

By Senator Storms

10-00992A-11

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1 A bill to be entitled
2 An act relating to proceedings to challenge the
3 assessment of real property for the purposes of ad
4 valorem taxation; amending s. 193.074, F.S.; deleting
5 a provision authorizing certain administrative bodies
6 having quasi-judicial powers from authorizing the
7 disclosure of confidential property tax returns;
8 providing that the disclosure of a confidential
9 property tax return without the written consent of the
10 taxpayer may be grounds for removal from office;
11 amending s. 194.011, F.S.; prohibiting the value
12 adjustment board from considering certain evidence or
13 documentation that was not timely disclosed; amending
14 s. 194.034, F.S.; deleting a provision prohibiting a
15 value adjustment board or special magistrate from
16 considering certain evidence from a petitioner which
17 was not timely provided to the property appraiser;
18 amending s. 195.027, F.S.; authorizing the trier of
19 fact in an administrative or judicial proceeding
20 challenging the assessment of nonhomestead property
21 from considering the financial records of a taxpayer
22 which the taxpayer failed to disclose as previously
23 required; requiring the property appraiser, the
24 Department of Revenue, and the Auditor General to
25 return a taxpayer's financial records within 10 days
26 after receipt if requested by the taxpayer; requiring
27 the taxpayer to be notified and receive an explanation
28 of the purpose of sharing the taxpayer's financial
29 records with certain entities authorized to have

10-00992A-11

20111766__

30 access to those records; providing for application of
31 the act; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Section 193.074, Florida Statutes, is amended to
36 read:

37 193.074 Confidentiality of returns.—All returns of property
38 and returns required by former s. 201.022 submitted by the
39 taxpayer pursuant to law shall be deemed to be confidential in
40 the hands of the property appraiser, the clerk of the circuit
41 court, the department, the tax collector, the Auditor General,
42 and the Office of Program Policy Analysis and Government
43 Accountability, and their employees and persons acting under
44 their supervision and control, except upon court order ~~or order~~
45 ~~of an administrative body having quasi-judicial powers in ad~~
46 ~~valorem tax matters~~, and such returns are exempt from the
47 provisions of s. 119.07(1). The deliberate or intentional
48 disclosure of any such records without the written consent of
49 the taxpayer constitutes misfeasance or malfeasance and may be
50 grounds for removal from office.

51 Section 2. Subsection (4) of section 194.011, Florida
52 Statutes, is amended to read:

53 194.011 Assessment notice; objections to assessments.—

54 (4) (a) At least 15 days before the hearing the petitioner
55 must ~~shall~~ provide to the property appraiser a list of evidence
56 to be presented at the hearing, together with copies of all
57 documentation to be considered by the value adjustment board and
58 a summary of evidence to be presented by witnesses.

10-00992A-11

20111766__

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

70 (c) The value adjustment board may not consider evidence or
71 documentation that the petitioner or property appraiser failed
72 to provide within the time specified in this subsection to the
73 other party.

74 Section 3. Section 194.034, Florida Statutes, is amended to
75 read:

76 194.034 Hearing procedures; rules.—

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

10-00992A-11

20111766__

88 ~~rules shall include the right of cross-examination of any~~
89 ~~witness.~~

90 (b) This section does not prohibit ~~Nothing herein shall~~
91 ~~preclude~~ an aggrieved taxpayer from contesting his or her
92 assessment in circuit court pursuant to ~~the manner provided by~~
93 s. 194.171, whether or not he or she has initiated an action
94 pursuant to s. 194.011.

95 (c) Hearings shall be conducted in the manner prescribed by
96 rules of the department. The rules must:

97 1. Allow a party to cross-examine any witness; ~~The rules~~
98 ~~shall provide that no evidence shall be considered by~~

99 2. Prohibit the board from considering evidence except when
100 presented during the time scheduled for the petitioner's hearing
101 or at a time when the petitioner has been given reasonable
102 notice;

103 3. Require the board to make ~~that~~ a verbatim record of the
104 proceedings ~~shall be made, to preserve and proof of any~~
105 documentary evidence presented, and to make the evidence ~~shall~~
106 ~~be preserved and made~~ available to the Department of Revenue, if
107 requested; and

108 4. State that the petitioner may appeal the decision of the
109 board pursuant to s. 194.171 or further judicial proceedings
110 ~~shall be as provided in s. 194.036.~~

