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CS/CS/HB 521, Engrossed 1

2009 Legislature

1 A bill to be entitled
 2 An act relating to ad valorem assessments; amending s.
 3 194.301, F.S.; revising the bases for providing a
 4 presumption of correctness to an assessment of property
 5 value; providing that the taxpayer is entitled to an
 6 evaluation of the appraisal methodology; providing that
 7 the act preempts prior case law; revising the criteria for
 8 overcoming the presumption of correctness; providing for
 9 challenges to the classification or exemption status of
 10 property; providing for application; providing legislative
 11 intent relating to taxpayer burden of proof; rejecting
 12 certain case law precedent; providing construction;
 13 providing for retroactive application; providing an
 14 effective date.

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

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 18 Section 1. Section 194.301, Florida Statutes, is amended
 19 to read:

20 (Substantial rewording of section. See
 21 s. 194.301, F.S., for present text.)
 22 194.301 Challenge to ad valorem tax assessment.--
 23 (1) In any administrative or judicial action in which a
 24 taxpayer challenges an ad valorem tax assessment of value, the
 25 property appraiser's assessment is presumed correct if the
 26 appraiser proves by a preponderance of the evidence that the
 27 assessment was arrived at by complying with s. 193.011, any
 28 other applicable statutory requirements relating to classified

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29 use values or assessment caps, and professionally accepted
 30 appraisal practices, including mass appraisal standards, if
 31 appropriate. However, a taxpayer who challenges an assessment is
 32 entitled to a determination by the value adjustment board or
 33 court of the appropriateness of the appraisal methodology used
 34 in making the assessment. The value of property must be
 35 determined by an appraisal methodology that complies with the
 36 criteria of s. 193.011 and professionally accepted appraisal
 37 practices. The provisions of this subsection preempt any prior
 38 case law that is inconsistent with this subsection.

39 (2) In an administrative or judicial action in which an ad
 40 valorem tax assessment is challenged, the burden of proof is on
 41 the party initiating the challenge.

42 (a) If the challenge is to the assessed value of the
 43 property, the party initiating the challenge has the burden of
 44 proving by a preponderance of the evidence that the assessed
 45 value:

46 1. Does not represent the just value of the property after
 47 taking into account any applicable limits on annual increases in
 48 the value of the property;

49 2. Does not represent the classified use value or
 50 fractional value of the property if the property is required to
 51 be assessed based on its character or use; or

52 3. Is arbitrarily based on appraisal practices that are
 53 different from the appraisal practices generally applied by the
 54 property appraiser to comparable property within the same
 55 county.

56 (b) If the party challenging the assessment satisfies the
 57 requirements of paragraph (a), the presumption provided in
 58 subsection (1) is overcome and the value adjustment board or the

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59 court shall establish the assessment if there is competent,
 60 substantial evidence of value in the record which cumulatively
 61 meets the criteria of s. 193.011 and professionally accepted
 62 appraisal practices. If the record lacks such evidence, the
 63 matter must be remanded to the property appraiser with
 64 appropriate directions from the value adjustment board or the
 65 court, and the property appraiser must comply with those
 66 directions.

67 (c) If the revised assessment following remand is
 68 challenged, the procedures described in this section apply.

69 (d) If the challenge is to the classification or exemption
 70 status of the property, there is no presumption of correctness
 71 and the party initiating the challenge has the burden of proving
 72 by a preponderance of the evidence that the classification or
 73 exempt status assigned to the property is incorrect.

74 Section 2. (1) It is the express intent of the
 75 Legislature that a taxpayer shall never have the burden of
 76 proving that the property appraiser's assessment is not
 77 supported by any reasonable hypothesis of a legal assessment.
 78 All cases establishing the every-reasonable-hypothesis standard
 79 were expressly rejected by the Legislature on the adoption of
 80 chapter 97-85, Laws of Florida. It is the further intent of the
 81 Legislature that any cases published since 1997 citing the
 82 every-reasonable-hypothesis standard are expressly rejected to
 83 the extent that they are interpretative of legislative intent.

84 (2) This section is intended to clarify existing law and
 85 apply retroactively.

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