

HB 1189

2011

1 A bill to be entitled
2 An act relating to property taxation; amending s. 193.074,
3 F.S.; deleting an exception to the confidentiality of
4 specified tax returns relating to an order of an
5 administrative body with quasi-judicial powers in ad
6 valorem tax matters; specifying that certain disclosures
7 of specified tax returns without consent of the taxpayer
8 constitute misfeasance or malfeasance and may result in
9 removal from office; amending s. 194.011, F.S.; revising
10 provisions relating to the effect of the failure of a
11 property appraiser or petitioner to timely comply with
12 certain requests for evidentiary information in certain
13 tax assessment proceedings; amending s. 194.034, F.S.;
14 deleting a provision relating to a petitioner's
15 presentation of certain testimony or other evidence for
16 consideration by the value adjustment board or special
17 magistrate; amending s. 195.027, F.S.; specifying that a
18 taxpayer's failure to provide financial records relating
19 to nonhomestead property does not preclude consideration
20 of the records in certain judicial or administrative
21 proceedings; deleting an exception to the confidentiality
22 accorded to certain financial records of a taxpayer
23 relating to an order of an administrative body with quasi-
24 judicial powers in ad valorem tax matters; requiring that
25 certain rules and regulations must provide for the return
26 of financial records relating to nonhomestead property
27 after a taxpayer request within a specified time;
28 requiring certain prior notice to a taxpayer before

Page 1 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1189-00

HB 1189

2011

29 specified governmental agencies may share or exchange
 30 confidential records; providing for application to pending
 31 and newly initiated challenges; providing an effective
 32 date.

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

36 Section 1. Section 193.074, Florida Statutes, is amended
 37 to read:

38 193.074 Confidentiality of returns.—All returns of
 39 property and returns required by former s. 201.022 submitted by
 40 the taxpayer pursuant to law shall be deemed to be confidential
 41 in the hands of the property appraiser, the clerk of the circuit
 42 court, the department, the tax collector, the Auditor General,
 43 and the Office of Program Policy Analysis and Government
 44 Accountability, and their employees and persons acting under
 45 their supervision and control, except upon court order ~~or order~~
 46 ~~of an administrative body having quasi-judicial powers in ad~~
 47 ~~valorem tax matters~~, and such returns are exempt from the
 48 provisions of s. 119.07(1). The deliberate or intentional
 49 disclosure of any such records without the written consent of
 50 the taxpayer constitutes misfeasance or malfeasance and may be
 51 grounds for removal from office.

52 Section 2. Paragraph (b) of subsection (4) of section
 53 194.011, Florida Statutes, is amended, and paragraph (c) is
 54 added to that subsection, to read:

55 194.011 Assessment notice; objections to assessments.—
 56 (4)

57 (b) No later than 7 days before the hearing, if the
 58 petitioner has provided the information required under paragraph
 59 (a), and if requested in writing by the petitioner, the property
 60 appraiser shall provide to the petitioner a list of evidence to
 61 be presented at the hearing, together with copies of all
 62 documentation to be considered by the value adjustment board and
 63 a summary of evidence to be presented by witnesses. The evidence
 64 list must contain the property record card if provided by the
 65 clerk. ~~Failure of the property appraiser to timely comply with~~
 66 ~~the requirements of this paragraph shall result in a~~
 67 ~~rescheduling of the hearing.~~

68 (c) Failure of the petitioner or the property appraiser to
 69 timely comply with the requirements of this subsection precludes
 70 any such information, evidence, or documentation from being
 71 considered at the hearing.

72 Section 3. Subsection (1) of section 194.034, Florida
 73 Statutes, is amended to read:

74 194.034 Hearing procedures; rules.—

75 (1) (a) Petitioners before the board may be represented by
 76 an attorney or agent and present testimony and other evidence.
 77 The property appraiser or his or her authorized representatives
 78 may be represented by an attorney in defending the property
 79 appraiser's assessment or opposing an exemption and may present
 80 testimony and other evidence. The property appraiser, each
 81 petitioner, and all witnesses shall be required, upon the
 82 request of either party, to testify under oath as administered
 83 by the chairperson of the board. Hearings shall be conducted in
 84 the manner prescribed by rules of the department, which rules

85 shall include the right of cross-examination of any witness.

86 (b) Nothing herein shall preclude an aggrieved taxpayer
 87 from contesting his or her assessment in the manner provided by
 88 s. 194.171, whether or not he or she has initiated an action
 89 pursuant to s. 194.011.

90 (c) The rules shall provide that no evidence shall be
 91 considered by the board except when presented during the time
 92 scheduled for the petitioner's hearing or at a time when the
 93 petitioner has been given reasonable notice; that a verbatim
 94 record of the proceedings shall be made, and proof of any
 95 documentary evidence presented shall be preserved and made
 96 available to the Department of Revenue, if requested; and that
 97 further judicial proceedings shall be as provided in s. 194.036.

98 ~~(d) Notwithstanding the provisions of this subsection, no~~
 99 ~~petitioner may present for consideration, nor may a board or~~
 100 ~~special magistrate accept for consideration, testimony or other~~
 101 ~~evidentiary materials that were requested of the petitioner in~~
 102 ~~writing by the property appraiser of which the petitioner had~~
 103 ~~knowledge and denied to the property appraiser.~~

104 (d)~~(e)~~ Chapter 120 does not apply to hearings of the value
 105 adjustment board.

106 (e)~~(f)~~ An assessment may not be contested until a return
 107 required by s. 193.052 has been filed.

108 Section 4. Subsection (3) of section 195.027, Florida
 109 Statutes, is amended to read:

110 195.027 Rules and regulations.—

111 (3) The rules and regulations shall provide procedures
 112 whereby the property appraiser, the Department of Revenue, and

HB 1189

2011

113 the Auditor General shall be able to obtain access, where
 114 necessary, to financial records of taxpayers relating to
 115 nonhomestead property which records are required to make a
 116 determination of the proper assessment as to the particular
 117 property in question. Access to a taxpayer's records shall be
 118 provided only in those instances in which it is determined that
 119 such records are necessary to determine either the
 120 classification or the value of the taxable nonhomestead
 121 property. Access shall be provided only to those records which
 122 pertain to the property physically located in the taxing county
 123 as of January 1 of each year and to the income from such
 124 property generated in the taxing county for the year in which a
 125 proper assessment is made. Failure of a taxpayer to provide such
 126 records does not preclude consideration of them in any
 127 administrative or judicial proceeding for the purpose of
 128 determining the just value of the taxpayer's property. All
 129 records produced by the taxpayer under this subsection shall be
 130 deemed to be confidential in the hands of the property
 131 appraiser, the department, the tax collector, and the Auditor
 132 General and shall not be divulged to any person, firm, or
 133 corporation, except upon court order ~~or order of an~~
 134 ~~administrative body having quasi-judicial powers in ad valorem~~
 135 ~~tax matters~~, and such records are exempt from the provisions of
 136 s. 119.07(1). Such rules and regulations shall require that all
 137 such records must be returned within 10 days, when requested by
 138 the taxpayer. When one of the governmental agencies listed in
 139 this subsection exchanges or shares such confidential records
 140 with one of the other agencies, the rules and regulations shall

HB 1189

2011

141 provide that the taxpayer must be given advance notice
142 explaining the conditions and reasons for such exchange or
143 sharing.

144 Section 5. This act shall take effect upon becoming a law
145 and shall apply to all administrative and judicial tax
146 challenges brought under chapter 194, Florida Statutes, that are
147 pending on or initiated on or after the effective date of this
148 act.