

By the Committee on Community Affairs; and Senator Storms

578-03776-11

20111766c1

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.; providing  
5           that the disclosure of a confidential property tax  
6           return without the written consent of the taxpayer may  
7           be grounds for removal from office; amending s.  
8           194.011, F.S.; prohibiting the value adjustment board  
9           from considering certain evidence or documentation  
10          that was not timely disclosed; amending s. 194.034,  
11          F.S.; deleting a provision prohibiting a value  
12          adjustment board or special magistrate from  
13          considering certain evidence from a petitioner which  
14          was not timely provided to the property appraiser;  
15          amending s. 194.035, F.S.; requiring the Department of  
16          Revenue to create a process by rule for the random  
17          selection of special magistrates by a value adjustment  
18          board; providing that an attempt to influence the  
19          selection of a special magistrate by the property  
20          appraiser constitutes misfeasance or malfeasance and  
21          may be grounds for removal from office; amending s.  
22          195.027, F.S.; authorizing the trier of fact in an  
23          administrative or judicial proceeding challenging the  
24          assessment of nonhomestead property from considering  
25          the financial records of a taxpayer which the taxpayer  
26          failed to disclose as previously required; requiring  
27          the property appraiser, the Department of Revenue, and  
28          the Auditor General to return a taxpayer's financial  
29          records within 10 days after receipt if requested by

578-03776-11

20111766c1

30 the taxpayer; requiring the taxpayer to be notified  
31 and receive an explanation of the purpose of sharing  
32 the taxpayer's financial records with certain entities  
33 authorized to have access to those records; providing  
34 for application of the act; providing an effective  
35 date.

36  
37 Be It Enacted by the Legislature of the State of Florida:

38  
39 Section 1. Section 193.074, Florida Statutes, is amended to  
40 read:

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

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

57 194.011 Assessment notice; objections to assessments.—

58 (4) (a) At least 15 days before the hearing the petitioner

578-03776-11

20111766c1

59 must ~~shall~~ provide to the property appraiser a list of evidence  
60 to be presented at the hearing, together with copies of all  
61 documentation to be considered by the value adjustment board and  
62 a summary of evidence to be presented by witnesses.

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

74 (c) The value adjustment board may not consider evidence or  
75 documentation that the petitioner or property appraiser failed  
76 to provide within the time specified in this subsection to the  
77 other party.

78 Section 3. Section 194.034, Florida Statutes, is amended to  
79 read:

80 194.034 Hearing procedures; rules.—

81 (1) (a) A petitioner ~~Petitioners~~ before the board may be  
82 represented by an attorney or agent and present testimony and  
83 other evidence. The property appraiser or his or her authorized  
84 representative ~~representatives~~ may be represented by an attorney  
85 in defending the property appraiser's assessment or opposing an  
86 exemption and may present testimony and other evidence. The  
87 property appraiser, each petitioner, and all witnesses shall be

578-03776-11

20111766c1

88 required, upon the request of either party, to testify under  
89 oath as administered by the chairperson of the board. Hearings  
90 shall be conducted in the manner prescribed by rules of the  
91 department. The rules must allow a party to cross-examine, ~~which~~  
92 ~~rules shall include the right of cross-examination of any~~  
93 witness.

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

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

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

103 2. Prohibit the board from considering evidence except when  
104 presented during the time scheduled for the petitioner's hearing  
105 or at a time when the petitioner has been given reasonable  
106 notice;

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

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

115 ~~(d) Notwithstanding the provisions of this subsection, no~~  
116 ~~petitioner may present for consideration, nor may a board or~~

578-03776-11

20111766c1

117 ~~special magistrate accept for consideration, testimony or other~~  
118 ~~evidentiary materials that were requested of the petitioner in~~  
119 ~~writing by the property appraiser of which the petitioner had~~  
120 ~~knowledge and denied to the property appraiser.~~

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

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

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

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

144 (4) A condominium homeowners' association may appear before  
145 the board to present testimony and evidence regarding the

578-03776-11

20111766c1

146 assessment of condominium units that ~~which~~ the association  
147 represents. Such testimony and evidence must ~~shall~~ be considered  
148 by the board with respect to hearing petitions filed by  
149 individual condominium unit owners, unless the owner requests  
150 otherwise.

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

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

160 Section 4. Subsection (1) of section 194.035, Florida  
161 Statutes, is amended to read:

162 194.035 Special magistrates; property evaluators.—

163 (1) (a) In counties having a population of more than 75,000,  
164 the board shall appoint special magistrates for the purpose of  
165 taking testimony and making recommendations to the board, which  
166 recommendations the board may act upon without further hearing.  
167 These special magistrates may not be elected or appointed  
168 officials or employees of the county but shall be selected from  
169 a list of those qualified individuals who are willing to serve  
170 as special magistrates. Employees and elected or appointed  
171 officials of a taxing jurisdiction or of the state may not serve  
172 as special magistrates. The clerk of the board shall annually  
173 notify such individuals or their professional associations to  
174 make known to them that opportunities to serve as special

