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LEGISLATIVE ACTION

Senate

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House

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Floor: 1b/WD/3R

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05/01/2009 02:46 PM

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Senator Lawson moved the following:

1 **Senate Amendment to Amendment (963610) (with title**
2 **amendment)**

3
4 Delete lines 3 - 60

5 and insert:

6 Delete lines 25 - 81

7 and insert:

8 Section 1. Subsection (4) of section 193.052, Florida
9 Statutes, is amended to read:

10 193.052 Preparation and serving of returns.—

11 (4) All returns shall be completed by the taxpayer in such
12 a way as to correctly reflect the owner's estimate of the value



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13 of property owned or otherwise taxable to him or her and covered
14 by such return. All returns shall include a statement by the
15 taxpayer of the original installed cost of the property and the
16 reproduction or replacement cost thereof and all data and
17 analysis supporting the statement. The return also shall include
18 a statement by the taxpayer of the condition of the property,
19 including, but not limited to, depreciation and obsolescence and
20 all data and analysis supporting the statement. Failure to
21 comply with this requirement shall constitute a waiver of the
22 right to challenge the assessment for that year as determined by
23 the property appraiser in any subsequent administrative or
24 judicial proceeding. All forms used for returns shall be
25 prescribed by the department and delivered to the property
26 appraisers for distribution to the taxpayers.

27 Section 2. Paragraph (g) of subsection (3) of section
28 194.011, Florida Statutes, is amended to read:

29 194.011 Assessment notice; objections to assessments.—

30 (3) A petition to the value adjustment board must be in
31 substantially the form prescribed by the department.

32 Notwithstanding s. 195.022, a county officer may not refuse to
33 accept a form provided by the department for this purpose if the
34 taxpayer chooses to use it. A petition to the value adjustment
35 board shall describe the property by parcel number and shall be
36 filed as follows:

37 (g) The individual, agent, or legal entity that signs the
38 petition becomes an agent of the taxpayer for the purpose of
39 serving process to obtain personal jurisdiction over the
40 taxpayer for the entire value adjustment board proceedings,
41 including any appeals of a board decision by the property



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42 appraiser pursuant to s. 194.036. An individual, agent, or legal
43 entity may not contract with a property owner to represent the
44 property owner based on any agreement whereby the property owner
45 agrees to pay the individual, agent, or legal entity a
46 percentage of the amount of taxes saved based on any reduction
47 in value made by the value adjustment board, and any such
48 contract or agreement is declared null and void and contrary to
49 the public policy of this state.

50 Section 3. Section 194.301, Florida Statutes, is amended to
51 read:

52 194.301 Presumption of correctness.—In any administrative or
53 judicial action in which a taxpayer challenges an ad valorem tax
54 assessment of value, the property appraiser's assessment shall
55 be presumed correct. This presumption of correctness is lost if
56 the taxpayer shows by a preponderance of the evidence that
57 either the property appraiser has failed to consider properly
58 the criteria in s. 193.011 or if the property appraiser's
59 assessment is arbitrarily based on appraisal practices which are
60 different from the appraisal practices generally applied by the
61 property appraiser to comparable property within the same class
62 and within the same county. If the presumption of correctness is
63 lost, the taxpayer shall have the burden of proving by a
64 preponderance of the evidence that the appraiser's assessment is
65 in excess of just value. ~~If the presumption of correctness is~~
66 ~~retained, the taxpayer shall have the burden of proving by clear~~
67 ~~and convincing evidence that the appraiser's assessment is in~~
68 ~~excess of just value.~~ In no case shall the taxpayer have the
69 burden of proving that the property appraiser's assessment is
70 not supported by any reasonable hypothesis of a legal



71 assessment. If the property appraiser's assessment is determined
72 to be erroneous, the Value Adjustment Board or the court can
73 establish the assessment if there exists competent, substantial
74 evidence in the record, which cumulatively meets the
75 requirements of s. 193.011. If the record lacks competent,
76 substantial evidence meeting the just value criteria of s.
77 193.011, the matter shall be remanded to the property appraiser
78 with appropriate directions from the Value Adjustment Board or
79 the court.

80
81 ===== T I T L E A M E N D M E N T =====

82 And the title is amended as follows:

83 Delete lines 66 - 76

84 and insert:

85 An act relating to ad valorem tax assessments;
86 amending s. 193.052, F.S.; revising requirements for
87 preparing and serving returns for property; amending
88 s. 194.011, F.S.; revising filing procedures for
89 petitions to a value adjustment board; amending s.
90 194.301, F.S.; deleting the provision relating to the
91 retention of the presumption of correction of the
92 property appraiser's assessment; providing legislative
93 intent relating to