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2014

1 A bill to be entitled

2 An act relating to value adjustment boards; amending
3 s. 192.001, F.S.; providing and revising definitions;
4 amending s. 192.0105, F.S.; adding rights to the
5 Florida Taxpayer's Bill of Rights concerning the
6 administrative review of assessment determinations;
7 amending s. 194.011, F.S.; requiring that certain
8 documentation be included in an evidence list provided
9 to a taxpayer who petitions a value adjustment board;
10 requiring the department to adopt rules to establish a
11 transparent, fair, and uniform value adjustment board
12 process; providing duties of value adjustment board
13 members; defining the term "value adjustment board
14 attorney"; amending s. 194.015, F.S.; providing
15 training requirements for counsel to the value
16 adjustment board; amending s. 194.032, F.S.;
17 conforming provisions to changes made by the act;
18 amending s. 194.034, F.S.; revising requirements for
19 the written decisions rendered by a value adjustment
20 board; amending s. 194.035, F.S.; conforming
21 provisions to changes made by the act; providing
22 applicability; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Paragraph (a) of subsection (2) of section

27 192.001, Florida Statutes, is amended, and subsections (20) and
 28 (21) are added to that section, to read:

29 192.001 Definitions.—All definitions set out in chapters 1
 30 and 200 that are applicable to this chapter are included herein.
 31 In addition, the following definitions shall apply in the
 32 imposition of ad valorem taxes:

33 (2) "Assessed value of property" means an annual
 34 determination of:

35 (a) The just or ~~fair~~ market value of an item or property;

36 (20) "Fair market value" means the amount that a willing
 37 purchaser would pay a willing seller in an arm's length
 38 transaction. The term does not include adjustments made to the
 39 recorded selling price or fair market value in determining the
 40 assessed value of the property.

41 (21) "Just value" means the amount that a willing
 42 purchaser would pay a willing seller in an arm's length
 43 transaction after proper consideration of the relevant statutory
 44 factors and including adjustments made to the recorded selling
 45 price or fair market value in determining the assessed value of
 46 the property. The term "market value" may be used
 47 interchangeably with "just value."

48 Section 2. Subsection (2) of section 192.0105, Florida
 49 Statutes, is amended to read:

50 192.0105 Taxpayer rights.—There is created a Florida
 51 Taxpayer's Bill of Rights for property taxes and assessments to
 52 guarantee that the rights, privacy, and property of the

53 taxpayers of this state are adequately safeguarded and protected
54 during tax levy, assessment, collection, and enforcement
55 processes administered under the revenue laws of this state. The
56 Taxpayer's Bill of Rights compiles, in one document, brief but
57 comprehensive statements that summarize the rights and
58 obligations of the property appraisers, tax collectors, clerks
59 of the court, local governing boards, the Department of Revenue,
60 and taxpayers. Additional rights afforded to payors of taxes and
61 assessments imposed under the revenue laws of this state are
62 provided in s. 213.015. The rights afforded taxpayers to assure
63 that their privacy and property are safeguarded and protected
64 during tax levy, assessment, and collection are available only
65 insofar as they are implemented in other parts of the Florida
66 Statutes or rules of the Department of Revenue. The rights so
67 guaranteed to state taxpayers in the Florida Statutes and the
68 departmental rules include:

69 (2) THE RIGHT TO DUE PROCESS.—

70 (a) The right to a just value definition in close
71 conformity with the applicable provisions of the State
72 Constitution and the laws of this state applied consistently in
73 both assessment development by the property appraiser and
74 assessment review by the value adjustment board and the courts
75 of this state (see ss. 192.001, 194.011, and 194.301).

76 (b)~~(a)~~ The right to an informal conference with the
77 property appraiser to present facts the taxpayer considers to
78 support changing the assessment and to have the property

79 appraiser present facts supportive of the assessment upon proper
 80 request of any taxpayer who objects to the assessment placed on
 81 his or her property (see s. 194.011(2)).

82 (c)~~(b)~~ The right to petition the value adjustment board
 83 over objections to assessments, denial of exemption, denial of
 84 agricultural classification, denial of historic classification,
 85 denial of high-water recharge classification, disapproval of tax
 86 deferral, and any penalties on deferred taxes imposed for
 87 incorrect information willfully filed. Payment of estimated
 88 taxes does not preclude the right of the taxpayer to challenge
 89 his or her assessment (see ss. 194.011(3), 196.011(6) and
 90 (9) (a), 196.151, 196.193(1) (c) and (5), 193.461(2), 193.503(7),
 91 193.625(2), 197.2425, 197.301(2), and 197.2301(11)).

