

1 A bill to be entitled
2 An act relating to ad valorem taxation; amending s.
3 193.011, F.S.; clarifying factors that a property
4 appraiser must consider in deriving just valuation;
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; amending s. 194.037, F.S.;
20 revising information required to be provided on the
21 disclosure of tax impact form; providing legislative
22 intent; specifying that taxpayers are precluded from
23 having certain burdens of proof; amending s. 195.002,
24 F.S.; conforming provisions to changes made by the act;
25 amending s. 195.052, F.S.; specifying requirements for
26 data to be published by the Department of Revenue;
27 extending the publication period; providing an effective
28 date.

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

Section 1. Section 193.011, Florida Statutes, is amended to read:

193.011 Factors to consider in deriving just valuation.--In arriving at just valuation as required under s. 4, Art. VII of the State Constitution, the property appraiser shall take into consideration the following factors:

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

(2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration the legally permissible use of the property, including any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and any zoning changes, concurrency requirements, and permits necessary to achieve the highest and best use, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance,

57 | regulation, resolution, or proclamation it adopts imposing any
 58 | such limitation, regulation, or moratorium;

59 | (3) The location of said property;

60 | (4) The quantity or size of said property;

61 | (5) The cost of said property and the present replacement
 62 | value of any improvements thereon;

63 | (6) The condition of said property;

64 | (7) The income from said property; and

65 | (8) The net proceeds of the sale of the property, as
 66 | received by the seller, after deduction of all of the usual and
 67 | reasonable fees and costs of the sale, including the costs and
 68 | expenses of financing, and allowance for unconventional or
 69 | atypical terms of financing arrangements. When the net proceeds
 70 | of the sale of any property are utilized, directly or
 71 | indirectly, in the determination of just valuation of realty of
 72 | the sold parcel or any other parcel under the provisions of this
 73 | section, the property appraiser, for the purposes of such
 74 | determination, shall exclude any portion of such net proceeds
 75 | attributable to payments for household furnishings or other
 76 | items of personal property.

77 | Section 2. Paragraph (b) of subsection (3) of section
 78 | 193.461, Florida Statutes, is amended to read:

79 | 193.461 Agricultural lands; classification and assessment;
 80 | mandated eradication or quarantine program.--

81 | (3)

82 | (b) Subject to the restrictions set out in this section,
 83 | only lands which are used primarily for bona fide agricultural
 84 | purposes shall be classified agricultural. "Bona fide

85 agricultural purposes" means good faith commercial agricultural
 86 use of the land. In determining whether the use of the land for
 87 agricultural purposes is bona fide, the following factors may be
 88 taken into consideration:

- 89 1. The length of time the land has been so used. ~~utilized.~~
- 90 2. Whether the use has been continuous. ~~†~~
- 91 3. The purchase price paid. ~~†~~
- 92 4. Size, as it relates to specific agricultural use, but
 93 in no event shall a minimum acreage be required for agricultural
 94 assessment. ~~†~~
- 95 5. Whether an indicated effort has been made to care
 96 sufficiently and adequately for the land in accordance with
 97 accepted commercial agricultural practices, including, without
 98 limitation, fertilizing, liming, tilling, mowing, reforesting,
 99 and other accepted agricultural practices. ~~†~~

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

102 7. Such other factors as may from time to time become
 103 applicable.

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

106 194.011 Assessment notice; objections to assessments.--

107 (5) (a) The department shall by rule prescribe uniform
 108 procedures for hearings before the value adjustment board which
 109 include requiring:

- 110 1. ~~(a)~~ Procedures for the exchange of information and
 111 evidence by the property appraiser and the petitioner consistent
 112 with s. 194.032. ~~† and~~

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

116 (b) The department shall develop a uniform policies and
 117 procedures manual that shall be used by value adjustment boards,
 118 special magistrates, and taxpayers in proceedings before value
 119 adjustment boards. The manual shall be made available, at a
 120 minimum, on the department's website and on the existing
 121 websites of the clerks of circuit courts.

122 Section 4. Section 194.015, Florida Statutes, is amended
 123 to read:

124 194.015 Value adjustment board.--There is hereby created a
 125 value adjustment board for each county, which shall consist of
 126 two ~~three~~ members of the governing body of the county as elected
 127 from the membership of the board of said governing body, one of
 128 whom shall be elected chairperson, and one member ~~two members~~ of
 129 the school board as elected from the membership of the school
 130 board, and two citizen members, one of whom shall be appointed
 131 by the governing body of the county and must own homestead
 132 property within the county and one of whom must be appointed by
 133 the school board and must own a business occupying commercial
 134 space located within the school district. A citizen member may
 135 not be a member or an employee of any taxing authority, and may
 136 not be a person who represents property owners in any
 137 administrative or judicial review of property taxes. The members
 138 of the board may be temporarily replaced by other members of the
 139 respective boards on appointment by their respective
 140 chairpersons. Any three members shall constitute a quorum of the

