

By Senator Fasano

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1 A bill to be entitled
2 An act relating to ad valorem assessments; amending s.
3 194.301, F.S.; revising the burden of proof in the
4 challenge of an assessment; requiring property
5 appraisers to prove compliance with certain laws and
6 appraisal practices; deleting provisions relating to a
7 presumption of correctness of an assessment by a
8 property appraiser; requiring a taxpayer to prove
9 entitlement to an ad valorem tax exemption or
10 classification by a preponderance of the evidence;
11 providing legislative intent; providing for
12 retroactive application; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 194.301, Florida Statutes, is amended to
17 read:

18 194.301 Presumption of correctness and burden of proof in
19 challenges to ad valorem tax value assessment.—

20 (1) In any administrative or judicial action in which a
21 taxpayer challenges an ad valorem tax assessment of value, the
22 property appraiser has the burden of going forward and proving
23 that his or her assessment was arrived at by complying with s.
24 193.011 and professionally accepted appraisal practices,
25 including mass appraisal standards, if appropriate, in which
26 case the assessment shall be presumed correct. The taxpayer has
27 the burden of proving by a preponderance of the evidence that
28 the assessment of value exceeds just value or that the
29 assessment is based upon appraisal practices that are different

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30 from the appraisal practices generally applied to comparable
31 property within the same class. In any judicial action in which
32 the property appraiser challenges the value adjustment board's
33 determination of value, the property appraiser has the burden of
34 proving by a preponderance of the evidence that the assessment
35 established by the value adjustment board is less than just
36 value appraiser's assessment shall be presumed correct. This
37 ~~presumption of correctness is lost if the taxpayer shows by a~~
38 ~~preponderance of the evidence that either the property appraiser~~
39 ~~has failed to consider properly the criteria in s. 193.011 or if~~
40 ~~the property appraiser's assessment is arbitrarily based on~~
41 ~~appraisal practices which are different from the appraisal~~
42 ~~practices generally applied by the property appraiser to~~
43 ~~comparable property within the same class and within the same~~
44 ~~county. If the presumption of correctness is lost, the taxpayer~~
45 ~~shall have the burden of proving by a preponderance of the~~
46 ~~evidence that the appraiser's assessment is in excess of just~~
47 ~~value. If the presumption of correctness is retained, the~~
48 ~~taxpayer shall have the burden of proving by clear and~~
49 ~~convincing evidence that the appraiser's assessment is in excess~~
50 ~~of just value. In no case shall the taxpayer have the burden of~~
51 ~~proving that the property appraiser's assessment is not~~
52 ~~supported by any reasonable hypothesis of a legal assessment. If~~
53 ~~the property appraiser's assessment is determined to be~~
54 ~~erroneous, the value adjustment board or the court can establish~~
55 ~~the assessment if there exists competent, substantial evidence~~
56 exists in the record, which cumulatively meets the requirements
57 of s. 193.011 and professionally accepted appraisal practices,
58 including mass appraisal standards, if appropriate. If the

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59 record lacks competent, substantial evidence ~~meeting the just~~
60 ~~value criteria of s. 193.011~~, the matter shall be remanded to
61 the property appraiser with appropriate directions from the
62 value adjustment board or the court. The burdens of proof
63 provided in this section apply to the challenge of an assessment
64 that is revised after the assessment is remanded to the property
65 appraiser by a value adjustment board or court.

66 (2) In any administrative or judicial action in which a
67 denial of an exemption or assessment classification is
68 challenged, the denial by the property appraiser does not have a
69 presumption of correctness. In such actions, the taxpayer has
70 the burden of proving entitlement to an exemption or assessment
71 classification by a preponderance of the evidence.

72 Section 2. It is the express intent of the Legislature that
73 a taxpayer shall never have the burden of proving that the
74 property appraiser's assessment is not supported by any
75 reasonable hypothesis of a legal assessment. All cases
76 establishing the every-reasonable-hypothesis standard were
77 expressly rejected by the Legislature on the adoption of chapter
78 97-85, Laws of Florida. It is the further intent of the
79 Legislature that any cases published since 1997 citing the
80 every-reasonable-hypothesis standard are expressly rejected to
81 the extent that they are interpretative of legislative intent.

82 Section 3. Subsection (2) of section 194.301, Florida
83 Statutes, as created by this act, and section 2 of this act are
84 intended to clarify existing law and apply retroactively.

85 Section 4. This act shall take effect upon becoming a law
86 and first applies to assessments in 2009.