

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.

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

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 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.--

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 incorrect erroneous, the Value Adjustment Board or the court can  
64 establish the assessment if ~~there exists~~ competent, substantial  
65 evidence exists in the record, which cumulatively meets the  
66 requirements of s. 193.011 and professionally accepted appraisal  
67 practices, including, but not limited to, mass appraisal  
68 standards, if appropriate. If the record lacks competent,  
69 substantial evidence ~~meeting the just value criteria of s.~~  
70 ~~193.011~~, the matter shall be remanded to the property appraiser  
71 with appropriate directions from the Value Adjustment Board or  
72 the court. The burdens of proof provided in this subsection  
73 apply to the challenge of an assessment that is revised after  
74 the assessment is remanded to the property appraiser by the  
75 Value Adjustment 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.