141 board, except that each quorum must include at least one member
 142 of said governing board, ~~and~~ at least one member of the school
 143 board, and at least one citizen member and no meeting of the
 144 board shall take place unless a quorum is present. Members of
 145 the board may receive such per diem compensation as is allowed
 146 by law for state employees if both bodies elect to allow such
 147 compensation. The clerk of the governing body of the county
 148 shall be the clerk of the value adjustment board. ~~The office of~~
 149 ~~the county attorney may be counsel to the board unless the~~
 150 ~~county attorney represents the property appraiser, in which~~
 151 ~~instance~~ The board shall appoint private counsel who has
 152 practiced law for over 5 years and who shall receive such
 153 compensation as may be established by the board. The private
 154 counsel may not represent the property appraiser, the tax
 155 collector, any taxing authority, or any property owner in any
 156 administrative or judicial review of property taxes. No meeting
 157 of the board shall take place unless counsel to the board is
 158 present. ~~However, counsel for the property appraiser shall not~~
 159 ~~be required when the county attorney represents only the board~~
 160 ~~at the board hearings, even though the county attorney may~~
 161 ~~represent the property appraiser in other matters or at a~~
 162 ~~different time.~~ Two-fifths of the expenses of the board shall be
 163 borne by the district school board and three-fifths by the
 164 district county commission.

165 Section 5. Section 194.035, Florida Statutes, is amended
 166 to read:

167 194.035 Special magistrates; property evaluators.--

168 (1) In counties having a population of more than 75,000,

169 the board shall appoint special magistrates for the purpose of
170 taking testimony and making recommendations to the board, which
171 recommendations the board may act upon without further hearing.
172 These special magistrates may not be elected or appointed
173 officials or employees of the county but shall be selected from
174 a list of those qualified individuals who are willing to serve
175 as special magistrates. Employees and elected or appointed
176 officials of a taxing jurisdiction or of the state may not serve
177 as special magistrates. The clerk of the board shall annually
178 notify such individuals or their professional associations to
179 make known to them that opportunities to serve as special
180 magistrates exist. The Department of Revenue shall provide a
181 list of qualified special magistrates to any county with a
182 population of 75,000 or less. Subject to appropriation, the
183 department shall reimburse counties with a population of 75,000
184 or less for payments made to special magistrates appointed for
185 the purpose of taking testimony and making recommendations to
186 the value adjustment board pursuant to this section. The
187 department shall establish a reasonable range for payments per
188 case to special magistrates based on such payments in other
189 counties. Requests for reimbursement of payments outside this
190 range shall be justified by the county. If the total of all
191 requests for reimbursement in any year exceeds the amount
192 available pursuant to this section, payments to all counties
193 shall be prorated accordingly. If a county having a population
194 less than 75,000 does not appoint a special magistrate to hear
195 each petition, the person or persons designated to hear
196 petitions before the value adjustment board or the attorney

197 appointed to advise the value adjustment board shall attend the
198 training provided pursuant to subsection (3), regardless of
199 whether the person would otherwise be required to attend, but
200 shall not be required to pay the tuition fee specified in
201 subsection (3). A special magistrate appointed to hear issues of
202 exemptions and classifications shall be a member of The Florida
203 Bar with no less than 5 years' experience in the area of ad
204 valorem taxation. A special magistrate appointed to hear issues
205 regarding the valuation of real estate shall be a state
206 certified real estate appraiser with not less than 5 years'
207 experience in real property valuation. A special magistrate
208 appointed to hear issues regarding the valuation of tangible
209 personal property shall be a designated member of a nationally
210 recognized appraiser's organization with not less than 5 years'
211 experience in tangible personal property valuation. A special
212 magistrate need not be a resident of the county in which he or
213 she serves. A special magistrate may not represent a person
214 before the board in any tax year during which he or she has
215 served that board as a special magistrate. Before appointing a
216 special magistrate, a value adjustment board shall verify the
217 special magistrate's qualifications. The value adjustment board
218 shall ensure that the selection of special magistrates is based
219 solely upon the experience and qualifications of the special
220 magistrate and is not influenced by the property appraiser. The
221 special magistrate shall accurately and completely preserve all
222 testimony and, in making recommendations to the value adjustment
223 board, shall include proposed findings of fact, conclusions of
224 law, and reasons for upholding or overturning the determination

225 of the property appraiser. ~~The board shall appoint special~~
226 ~~magistrates from the list so compiled prior to convening of the~~
227 ~~board.~~ The expense of hearings before magistrates and any
228 compensation of special magistrates shall be borne three-fifths
229 by the board of county commissioners and two-fifths by the
230 school board.