92 (d)~~(e)~~ The right to file a petition for exemption or
 93 agricultural classification with the value adjustment board when
 94 an application deadline is missed, upon demonstration of
 95 particular extenuating circumstances for filing late (see ss.
 96 193.461(3) (a) and 196.011(1), (7), (8), and (9) (e)).

97 (e)~~(d)~~ The right to prior notice of the value adjustment
 98 board's hearing date, the right to the hearing at the scheduled
 99 time, and the right to have the hearing rescheduled if the
 100 hearing is not commenced within a reasonable time, not to exceed
 101 2 hours, after the scheduled time (see s. 194.032(2)).

102 (f)~~(e)~~ The right to notice of date of certification of tax
 103 rolls and receipt of property record card if requested (see ss.
 104 193.122(2) and (3) and 194.032(2)).

105 (g) The right to an administrative review before a special
 106 magistrate or other person designated to hear petitions
 107 contesting assessments placed on property who has passed an
 108 examination demonstrating competency in subjects covered in an
 109 annual training developed by the department in an open, public,
 110 and transparent process (see ss. 194.011, 194.015, and 194.035).

111 (h)~~(f)~~ The right, in value adjustment board proceedings,
 112 to have all evidence presented and considered at a public
 113 hearing at the scheduled time, to be represented by an attorney
 114 or agent, to have witnesses sworn and cross-examined, and to
 115 examine property appraisers or evaluators employed by the board
 116 who present testimony (see ss. 194.034(1)(a) and (c) and (4),
 117 and 194.035(2)).

118 (i) The right to an assessment review by a value
 119 adjustment board applying the same statutory criteria and
 120 appraisal practices lawfully applied by the property appraiser
 121 in developing the original assessment (see ss. 194.011 and
 122 194.301).

123 (j)~~(g)~~ The right to be sent a timely written decision by a
 124 the value adjustment board containing findings of fact and
 125 conclusions of law logically connected to the findings of fact
 126 that identifies each statutory criterion applicable to the
 127 assessment determination under administrative review and
 128 transparently states, based on the admitted evidence, the
 129 actions taken by the property appraiser in determining the
 130 assessment (see ss. 194.011, 194.034, 194.301, and 194.3015).

131 ~~and reasons for upholding or overturning the determination of~~
 132 ~~the property appraiser, and~~

133 (k) The right to advertised notice of all board actions,
 134 including appropriate narrative and column descriptions, in
 135 brief and nontechnical language (see s. ss. 194.034(2) and
 136 194.037(3)).

137 (l) ~~(h)~~ The right at a public hearing on non-ad valorem
 138 assessments or municipal special assessments to provide written
 139 objections and to provide testimony to the local governing board
 140 (see ss. 197.3632(4)(c) and 170.08).

141 (m) The right to a transparent, fair, and uniform value
 142 adjustment board process (see ss. 194.011 and 194.301).

143 (n) ~~(i)~~ The right to bring action in circuit court to
 144 contest a tax assessment or appeal value adjustment board
 145 decisions to disapprove exemption or deny tax deferral (see ss.
 146 194.036(1)(c) and (2), 194.171, 196.151, and 197.2425).

147 Section 3. Paragraph (b) of subsection (4) and subsection
 148 (5) of section 194.011, Florida Statutes, is amended to read:

149 194.011 Assessment notice; objections to assessments.—

150 (4)

151 (b) No later than 7 days before the hearing, if the
 152 petitioner has provided the information required under paragraph
 153 (a), and if requested in writing by the petitioner, the property
 154 appraiser shall provide to the petitioner a list of evidence to
 155 be presented at the hearing, together with copies of all
 156 documentation to be considered by the value adjustment board and

157 a summary of evidence to be presented by witnesses. The evidence
 158 list must contain the property record card for the property that
 159 is the subject of the petition as well as the property record
 160 card for any comparable property listed as evidence. If the
 161 petition challenges the assessed value of the property, the
 162 evidence list must also include a copy of the form signed by the
 163 property appraiser documenting adjustments made to the recorded
 164 selling price or fair market value of the property pursuant to
 165 those factors described in s. 193.011(8). ~~card if provided by~~
 166 ~~the clerk~~. Failure of the property appraiser to timely comply
 167 with the requirements of this paragraph shall result in a
 168 rescheduling of the hearing.

