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LEGISLATIVE ACTION

Senate

House

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Floor: 1c/F/3R

05/01/2009 02:46 PM

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Senator Lawson moved the following:

1           **Senate Substitute for Amendment (221228) (with title**  
2 **amendment)**

3  
4           Delete lines 3 - 60  
5 and insert:

6  
7           Delete lines 25 - 93  
8 and insert:

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

11           193.052 Preparation and serving of returns.-

12           (4) All returns shall be completed by the taxpayer in such



814750

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

28 Section 2. Paragraph (g) of subsection (3) of section  
29 194.011, Florida Statutes, is amended to read:

30 194.011 Assessment notice; objections to assessments.—

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

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



814750

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

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

53 194.301 Presumption of correctness.—In any administrative  
54 or judicial action in which a taxpayer challenges an ad valorem  
55 tax assessment of value, the property appraiser's assessment  
56 shall be presumed correct. This presumption of correctness is  
57 lost if the taxpayer shows by a preponderance of the evidence  
58 that either the property appraiser has failed to consider  
59 properly the criteria in s. 193.011 or if the property  
60 appraiser's assessment is arbitrarily based on appraisal  
61 practices which are different from the appraisal practices  
62 generally applied by the property appraiser to comparable  
63 property within the same class and within the same county. If  
64 the presumption of correctness is lost, the taxpayer shall have  
65 the burden of proving by a preponderance of the evidence that  
66 the appraiser's assessment is in excess of just value. ~~If the~~  
67 ~~presumption of correctness is retained, the taxpayer shall have~~  
68 ~~the burden of proving by clear and convincing evidence that the~~  
69 ~~appraiser's assessment is in excess of just value.~~ In no case  
70 shall the taxpayer have the burden of proving that the property



814750

71 appraiser's assessment is not supported by any reasonable  
72 hypothesis of a legal assessment. If the property appraiser's  
73 assessment is determined to be erroneous, the Value Adjustment  
74 Board or the court can establish the assessment if there exists  
75 competent, substantial evidence in the record, which  
76 cumulatively meets the requirements of s. 193.011. If the record  
77 lacks competent, substantial evidence meeting the just value  
78 criteria of s. 193.011, the matter shall be remanded to the  
79 property appraiser with appropriate directions from the Value  
80 Adjustment Board or the court.

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

83 And the title is amended as follows:

84 Delete lines 64 - 76

85 and insert:

86  
87 Delete lines 2 - 20

88 and insert:

89 An act relating to ad valorem tax assessments;  
90 amending s. 193.052, F.S.; revising requirements for  
91 preparing and serving returns for property; amending  
92 s. 194.011, F.S.; revising filing procedures for  
93 petitions to a value adjustment board; amending s.  
94 194.301, F.S.; deleting a provision relating to the  
95 retention of the presumption of correctness of the  
96 property appraiser's assessment; providing for