231 (2) The value adjustment board of each county may employ
232 qualified property appraisers or evaluators to appear before the
233 value adjustment board at that meeting of the board which is
234 held for the purpose of hearing complaints. Such property
235 appraisers or evaluators shall present testimony as to the just
236 value of any property the value of which is contested before the
237 board and shall submit to examination by the board, the
238 taxpayer, and the property appraiser.

239 (3) The department shall provide and conduct training for
240 special magistrates at least once each state fiscal year in at
241 least five locations throughout the state. Such training shall
242 emphasize the department's standard measures of value, including
243 the guidelines for real and tangible personal property.
244 Notwithstanding subsection (1), a person who has 3 years of
245 relevant experience and who has completed the training provided
246 by the department under this subsection may be appointed as a
247 special magistrate. The training shall be open to the public.
248 The department shall charge tuition fees to any person attending
249 this training in an amount sufficient to fund the department's
250 costs to conduct all aspects of the training. The department
251 shall deposit the fees collected into the Certification Program
252 Trust Fund pursuant to s. 195.002(2).

253 Section 6. Subsection (1) of section 194.037, Florida
 254 Statutes, is amended to read:

255 194.037 Disclosure of tax impact.--

256 (1) After hearing all petitions, complaints, appeals, and
 257 disputes, the clerk shall make public notice of the findings and
 258 results of the board in at least a quarter-page size
 259 advertisement of a standard size or tabloid size newspaper, and
 260 the headline shall be in a type no smaller than 18 point. The
 261 advertisement shall not be placed in that portion of the
 262 newspaper where legal notices and classified advertisements
 263 appear. The advertisement shall be published in a newspaper of
 264 general paid circulation in the county. The newspaper selected
 265 shall be one of general interest and readership in the
 266 community, and not one of limited subject matter, pursuant to
 267 chapter 50. The headline shall read: TAX IMPACT OF VALUE
 268 ADJUSTMENT BOARD. The public notice shall list the members of
 269 the value adjustment board and the taxing authorities to which
 270 they are elected. The form shall show, in columnar form, for
 271 each of the property classes listed under subsection (2), the
 272 following information, with appropriate column totals:

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

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

278 (c) In the third column, the number of parcels for which
 279 the board considered the petition and reduced the assessment
 280 from that made by the property appraiser on the initial

281 assessment roll.

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

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

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

292 (g)~~(f)~~ In the seventh ~~sixth~~ column, the net shift in taxes
 293 to parcels not granted relief by the board. The shift shall be
 294 computed as the amount shown in column 6 ~~5~~ multiplied by the
 295 applicable millage rates adopted by the taxing authorities in
 296 hearings held pursuant to s. 200.065(2)(d) or adopted by vote of
 297 the electors pursuant to s. 9(b) or s. 12, Art. VII of the State
 298 Constitution, but without adjustment as authorized pursuant to
 299 s. 200.065(6). If for any taxing authority the hearing has not
 300 been completed at the time the notice required herein is
 301 prepared, the millage rate used shall be that adopted in the
 302 hearing held pursuant to s. 200.065(2)(c).

303 Section 7. It is the express intent of the Legislature
 304 that a taxpayer shall never have the burden of proving that the
 305 property appraiser's assessment is not supported by any
 306 reasonable hypothesis of a legal assessment. It is the further
 307 intent of the Legislature that any cases of law published since
 308 1997 applying the every-reasonable-hypothesis burden of proof to

309 uphold the property appraiser's assessment are expressly
 310 rejected to the extent that they are interpretive of legislative
 311 intent.

312 Section 8. Subsection (2) of section 195.002, Florida
 313 Statutes, is amended to read:

314 195.002 Supervision by Department of Revenue.--

315 (2) In furtherance of its duty to conduct schools to
 316 upgrade assessment skills and collection skills, the department
 317 may establish by rule committees on admissions and
 318 certification. ~~Additionally,~~ The department may also incur
 319 reasonable expenses for hiring instructors, travel, office
 320 operations, certificates of completion, badges or awards, and
 321 food service incidental to conducting such schools and for
 322 administering any certification program under s. 145.10, ~~or~~ s.
 323 145.11, or s. 194.035. The department may charge a tuition fee
 324 and an examination fee to any person who attends such a school
 325 and may charge a fee to certify or recertify any person under
 326 such a program. The department shall deposit such fees into the
 327 Certification Program Trust Fund which is created in the State
 328 Treasury. There shall be separate school accounts and program
 329 accounts in the trust fund for property appraisers, ~~and for~~ tax
 330 collectors, and special magistrates. The department shall use
 331 money in the fund to pay such expenses.

332 Section 9. Section 195.052, Florida Statutes, is amended
 333 to read:

334 195.052 Research and tabulation of data.--The department
 335 shall conduct constant research and maintain accurate
 336 tabulations of data and conditions existing as to ad valorem

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

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