169 (5) (a) The department shall ~~by rule~~ prescribe rules to
 170 establish a transparent, fair, and uniform value adjustment
 171 board process. Such rules shall include:

172 1. Uniform procedures for hearings before the value
 173 adjustment board, including, but not limited to, ~~which include~~
 174 requiring:

175 1. procedures for the exchange of information and evidence
 176 by the property appraiser and the petitioner consistent with s.
 177 194.032.

178 ~~2.—That~~ The department shall, by rule, require the value
 179 adjustment board to hold an organizational meeting for the
 180 purpose of making these procedures available to petitioners.

181 2. Duties and responsibilities of the members of a value
 182 adjustment board relating to:

183 a. The oversight of the clerk of the value adjustment
 184 board, special magistrates, and value adjustment board
 185 attorneys.

186 b. The consideration of special magistrate
 187 recommendations, value adjustment board attorney
 188 recommendations, and appellate decisions rendered by a circuit
 189 court pursuant to s. 194.036.

190 3. Minimum qualifications for special magistrates and
 191 value adjustment board attorneys consistent with ss. 194.015 and
 192 194.035.

193 4. Minimum written contract requirements for special
 194 magistrates and value adjustment board attorneys specifying the
 195 duties of the position, standards of conduct, and performance
 196 standards.

197 5. Requirements for written decisions rendered by a value
 198 adjustment board consistent with s. 194.034.

199 6. Mandatory training requirements for special magistrates
 200 and value adjustment board attorneys consistent with ss. 194.015
 201 and 194.035 and any other training requirements deemed necessary
 202 by the department.

203 7. Any rules that the department deems necessary to
 204 provide effective oversight of the value adjustment board
 205 process and to ensure compliance with all applicable statutes
 206 and rules.

207 (b) The department shall develop a uniform policies and
 208 procedures manual that shall be used by value adjustment boards,

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209 special magistrates, value adjustment board attorneys, and
210 taxpayers in proceedings before value adjustment boards. The
211 manual shall be made available, at a minimum, on the
212 department's website and on the existing websites of the clerks
213 of circuit courts.

214 (c) As used in this subsection, the term "value adjustment
215 board attorney" means a person appointed pursuant to s. 194.015
216 to provide counsel to a value adjustment board.

217 Section 4. Section 194.015, Florida Statutes, is amended
218 to read:

219 194.015 Value adjustment board.—There is hereby created a
220 value adjustment board for each county, which shall consist of
221 two members of the governing body of the county as elected from
222 the membership of the board of said governing body, one of whom
223 shall be elected chairperson, and one member of the school board
224 as elected from the membership of the school board, and two
225 citizen members, one of whom shall be appointed by the governing
226 body of the county and must own homestead property within the
227 county and one of whom must be appointed by the school board and
228 must own a business occupying commercial space located within
229 the school district. A citizen member may not be a member or an
230 employee of any taxing authority, and may not be a person who
231 represents property owners in any administrative or judicial
232 review of property taxes. The members of the board may be
233 temporarily replaced by other members of the respective boards
234 on appointment by their respective chairpersons. Any three

235 members shall constitute a quorum of the board, except that each
 236 quorum must include at least one member of said governing board,
 237 at least one member of the school board, and at least one
 238 citizen member and no meeting of the board shall take place
 239 unless a quorum is present. Members of the board may receive
 240 such per diem compensation as is allowed by law for state
 241 employees if both bodies elect to allow such compensation. The
 242 clerk of the governing body of the county shall be the clerk of
 243 the value adjustment board. The board shall appoint private
 244 counsel who has practiced law for over 5 years and who shall
 245 receive such compensation as may be established by the board.
 246 The private counsel may not represent the property appraiser,
 247 the tax collector, any taxing authority, or any property owner
 248 in any administrative or judicial review of property taxes.
 249 Counsel appointed to advise the board must attend and complete
 250 the training provided and conducted by the department for
 251 special magistrates described in s. 194.035(3). A ~~no~~ meeting of
 252 the board may not ~~shall~~ take place unless counsel to the board
 253 is present. Two-fifths of the expenses of the board shall be
 254 borne by the district school board and three-fifths by the
 255 district county commission.

