

CS/HB 521

2009

1 A bill to be entitled
2 An act relating to ad valorem tax assessment challenges;
3 amending s. 194.301, F.S.; revising burden of proof
4 requirements in taxpayer challenges of ad valorem tax
5 assessments of value; requiring property appraisers to
6 prove compliance with certain laws and appraisal
7 practices; providing a presumption of correctness under
8 certain circumstances; providing taxpayer burden of proof
9 requirements; deleting provisions relating to a
10 presumption of correctness of an assessment by a property
11 appraiser; authorizing value adjustment boards or courts
12 to establish assessments under certain circumstances;
13 specifying that a property appraiser's denial of exemption
14 or assessment classification does not have a presumption
15 of correctness in administrative or judicial actions;
16 requiring a taxpayer to prove entitlement to an ad valorem
17 tax exemption or classification by a preponderance of the
18 evidence; providing legislative intent relating to
19 taxpayer burden of proof; rejecting certain case law
20 precedent; providing construction; providing for
21 retroactive application; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 194.301, Florida Statutes, is amended
26 to read:

27 194.301 Presumption of correctness and burden of proof in
28 challenges to ad valorem tax assessments.--

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29 (1) In any administrative or judicial action in which a
30 taxpayer challenges an ad valorem tax assessment of value, the
31 property appraiser has the burden of proving that his or her
32 assessment was arrived at by complying with s. 193.011 and
33 professionally accepted appraisal practices, including, but not
34 limited to, mass appraisal standards, if appropriate, in which
35 case the assessment shall be presumed correct. The taxpayer has
36 the burden of proving by a preponderance of the evidence that
37 the assessment of value exceeds just value or that the
38 assessment is based upon appraisal practices that are different
39 from the appraisal practices generally applied to comparable
40 property within the same class. In any judicial action in which
41 the property appraiser challenges the value adjustment board's
42 determination of value, the property appraiser has the burden of
43 proving by a preponderance of the evidence that the assessment
44 established by the value adjustment board is less than just
45 value appraiser's assessment shall be presumed correct. This
46 ~~presumption of correctness is lost if the taxpayer shows by a~~
47 ~~preponderance of the evidence that either the property appraiser~~
48 ~~has failed to consider properly the criteria in s. 193.011 or if~~
49 ~~the property appraiser's assessment is arbitrarily based on~~
50 ~~appraisal practices which are different from the appraisal~~
51 ~~practices generally applied by the property appraiser to~~
52 ~~comparable property within the same class and within the same~~
53 ~~county. If the presumption of correctness is lost, the taxpayer~~
54 ~~shall have the burden of proving by a preponderance of the~~
55 ~~evidence that the appraiser's assessment is in excess of just~~
56 ~~value. If the presumption of correctness is retained, the~~

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57 ~~taxpayer shall have the burden of proving by clear and~~
58 ~~convincing evidence that the appraiser's assessment is in excess~~
59 ~~of just value. In no case shall the taxpayer have the burden of~~
60 ~~proving that the property appraiser's assessment is not~~
61 ~~supported by any reasonable hypothesis of a legal assessment. If~~
62 ~~the property appraiser's assessment is determined to be~~
63 ~~erroneous, the Value Adjustment Board or the court can establish~~
64 ~~the assessment if there exists competent, substantial evidence~~
65 exists in the record, which cumulatively meets the requirements
66 of s. 193.011 and professionally accepted appraisal practices,
67 including, but not limited to, mass appraisal standards, if
68 appropriate. If the record lacks competent, substantial evidence
69 ~~meeting the just value criteria of s. 193.011,~~ the matter shall
70 be remanded to the property appraiser with appropriate
71 directions from the Value Adjustment Board or the court. The
72 burdens of proof provided in this subsection apply to the
73 challenge of an assessment that is revised after the assessment
74 is remanded to the property appraiser by the Value Adjustment
75 Board or court.

76 (2) In any administrative or judicial action in which a
77 denial of an exemption or assessment classification is
78 challenged, the denial by the property appraiser does not have a
79 presumption of correctness. In such actions, the taxpayer has
80 the burden of proving entitlement to an exemption or assessment
81 classification by a preponderance of the evidence.

82 Section 2. (1) It is the express intent of the
83 Legislature that a taxpayer shall never have the burden of
84 proving that the property appraiser's assessment is not

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85 supported by any reasonable hypothesis of a legal assessment.
86 All cases establishing the every-reasonable-hypothesis standard
87 were expressly rejected by the Legislature on the adoption of
88 chapter 97-85, Laws of Florida. It is the further intent of the
89 Legislature that any cases published since 1997 citing the
90 every-reasonable-hypothesis standard are expressly rejected to
91 the extent that they are interpretative of legislative intent.

92 (2) This section is intended to clarify existing law and
93 apply retroactively.

94 Section 3. This act shall take effect upon becoming a law
95 and shall first apply to assessments in 2009.