

HB 917

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1 A bill to be entitled
 2 An act relating to property assessments; amending s.
 3 192.042, F.S.; authorizing consideration of sales
 4 transactions in developing the just value assessment of
 5 real property; specifying criteria for sales transactions;
 6 requiring property appraisers to use certain sales for
 7 certain purposes; requiring the Department of Revenue to
 8 base levels of assessment and property tax roll statistics
 9 on certain sales transactions under certain circumstances;
 10 amending s. 194.301, F.S.; providing legislative intent;
 11 specifying a preponderance of evidence standard in
 12 taxpayer challenges of ad valorem tax assessments of value
 13 in judicial or administrative actions; deleting provisions
 14 relating to a presumption of correctness of a property
 15 appraiser's assessments; providing for sufficiency of
 16 independent appraisals of property types by certain
 17 appraisers; providing for a property appraiser's retention
 18 of a rebuttable presumption to challenge certain
 19 appraisals; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 192.042, Florida Statutes, is amended
 24 to read:

25 192.042 Date of assessment.--All property shall be
 26 assessed according to its just value as follows:

27 (1) Real property, on January 1 of each year. Improvements
 28 or portions not substantially completed on January 1 shall have

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29 no value placed thereon. "Substantially completed" shall mean
30 that the improvement or some self-sufficient unit within it can
31 be used for the purpose for which it was constructed.

32 (a)1. In developing the just value assessment of real
33 property for the January 1 date each year, sales transactions
34 may be considered from closed transactions up to June 1 of the
35 year in which the roll is submitted subject to the following
36 conditions:

37 a. Post-date sales are probative of just value as of
38 January 1.

39 b. Post-date sales may not be used as a substitute for
40 pre-date sales.

41 c. Post-date sales may be considered only in conjunction
42 with pre-date sales.

43 d. Consideration of post-date sales is otherwise
44 consistent with law.

45 2. The property appraiser shall use post-date sales as
46 provided in this paragraph to ensure values are equitable in a
47 declining market. Under no circumstances may the use of post-
48 date sales create an overassessment of just value of any
49 property as of January 1.

50 (b) If the property appraiser notifies the department upon
51 submission of the property tax roll that the provisions of
52 paragraph (a) have been used in the development of the property
53 tax roll, the department shall base the level of assessment and
54 property tax roll statistics on qualified sales transactions
55 dating from September 1 of the prior year until June 1 of the
56 subsequent year.

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57 (2) Tangible personal property, on January 1, except that
 58 construction work in progress shall have no value placed thereon
 59 until substantially completed as defined in s. 192.001(11)(d).

60 Section 2. Section 194.301, Florida Statutes, is amended
 61 to read:

62 194.301 Presumption of correctness.--

63 (1) It is the intent of the Legislature that a taxpayer
 64 never have the burden of proving that a property appraiser's
 65 assessment is not supported by any reasonable hypothesis of a
 66 legal assessment. It is the intent of the Legislature that any
 67 court cases published since 1997 applying the every-reasonable-
 68 hypothesis standard to uphold the property appraiser's
 69 assessment are rejected based upon case interpretations of
 70 legislative intent.

71 (2) In any administrative or judicial action in which a
 72 taxpayer challenges an ad valorem tax assessment of value, the
 73 standard shall be based upon a preponderance of the evidence
 74 ~~property appraiser's assessment shall be presumed correct. This~~
 75 ~~presumption of correctness is lost if~~ The taxpayer shall show
 76 ~~shows~~ by a preponderance of the evidence that either the
 77 property appraiser has failed to consider properly the criteria
 78 in s. 193.011 or if the property appraiser's assessment is
 79 arbitrarily based on appraisal practices which are different
 80 from the appraisal practices generally applied by the property
 81 appraiser to comparable property within the same class and
 82 within the same county. With the property appraiser retaining a
 83 rebuttable presumption to challenge an appraisal, an appraisal
 84 prepared by an independent appraiser is sufficient, for all

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85 property types when the appraiser is a state-certified general
86 appraiser in good standing and for residential property types
87 when the appraiser is a state-certified residential appraiser or
88 state-licensed appraiser in good standing, to prove ~~If the~~
89 ~~presumption of correctness is lost, the taxpayer shall have the~~
90 ~~burden of proving~~ by a preponderance of the evidence that the
91 appraiser's assessment is in excess of just value. ~~If the~~
92 ~~presumption of correctness is retained, the taxpayer shall have~~
93 ~~the burden of proving by clear and convincing evidence that the~~
94 ~~appraiser's assessment is in excess of just value. In no case~~
95 ~~shall the taxpayer have the burden of proving that the property~~
96 ~~appraiser's assessment is not supported by any reasonable~~
97 ~~hypothesis of a legal assessment.~~ If the property appraiser's
98 assessment is determined to be erroneous, the Value Adjustment
99 Board or the court can establish the assessment if there exists
100 competent, substantial evidence in the record, which
101 cumulatively meets the requirements of s. 193.011. If the record
102 lacks competent, substantial evidence meeting the just value
103 criteria of s. 193.011, the matter shall be remanded to the
104 property appraiser with appropriate directions from the Value
105 Adjustment Board or the court.

106 Section 3. This act shall take effect July 1, 2009.