

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 Department of Revenue to develop a uniform
8 policies and procedures manual for use in proceedings
9 before value adjustment boards; specifying availability
10 requirements for such manual; amending s. 194.035, F.S.;
11 requiring certain persons in certain counties to attend
12 special magistrate training under certain circumstances;
13 providing a fee exemption; requiring value adjustment
14 boards to verify the qualifications of special magistrates
15 prior to appointment; providing selection criteria;
16 requiring the department to provide and conduct training
17 for special magistrates; providing training requirements;
18 requiring the department to charge tuition fees; providing
19 for deposit of such fees; creating s. 194.0355, F.S.;
20 providing application; providing requirements for motions
21 asserting violations of law or rules governing hearing
22 petitions; providing for appeal to the board of county
23 commissioners; providing requirements for appeal;
24 providing requirements for boards of county commissioners
25 in hearing such appeals; requiring the board to issue
26 instructions to the value adjustment board under certain
27 circumstances; prohibiting value adjustment boards from
28 rendering decisions until certain procedures are

29 exhausted; amending s. 194.037, F.S.; revising information
 30 required to be provided on the disclosure of tax impact
 31 form; providing legislative intent; specifying that
 32 taxpayers are precluded from having certain burdens of
 33 proof; amending s. 195.052, F.S.; specifying requirements
 34 for data to be published by the Department of Revenue;
 35 extending the publication period; providing an effective
 36 date.

37

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

39

40 Section 1. Paragraph (c) of subsection (4) of section
 41 193.155, Florida Statutes, is amended to read:

42 193.155 Homestead assessments.--Homestead property shall
 43 be assessed at just value as of January 1, 1994. Property
 44 receiving the homestead exemption after January 1, 1994, shall
 45 be assessed at just value as of January 1 of the year in which
 46 the property receives the exemption unless the provisions of
 47 subsection (8) apply.

48 (4)

49 (c) Changes, additions, or improvements that replace all
 50 or a portion of real property that was damaged or destroyed by
 51 misfortune or calamity shall be assessed upon substantial
 52 completion as if such damage or destruction had not occurred and
 53 in accordance with paragraph (b) if the owner of such property:

54 1. Was permanently residing on such property or
 55 improvements were under construction and subject to completion
 56 prior to January 1 of the year when the damage or destruction

57 | occurred.~~†~~

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

60 | 3. Applies for and receives homestead exemption on such
61 | property the year following the completion of improvements made
62 | in compliance with paragraph (b) year.

63 | Section 2. Paragraph (b) of subsection (3) of section
64 | 193.461, Florida Statutes, is amended to read:

65 | 193.461 Agricultural lands; classification and assessment;
66 | mandated eradication or quarantine program.--

67 | (3)

68 | (b) Subject to the restrictions set out in this section,
69 | only lands which are used primarily for bona fide agricultural
70 | purposes shall be classified agricultural. "Bona fide
71 | agricultural purposes" means good faith commercial agricultural
72 | use of the land. In determining whether the use of the land for
73 | agricultural purposes is bona fide, the following factors may be
74 | taken into consideration:

75 | 1. The length of time the land has been so used. ~~utilized.~~~~†~~

76 | 2. Whether the use has been continuous.~~†~~

77 | 3. The purchase price paid.~~†~~

78 | 4. Size, as it relates to specific agricultural use, but
79 | in no event shall a minimum acreage be required for agricultural
80 | assessment.~~†~~

81 | 5. Whether an indicated effort has been made to care
82 | sufficiently and adequately for the land in accordance with
83 | accepted commercial agricultural practices, including, without
84 | limitation, fertilizing, liming, tilling, mowing, reforesting,

85 and other accepted agricultural practices.~~†~~

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

88 7. Such other factors as may from time to time become
89 applicable.

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

92 194.011 Assessment notice; objections to assessments.--

93 (5) (a) The department shall by rule prescribe uniform
94 procedures for hearings before the value adjustment board which
95 include requiring:

96 ~~1. (a)~~ Procedures for the exchange of information and
97 evidence by the property appraiser and the petitioner consistent
98 with s. 194.032.~~†~~~~and~~

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

102 (b) The department shall develop a uniform policies and
103 procedures manual that shall be used by value adjustment boards,
104 special magistrates, and taxpayers in proceedings before value
105 adjustment boards. The manual shall be made available, at a
106 minimum, on the department's website and on the existing
107 websites of the clerks of circuit courts.

