

By Senator Storms

10-00193-09

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1                   A bill to be entitled  
 2           An act relating to real property assessments; amending  
 3           s. 194.301, F.S.; revising the burden of proof in  
 4           challenges to the property appraiser's assessment of  
 5           just value; deleting the presumption of correctness  
 6           and placing the burden of proof on the appraiser;  
 7           providing an effective date.

8  
 9 Be It Enacted by the Legislature of the State of Florida:

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 11           Section 1. Section 194.301, Florida Statutes, is amended to  
 12 read:

13           194.301 Ad valorem tax assessment; burden of proof  
 14 ~~presumption of correctness.~~-In an ~~any~~ administrative or judicial  
 15 action in which a taxpayer challenges an ad valorem tax  
 16 assessment of just value, the property appraiser has the burden  
 17 of proving by a preponderance of the evidence that his or her  
 18 assessment complies with s. 193.011 and professionally accepted  
 19 appraisal practices ~~appraiser's assessment shall be presumed~~  
 20 ~~correct. This presumption of correctness is lost if the taxpayer~~  
 21 ~~shows by a preponderance of the evidence that either the~~  
 22 ~~property appraiser has failed to consider properly the criteria~~  
 23 ~~in s. 193.011 or if the property appraiser's assessment is~~  
 24 ~~arbitrarily based on appraisal practices which are different~~  
 25 ~~from the appraisal practices generally applied by the property~~  
 26 ~~appraiser to comparable property within the same class and~~  
 27 ~~within the same county. If the presumption of correctness is~~  
 28 ~~lost, the taxpayer shall have the burden of proving by a~~  
 29 ~~preponderance of the evidence that the appraiser's assessment is~~

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30 ~~in excess of just value. If the presumption of correctness is~~  
31 ~~retained, the taxpayer shall have the burden of proving by clear~~  
32 ~~and convincing evidence that the appraiser's assessment is in~~  
33 ~~excess of just value. In no case shall the taxpayer have the~~  
34 ~~burden of proving that the property appraiser's assessment is~~  
35 ~~not supported by any reasonable hypothesis of a legal~~  
36 ~~assessment. If the property appraiser fails to meet the burden~~  
37 ~~of proof or the appraiser's assessment is determined to be~~  
38 ~~erroneous, the value adjustment board or the court may ~~can~~~~  
39 ~~establish the assessment if there is ~~exists~~ competent,~~  
40 ~~substantial evidence in the record, which cumulatively meets the~~  
41 ~~requirements of s. 193.011. If the record lacks competent,~~  
42 ~~substantial evidence ~~meeting the just value criteria of s.~~~~  
43 ~~193.011, the matter shall be remanded to the property appraiser~~  
44 ~~with appropriate directions from the value adjustment board or~~  
45 ~~the court.~~

46 Section 2. This act shall take effect July 1, 2009.