111 ~~(d) Notwithstanding the provisions of this subsection, no~~
112 ~~petitioner may present for consideration, nor may a board or~~
113 ~~special magistrate accept for consideration, testimony or other~~
114 ~~evidentiary materials that were requested of the petitioner in~~
115 ~~writing by the property appraiser of which the petitioner had~~
116 ~~knowledge and denied to the property appraiser.~~

10-00992A-11

20111766__

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

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

121 (2) In each case, except when a complaint is withdrawn by
122 the petitioner or is acknowledged as correct by the property
123 appraiser, the value adjustment board shall render a written
124 decision. All such decisions shall be issued within 20 calendar
125 days of the last day the board is in session under s. 194.032.
126 The decision of the board shall contain findings of fact and
127 conclusions of law and shall include reasons for upholding or
128 overturning the determination of the property appraiser. If ~~When~~
129 a special magistrate is ~~has been~~ appointed, the recommendations
130 of the special magistrate must ~~shall~~ be considered by the board.
131 The clerk, upon issuance of the decisions, must ~~shall~~, on a form
132 provided by the Department of Revenue, notify by first-class
133 mail each taxpayer, the property appraiser, and the department
134 of the decision of the board.

135 (3) ~~Appearance before an advisory board or agency created~~
136 ~~by~~ The county may not require a taxpayer to appear before an
137 advisory board or agency created by the county ~~be required~~ as a
138 prerequisite condition to appearing before the value adjustment
139 board.

140 (4) A condominium homeowners' association may appear before
141 the board to present testimony and evidence regarding the
142 assessment of condominium units that ~~which~~ the association
143 represents. Such testimony and evidence must ~~shall~~ be considered
144 by the board with respect to hearing petitions filed by
145 individual condominium unit owners, unless the owner requests

10-00992A-11

20111766__

146 otherwise.

147 (5) For the purposes of review of a petition, the board may
148 consider assessments among comparable properties within
149 homogeneous areas or neighborhoods.

150 (6) For purposes of hearing joint petitions filed pursuant
151 to s. 194.011(3)(e), each included parcel shall be considered by
152 the board as a separate petition. Such separate petitions shall
153 be heard consecutively by the board. If a special magistrate is
154 appointed, such separate petitions must ~~shall all~~ be assigned to
155 the same special magistrate.

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

158 195.027 Rules and regulations.—

159 (3) (a) The rules and regulations shall provide procedures
160 whereby the property appraiser, the Department of Revenue, and
161 the Auditor General may ~~shall be able to obtain~~ access, if ~~where~~
162 necessary, the ~~to~~ financial records of a taxpayer relating to
163 nonhomestead property which records are required to make a
164 determination of the proper assessment as to the particular
165 property in question. Access to a taxpayer's records shall be
166 provided only in those instances in which it is determined that
167 such records are necessary to determine either the
168 classification or the value of the taxable nonhomestead
169 property. Access shall be provided only to those records which
170 pertain to the property physically located in the taxing county
171 as of January 1 of each year and to the income from such
172 property generated in the taxing county for the year in which a
173 proper assessment is made. The failure of a taxpayer to provide
174 the financial records does not preclude the trier of fact in an

10-00992A-11

20111766__

175 administrative or judicial proceeding from considering those
176 records to determine the just value of the taxpayer's property.
177 All records produced by the taxpayer under this subsection are
178 ~~shall be~~ deemed to be confidential in the hands of the property
179 appraiser, the department, the tax collector, and the Auditor
180 General and may ~~shall~~ not be divulged to any person, firm, or
181 corporation, except upon court order ~~or order of an~~
182 ~~administrative body having quasi-judicial powers in ad valorem~~
183 ~~tax matters~~, and such records are exempt from the provisions of
184 s. 119.07(1).

185 (b) The rules prescribed by the department shall require
186 the property appraiser, the department, and the Auditor General
187 to return the financial records to the taxpayer within 10 days
188 after receipt if requested by the taxpayer. The rules shall also
189 require the property appraiser, the department, or the Auditor
190 General to provide advance notice to the taxpayer if the
191 taxpayer's financial records are shared with another entity that
192 is authorized under this subsection to request access to those
193 records. The notice must include an explanation of the purpose
194 for sharing the records.

195 Section 5. This act shall take effect upon becoming a law,
196 and applies to all administrative or judicial proceedings to
197 challenge an assessment of real property pending or initiated on
198 or after that date.