108 Section 4. Section 194.015, Florida Statutes, is amended
109 to read:

110 194.015 Value adjustment board.--There is hereby created a
111 value adjustment board for each county, which shall consist of
112 two ~~three~~ members of the governing body of the county as elected

113 | from the membership of the board of said governing body, one of
 114 | whom shall be elected chairperson, and one member ~~two members~~ of
 115 | the school board as elected from the membership of the school
 116 | board, and two citizen members, one of whom shall be appointed
 117 | by the governing body of the county and must own homestead
 118 | property within the county and one of whom must be appointed by
 119 | the school board and must own a business occupying commercial
 120 | space located within the school district. A citizen member may
 121 | not be a member or an employee of any taxing authority, and may
 122 | not be a person who represents property owners in any
 123 | administrative or judicial review of property taxes. The members
 124 | of the board may be temporarily replaced by other members of the
 125 | respective boards on appointment by their respective
 126 | chairpersons. Any three members shall constitute a quorum of the
 127 | board, except that each quorum must include at least one member
 128 | of said governing board, ~~and~~ at least one member of the school
 129 | board, and at least one citizen member and no meeting of the
 130 | board shall take place unless a quorum is present. Members of
 131 | the board may receive such per diem compensation as is allowed
 132 | by law for state employees if both bodies elect to allow such
 133 | compensation. The clerk of the governing body of the county
 134 | shall be the clerk of the value adjustment board. ~~The office of~~
 135 | ~~the county attorney may be counsel to the board unless the~~
 136 | ~~county attorney represents the property appraiser, in which~~
 137 | ~~instance~~ The board shall appoint private counsel who has
 138 | practiced law for over 5 years and who shall receive such
 139 | compensation as may be established by the board. The private
 140 | counsel may not represent the property appraiser, the tax

141 collector, any taxing authority, or any property owner in any
142 administrative or judicial review of property taxes. No meeting
143 of the board shall take place unless counsel to the board is
144 present. ~~However, counsel for the property appraiser shall not~~
145 ~~be required when the county attorney represents only the board~~
146 ~~at the board hearings, even though the county attorney may~~
147 ~~represent the property appraiser in other matters or at a~~
148 ~~different time.~~ Two-fifths of the expenses of the board shall be
149 borne by the district school board and three-fifths by the
150 district county commission.

151 Section 5. Section 194.035, Florida Statutes, is amended
152 to read:

153 194.035 Special magistrates; property evaluators.--

154 (1) In counties having a population of more than 75,000,
155 the board shall appoint special magistrates for the purpose of
156 taking testimony and making recommendations to the board, which
157 recommendations the board may act upon without further hearing.
158 These special magistrates may not be elected or appointed
159 officials or employees of the county but shall be selected from
160 a list of those qualified individuals who are willing to serve
161 as special magistrates. Employees and elected or appointed
162 officials of a taxing jurisdiction or of the state may not serve
163 as special magistrates. The clerk of the board shall annually
164 notify such individuals or their professional associations to
165 make known to them that opportunities to serve as special
166 magistrates exist. The Department of Revenue shall provide a
167 list of qualified special magistrates to any county with a
168 population of 75,000 or less. Subject to appropriation, the

