

By the Committee on Finance and Tax; and Senators Fasano and Lynn

593-05150-09

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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 bases for providing a  
 4           presumption of correctness to an assessment of  
 5           property value; providing that the taxpayer is  
 6           entitled to an evaluation of the appraisal  
 7           methodology; providing that the act preempts prior  
 8           case law; revising the criteria for overcoming the  
 9           presumption of correctness; providing for challenges  
 10          to the classification or exemption status of property;  
 11          providing for application; providing an effective  
 12          date.

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

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

18           (Substantial rewording of section. See  
 19           s. 194.301, F.S., for present text.)

20           194.301 Challenge to ad valorem tax assessment.-

21           (1) An ad valorem tax assessment is presumed correct  
 22 whether established by the property appraiser or as revised by  
 23 the value adjustment board. However, a taxpayer who challenges  
 24 an assessment is entitled to a determination by the value  
 25 adjustment board or court of the appropriateness of the  
 26 appraisal methodology used in making the assessment. The value  
 27 of property must be determined by an appraisal methodology that  
 28 complies with the criteria of s. 193.011 and professionally  
 29 accepted appraisal practices. The provisions of this subsection

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30 preempt any prior case law that is inconsistent with this  
31 subsection.

32 (2) In an administrative or judicial action in which an ad  
33 valorem tax assessment is challenged, the burden of proof is on  
34 the party initiating the challenge.

35 (a) If the challenge is to the assessed value of the  
36 property, the party initiating the challenge has the burden of  
37 proving by a preponderance of the evidence that the assessed  
38 value:

39 1. Does not represent the just value of the property after  
40 taking into account any applicable limits on annual increases in  
41 the value of the property;

42 2. Does not represent the classified use value or  
43 fractional value of the property if the property is required to  
44 be assessed based on its character or use; or

45 3. Is arbitrarily based on appraisal practices that are  
46 different from the appraisal practices generally applied by the  
47 property appraiser to comparable property within the same  
48 county.

49 (b) If the party challenging the assessment satisfies the  
50 requirements of paragraph (a), the presumption provided in  
51 subsection (1) is overcome and the value adjustment board or the  
52 court shall establish the assessment if there is competent,  
53 substantial evidence of value in the record which cumulatively  
54 meets the criteria of s. 193.011 and professionally accepted  
55 appraisal practices. If the record lacks such evidence, the  
56 matter must be remanded to the property appraiser with  
57 appropriate directions from the value adjustment board or the  
58 court, and the property appraiser must comply with those

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59 directions.

60 (c) If the revised assessment following remand is  
61 challenged, the procedures described in this section apply.

62 (d) A party is not required to exclude every reasonable  
63 hypothesis of a legal assessment.

64 (e) If the challenge is to the classification or exemption  
65 status of the property, there is no presumption of correctness  
66 and the party initiating the challenge has the burden of proving  
67 by a preponderance of the evidence that the classification or  
68 exempt status assigned to the property is incorrect.

69 Section 2. This act shall take effect upon becoming a law,  
70 and applies to the 2009 tax roll, except that s. 194.301(2)(d)  
71 and (e), Florida Statutes, as amended by this act, are  
72 clarifying and remedial in nature and also apply to actions  
73 pending on or after the effective date of this act for which no  
74 final order has been issued.