578-03776-11

20111766c1

175 magistrates exist. The Department of Revenue shall provide a  
176 list of qualified special magistrates to any county with a  
177 population of 75,000 or less. Subject to appropriation, the  
178 department shall reimburse counties with a population of 75,000  
179 or less for payments made to special magistrates appointed for  
180 the purpose of taking testimony and making recommendations to  
181 the value adjustment board pursuant to this section. The  
182 department shall establish a reasonable range for payments per  
183 case to special magistrates based on such payments in other  
184 counties. Requests for reimbursement of payments outside this  
185 range shall be justified by the county. If the total of all  
186 requests for reimbursement in any year exceeds the amount  
187 available pursuant to this section, payments to all counties  
188 shall be prorated accordingly. If a county having a population  
189 less than 75,000 does not appoint a special magistrate to hear  
190 each petition, the person or persons designated to hear  
191 petitions before the value adjustment board or the attorney  
192 appointed to advise the value adjustment board shall attend the  
193 training provided pursuant to subsection (3), regardless of  
194 whether the person would otherwise be required to attend, but  
195 shall not be required to pay the tuition fee specified in  
196 subsection (3). A special magistrate appointed to hear issues of  
197 exemptions and classifications shall be a member of The Florida  
198 Bar with no less than 5 years' experience in the area of ad  
199 valorem taxation. A special magistrate appointed to hear issues  
200 regarding the valuation of real estate shall be a state  
201 certified real estate appraiser with not less than 5 years'  
202 experience in real property valuation. A special magistrate  
203 appointed to hear issues regarding the valuation of tangible

578-03776-11

20111766c1

204 personal property shall be a designated member of a nationally  
205 recognized appraiser's organization with not less than 5 years'  
206 experience in tangible personal property valuation. A special  
207 magistrate need not be a resident of the county in which he or  
208 she serves. A special magistrate may not represent a person  
209 before the board in any tax year during which he or she has  
210 served that board as a special magistrate. Before appointing a  
211 special magistrate, a value adjustment board shall verify the  
212 special magistrate's qualifications. ~~The value adjustment board~~  
213 ~~shall ensure that the selection of special magistrates is based~~  
214 ~~solely upon the experience and qualifications of the special~~  
215 ~~magistrate and is not influenced by the property appraiser.~~ The  
216 special magistrate shall accurately and completely preserve all  
217 testimony and, in making recommendations to the value adjustment  
218 board, shall include proposed findings of fact, conclusions of  
219 law, and reasons for upholding or overturning the determination  
220 of the property appraiser. The expense of hearings before  
221 magistrates and any compensation of special magistrates shall be  
222 borne three-fifths by the board of county commissioners and two-  
223 fifths by the school board.

224 (b) The department shall create a process by rule for the  
225 random selection of special magistrates by a value adjustment  
226 board. The process may not allow the property appraiser to have  
227 any influence over the selection of a special magistrate. An  
228 attempt by a property appraiser to influence the selection of a  
229 special magistrate constitutes misfeasance or malfeasance and  
230 may be grounds for removal from office.

231 Section 5. Subsection (3) of section 195.027, Florida  
232 Statutes, is amended to read:



578-03776-11

20111766c1

233 195.027 Rules and regulations.—

234 (3) (a) The rules and regulations shall provide procedures  
235 whereby the property appraiser, the Department of Revenue, and  
236 the Auditor General may ~~shall be able to obtain~~ access, if ~~where~~  
237 necessary, the ~~to~~ financial records of a taxpayer relating to  
238 nonhomestead property which records are required to make a  
239 determination of the proper assessment as to the particular  
240 property in question. Access to a taxpayer's records shall be  
241 provided only in those instances in which it is determined that  
242 such records are necessary to determine either the  
243 classification or the value of the taxable nonhomestead  
244 property. Access shall be provided only to those records which  
245 pertain to the property physically located in the taxing county  
246 as of January 1 of each year and to the income from such  
247 property generated in the taxing county for the year in which a  
248 proper assessment is made. The failure of a taxpayer to provide  
249 the financial records does not preclude the trier of fact in an  
250 administrative or judicial proceeding from considering those  
251 records to determine the just value of the taxpayer's property.  
252 All records produced by the taxpayer under this subsection are  
253 ~~shall be~~ deemed to be confidential in the hands of the property  
254 appraiser, the department, the tax collector, and the Auditor  
255 General and may ~~shall~~ not be divulged to any person, firm, or  
256 corporation, except upon court order or order of an  
257 administrative body having quasi-judicial powers in ad valorem  
258 tax matters, and such records are exempt from the provisions of  
259 s. 119.07(1).

260 (b) The rules prescribed by the department shall require  
261 the property appraiser, the department, and the Auditor General

578-03776-11

20111766c1

262 to return the financial records to the taxpayer within 10 days  
263 after receipt if requested by the taxpayer. The rules shall also  
264 require the property appraiser, the department, or the Auditor  
265 General to provide advance notice to the taxpayer if the  
266 taxpayer's financial records are shared with another entity that  
267 is authorized under this subsection to request access to those  
268 records. The notice must include an explanation of the purpose  
269 for sharing the records.

270 Section 6. This act shall take effect upon becoming a law,  
271 and applies to all administrative or judicial proceedings to  
272 challenge an assessment of real property pending or initiated on  
273 or after that date.