169 department shall reimburse counties with a population of 75,000
170 or less for payments made to special magistrates appointed for
171 the purpose of taking testimony and making recommendations to
172 the value adjustment board pursuant to this section. The
173 department shall establish a reasonable range for payments per
174 case to special magistrates based on such payments in other
175 counties. Requests for reimbursement of payments outside this
176 range shall be justified by the county. If the total of all
177 requests for reimbursement in any year exceeds the amount
178 available pursuant to this section, payments to all counties
179 shall be prorated accordingly. If a county having a population
180 less than 75,000 does not appoint a special magistrate to hear
181 each petition, the person or persons designated to hear
182 petitions before the value adjustment board shall attend the
183 training provided pursuant to subsection (3), regardless of
184 whether the person would otherwise be required to attend, but
185 shall not be required to pay the tuition fee specified in
186 subsection (3). A special magistrate appointed to hear issues of
187 exemptions and classifications shall be a member of The Florida
188 Bar with no less than 5 years' experience in the area of ad
189 valorem taxation. A special magistrate appointed to hear issues
190 regarding the valuation of real estate shall be a state
191 certified real estate appraiser with not less than 5 years'
192 experience in real property valuation. A special magistrate
193 appointed to hear issues regarding the valuation of tangible
194 personal property shall be a designated member of a nationally
195 recognized appraiser's organization with not less than 5 years'
196 experience in tangible personal property valuation. A special

197 magistrate need not be a resident of the county in which he or
198 she serves. A special magistrate may not represent a person
199 before the board in any tax year during which he or she has
200 served that board as a special magistrate. Before appointing a
201 special magistrate, a value adjustment board shall verify the
202 special magistrate's qualifications. The value adjustment board
203 shall ensure that the selection of special magistrates is based
204 solely upon the experience and qualifications of the special
205 magistrate and is not influenced by the property appraiser. The
206 special magistrate shall accurately and completely preserve all
207 testimony and, in making recommendations to the value adjustment
208 board, shall include proposed findings of fact, conclusions of
209 law, and reasons for upholding or overturning the determination
210 of the property appraiser. ~~The board shall appoint special~~
211 ~~magistrates from the list so compiled prior to convening of the~~
212 ~~board.~~ The expense of hearings before magistrates and any
213 compensation of special magistrates shall be borne three-fifths
214 by the board of county commissioners and two-fifths by the
215 school board.

216 (2) The value adjustment board of each county may employ
217 qualified property appraisers or evaluators to appear before the
218 value adjustment board at that meeting of the board which is
219 held for the purpose of hearing complaints. Such property
220 appraisers or evaluators shall present testimony as to the just
221 value of any property the value of which is contested before the
222 board and shall submit to examination by the board, the
223 taxpayer, and the property appraiser.

224 (3) The department shall provide and conduct training for

225 special magistrates at least once each state fiscal year in at
226 least five locations throughout the state. Such training shall
227 emphasize the department's standard measures of value, including
228 the guidelines for real and tangible personal property.
229 Notwithstanding subsection (1), a person who has 3 years of
230 relevant experience and who has completed the training provided
231 by the department under this subsection may be appointed as a
232 special magistrate. The training shall be open to the public.
233 The department shall charge tuition fees to any person attending
234 this training in an amount sufficient to fund the department's
235 costs to conduct all aspects of the training. The department
236 shall deposit the fees collected into the Certification Program
237 Trust Fund pursuant to s. 195.002(2).

238 Section 6. Section 194.0355, Florida Statutes, is created
239 to read:

240 194.0355 Motion to consider violation of uniform practices
241 and procedures governing hearing before value adjustment boards
242 or special masters.--

243 (1) This section applies when there is a motion filed by
244 the taxpayer or the property appraiser asserting that there was
245 a material violation of the law or the rules governing the
246 hearing of a petition.

247 (2) The motion must be filed by the taxpayer or the
248 property appraiser initially to the value adjustment board. In
249 support of the motion, the taxpayer or property appraiser shall
250 include a copy of the record of the hearing at which the
251 asserted material violation occurred and a motion stating the
252 particular circumstances of the violation. The value adjustment

253 board shall make a written determination concerning the motion
 254 material violation within in 14 days of receipt of the motion.

255 (3) If the concerns of the taxpayer or property appraiser
 256 are not resolved by the value adjustment board, the party
 257 asserting a material violation may appeal to the board of county
 258 commissioners.

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

262 (5) Boards of county commissioners shall place the
 263 consideration of such assertions on their next available agenda,
 264 which shall be no later than 30 days after the filing of the
 265 form and record with the governing body of the county. In all
 266 circumstances, the board of county commissioners shall issue a
 267 written decision. The written decision shall contain findings of
 268 fact and conclusions of law and shall include reasons for a
 269 finding that a material violation of the law has occurred.

