate, a value adjustment board shall verify the
226 special magistrate's qualifications. The value adjustment board
227 shall ensure that the selection of special magistrates is based
228 solely upon the experience and qualifications of the special
229 magistrate and is not influenced by the property appraiser. The
230 special magistrate shall accurately and completely preserve all
231 testimony and, in making recommendations to the value adjustment
232 board, shall include proposed findings of fact, conclusions of
233 law, and reasons for upholding or overturning the determination
234 of the property appraiser. The board shall appoint special
235 ~~magistrates from the list so compiled prior to convening of the~~
236 ~~board.~~ The expense of hearings before magistrates and any
237 compensation of special magistrates shall be borne three-fifths
238 by the board of county commissioners and two-fifths by the
239 school board.

240 (2) The value adjustment board of each county may employ
241 qualified property appraisers or evaluators to appear before the
242 value adjustment board at that meeting of the board which is
243 held for the purpose of hearing complaints. Such property
244 appraisers or evaluators shall present testimony as to the just
245 value of any property the value of which is contested before the
246 board and shall submit to examination by the board, the
247 taxpayer, and the property appraiser.

248 (3) The department shall provide and conduct training for
249 special magistrates at least once each state fiscal year in at
250 least five locations throughout the state. Such training shall
251 emphasize the department's standard measures of value, including
252 the guidelines for real and tangible personal property.

253 Notwithstanding subsection (1), a person who has 3 years of
 254 relevant experience and who has completed the training provided
 255 by the department under this subsection may be appointed as a
 256 special magistrate. The training shall be open to the public.
 257 The department shall charate tuition fees to any person attending
 258 this training in an amount sufficient to fund the department's
 259 costs to conduct all aspects of the training. The department
 260 shall deposit the fees collected into the Certification Program
 261 Trust Fund pursuant to s. 195.002(2).

262 Section 6. Section 194.0355, Florida Statutes, is created
 263 to read:

264 194.0355 Motion to consider violation of uniform practices
 265 and procedures governing hearing before value adjustment boards
 266 or special masters.--

267 (1) This section applies when there is a motion filed by
 268 the taxpayer or the property appraiser asserting that there was
 269 a material violation of the law or the rules governing the
 270 hearing of a petition.

271 (2) The motion must be filed by the taxpayer or the
 272 property appraiser initially to the value adjustment board. In
 273 support of the motion, the taxpayer or property appraiser shall
 274 include a copy of the record of the hearing at which the
 275 asserted material violation occurred and a motion stating the
 276 particular circumstances of the violation. The value adjustment
 277 board shall make a written determination concerning the motion
 278 material violation within in 14 days of receipt of the motion.

279 (3) If the concerns of the taxpayer or property appraiser
 280 are not resolved by the value adjustment board, the party

281 asserting a material violation may appeal to the board of county
 282 commissioners.

283 (4) The appeal to the board of county commissioners must
 284 be in the form prescribed by the department and must be
 285 accompanied by a copy of the record of the proceedings.

286 (5) Boards of county commissioners shall place the
 287 consideration of such assertions on their next available agenda,
 288 which shall be no later than 30 days after the filing of the
 289 form and record with the governing body of the county. In all
 290 circumstances, the board of county commissioners shall issue a
 291 written decision. The written decision shall contain findings of
 292 fact and conclusions of law and shall include reasons for a
 293 finding that a material violation of the law has occurred.

294 (6) If the board of county commissioners finds that a
 295 material violation of law occurred, the board shall issue
 296 appropriate instructions to the value adjustment board or
 297 certified special magistrate that may include directions that a
 298 new hearing be held or that a different certified special
 299 magistrate be assigned to hear the case.

300 (7) The value adjustment board shall not render a decision
 301 until the procedures in this section are exhausted.

302 Section 7. Subsection (1) of section 194.037, Florida
 303 Statutes, is amended to read:

304 194.037 Disclosure of tax impact.--

305 (1) After hearing all petitions, complaints, appeals, and
 306 disputes, the clerk shall make public notice of the findings and
 307 results of the board in at least a quarter-page size
 308 advertisement of a standard size or tabloid size newspaper, and

309 the headline shall be in a type no smaller than 18 point. The
 310 advertisement shall not be placed in that portion of the
 311 newspaper where legal notices and classified advertisements
 312 appear. The advertisement shall be published in a newspaper of
 313 general paid circulation in the county. The newspaper selected
 314 shall be one of general interest and readership in the
 315 community, and not one of limited subject matter, pursuant to
 316 chapter 50. The headline shall read: TAX IMPACT OF VALUE
 317 ADJUSTMENT BOARD. The public notice shall list the members of
 318 the value adjustment board and the taxing authorities to which
 319 they are elected. The form shall show, in columnar form, for
 320 each of the property classes listed under subsection (2), the
 321 following information, with appropriate column totals:

322 (a) In the first column, the number of parcels for which
 323 the board granted exemptions that had been denied or that had
 324 not been acted upon by the property appraiser.

325 (b) In the second column, the number of parcels for which
 326 petitions were filed concerning a property tax exemption.

327 (c) In the third column, the number of parcels for which
 328 the board considered the petition and reduced the assessment
 329 from that made by the property appraiser on the initial
 330 assessment roll.

331 (d) In the fourth column, the number of parcels for which
 332 petitions were filed but not considered by the board because
 333 such petitions were withdrawn or settled prior to the board's
 334 consideration.

335 (e) ~~(d)~~ In the fifth ~~fourth~~ column, the number of parcels
 336 for which petitions were filed requesting a change in assessed

337 value, including requested changes in assessment classification.

338 (f)~~(e)~~ In the sixth ~~fifth~~ column, the net change in
 339 taxable value from the assessor's initial roll which results
 340 from board decisions.

341 (g)~~(f)~~ In the seventh ~~sixth~~ column, the net shift in taxes
 342 to parcels not granted relief by the board. The shift shall be
 343 computed as the amount shown in column 6 ~~5~~ multiplied by the
 344 applicable millage rates adopted by the taxing authorities in
 345 hearings held pursuant to s. 200.065(2) (d) or adopted by vote of
 346 the electors pursuant to s. 9(b) or s. 12, Art. VII of the State
 347 Constitution, but without adjustment as authorized pursuant to
 348 s. 200.065(6). If for any taxing authority the hearing has not
 349 been completed at the time the notice required herein is
 350 prepared, the millage rate used shall be that adopted in the
 351 hearing held pursuant to s. 200.065(2) (c).

352 Section 8. It is the express intent of the Legislature
 353 that a taxpayer shall never have the burden of proving that the
 354 property appraiser's assessment is not supported by any
 355 reasonable hypothesis of a legal assessment. It is the further
 356 intent of the Legislature that any cases of law published since
 357 1997 applying the every-reasonable-hypothesis burden of proof to
 358 uphold the property appraiser's assessment are expressly
 359 rejected to the extent that they are interpretive of legislative
 360 intent.

361 Section 9. This act shall take effect September 1, 2008.