270 (6) If the board of county commissioners finds that a
 271 material violation of law occurred, the board shall issue
 272 appropriate instructions to the value adjustment board or
 273 special magistrate that may include directions that a new
 274 hearing be held or that a different special magistrate be
 275 assigned to hear the case.

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

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

280 194.037 Disclosure of tax impact.--

281 (1) After hearing all petitions, complaints, appeals, and
 282 disputes, the clerk shall make public notice of the findings and
 283 results of the board in at least a quarter-page size
 284 advertisement of a standard size or tabloid size newspaper, and
 285 the headline shall be in a type no smaller than 18 point. The
 286 advertisement shall not be placed in that portion of the
 287 newspaper where legal notices and classified advertisements
 288 appear. The advertisement shall be published in a newspaper of
 289 general paid circulation in the county. The newspaper selected
 290 shall be one of general interest and readership in the
 291 community, and not one of limited subject matter, pursuant to
 292 chapter 50. The headline shall read: TAX IMPACT OF VALUE
 293 ADJUSTMENT BOARD. The public notice shall list the members of
 294 the value adjustment board and the taxing authorities to which
 295 they are elected. The form shall show, in columnar form, for
 296 each of the property classes listed under subsection (2), the
 297 following information, with appropriate column totals:

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

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

303 (c) In the third column, the number of parcels for which
 304 the board considered the petition and reduced the assessment
 305 from that made by the property appraiser on the initial
 306 assessment roll.

307 (d) In the fourth column, the number of parcels for which
 308 petitions were filed but not considered by the board because

309 such petitions were withdrawn or settled prior to the board's
310 consideration.

311 (e)~~(d)~~ In the fifth ~~fourth~~ column, the number of parcels
312 for which petitions were filed requesting a change in assessed
313 value, including requested changes in assessment classification.

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

317 (g)~~(f)~~ In the seventh ~~sixth~~ column, the net shift in taxes
318 to parcels not granted relief by the board. The shift shall be
319 computed as the amount shown in column 6 ~~5~~ multiplied by the
320 applicable millage rates adopted by the taxing authorities in
321 hearings held pursuant to s. 200.065(2)(d) or adopted by vote of
322 the electors pursuant to s. 9(b) or s. 12, Art. VII of the State
323 Constitution, but without adjustment as authorized pursuant to
324 s. 200.065(6). If for any taxing authority the hearing has not
325 been completed at the time the notice required herein is
326 prepared, the millage rate used shall be that adopted in the
327 hearing held pursuant to s. 200.065(2)(c).

328 Section 8. It is the express intent of the Legislature
329 that a taxpayer shall never have the burden of proving that the
330 property appraiser's assessment is not supported by any
331 reasonable hypothesis of a legal assessment. It is the further
332 intent of the Legislature that any cases of law published since
333 1997 applying the every-reasonable-hypothesis burden of proof to
334 uphold the property appraiser's assessment are expressly
335 rejected to the extent that they are interpretive of legislative
336 intent.

337 Section 9. Section 195.052, Florida Statutes, is amended
338 to read:

339 195.052 Research and tabulation of data.--The department
340 shall conduct constant research and maintain accurate
341 tabulations of data and conditions existing as to ad valorem
342 taxation, shall annually publish such data as may be appropriate
343 to facilitate fiscal policymaking, and shall annually make such
344 recommendations to the Legislature as are necessary to ensure
345 that property is valued according to its just value and is
346 equitably taxed throughout the state. Such data shall include
347 the annual percentage increase in total nonvoted ad valorem
348 taxes levied by each city and county and shall include
349 information on the distribution of ad valorem taxes levied among
350 the various classifications of property, including homestead,
351 nonhomestead residential, new construction, commercial, and
352 industrial properties. Such data shall include the previous
353 year's adopted millage rate, the current year's millage rate,
354 and the current percentage increase in taxes levied above the
355 rolled-back rate. Such data shall be published, at a minimum, on
356 the department's website and on the websites of all property
357 appraisers of this state, if available. Publication shall occur
358 not later than 90 ~~60~~ days after receipt of extended rolls for
359 all counties pursuant to s. 193.122(7).

360 Section 10. This act shall take effect September 1, 2008.