256 Section 5. Paragraph (a) of subsection (2) of section
 257 194.032, Florida Statutes, is amended to read:

258 194.032 Hearing purposes; timetable.—

259 (2) (a) The clerk of the governing body of the county shall
 260 prepare a schedule of appearances before the board based on

261 petitions timely filed with him or her. The clerk shall notify
262 each petitioner of the scheduled time of his or her appearance
263 at least 25 calendar days before the day of the scheduled
264 appearance. The notice must indicate whether the petition has
265 been scheduled to be heard at a particular time or during a
266 block of time. If the petition has been scheduled to be heard
267 within a block of time, the beginning and ending of that block
268 of time must be indicated on the notice; however, as provided in
269 paragraph (b), a petitioner may not be required to wait for more
270 than a reasonable time, not to exceed 2 hours, after the
271 beginning of the block of time. ~~If the petitioner checked the~~
272 ~~appropriate box on the petition form to request a copy of the~~
273 ~~property record card containing relevant information used in~~
274 ~~computing the current assessment,~~ The property appraiser must
275 provide a the copy of the property record card containing
276 relevant information used in computing the current assessment to
277 the petitioner upon receipt of the petition from the clerk
278 regardless of whether the petitioner initiates evidence
279 exchange, unless the property record card is available online
280 from the property appraiser. Upon receipt of the notice, the
281 petitioner may reschedule the hearing a single time by
282 submitting to the clerk a written request to reschedule, at
283 least 5 calendar days before the day of the originally scheduled
284 hearing.

285 Section 6. Subsection (2) of section 194.034, Florida
286 Statutes, is amended to read:

287 194.034 Hearing procedures; rules.—

288 (2) In each case, except if the complaint is withdrawn by

289 the petitioner or if the complaint is acknowledged as correct by

290 the property appraiser, the value adjustment board shall render

291 a written decision. All such decisions shall be issued within 20

292 calendar days after the last day the board is in session under

293 s. 194.032. The decision of the board must contain findings of

294 fact and conclusions of law and must include reasons for

295 upholding or overturning the determination of the property

296 appraiser. Findings of fact must be based on admitted evidence

297 or a lack thereof. Conclusions of law must be logically

298 connected to the findings of fact and must be stated in

299 statutory terms. Written decisions must also include a series of

300 checklist forms, as provided by the department, identifying each

301 statutory criterion applicable to the assessment determination.

302 If a special magistrate has been appointed, the recommendations

303 of the special magistrate shall be considered by the board. The

304 clerk, upon issuance of a decision, shall, on a form provided by

305 the Department of Revenue, notify each taxpayer and the property

306 appraiser of the decision of the board. This notification shall

307 be by first-class mail or by electronic means if selected by the

308 taxpayer on the originally filed petition. If requested by the

309 Department of Revenue, the clerk shall provide to the department

310 a copy of the decision or information relating to the tax impact

311 of the findings and results of the board as described in s.

312 194.037 in the manner and form requested.

313 Section 7. Subsection (1) of section 194.035, Florida
314 Statutes, is amended to read:

315 194.035 Special magistrates; property evaluators.—

316 (1) In counties having a population of more than 75,000,
317 the board shall appoint special magistrates for the purpose of
318 taking testimony and making recommendations to the board, which
319 recommendations the board may act upon without further hearing.
320 These special magistrates may not be elected or appointed
321 officials or employees of the county but shall be selected from
322 a list of those qualified individuals who are willing to serve
323 as special magistrates. Employees and elected or appointed
324 officials of a taxing jurisdiction or of the state may not serve
325 as special magistrates. The clerk of the board shall annually
326 notify such individuals or their professional associations to
327 make known to them that opportunities to serve as special
328 magistrates exist. The Department of Revenue shall provide a
329 list of qualified special magistrates to any county with a
330 population of 75,000 or less. Subject to appropriation, the
331 department shall reimburse counties with a population of 75,000
332 or less for payments made to special magistrates appointed for
333 the purpose of taking testimony and making recommendations to
334 the value adjustment board pursuant to this section. The
335 department shall establish a reasonable range for payments per
336 case to special magistrates based on such payments in other
337 counties. Requests for reimbursement of payments outside this
338 range shall be justified by the county. If the total of all

339 requests for reimbursement in any year exceeds the amount
340 available pursuant to this section, payments to all counties
341 shall be prorated accordingly. If a county having a population
342 less than 75,000 does not appoint a special magistrate to hear
343 each petition, the person or persons designated to hear
344 petitions before the value adjustment board ~~or the attorney~~
345 ~~appointed to advise the value adjustment board~~ shall attend the
346 training provided pursuant to subsection (3), regardless of
347 whether the person would otherwise be required to attend, but
348 shall not be required to pay the tuition fee specified in
349 subsection (3). A special magistrate appointed to hear issues of
350 exemptions and classifications shall be a member of The Florida
351 Bar with no less than 5 years' experience in the area of ad
352 valorem taxation. A special magistrate appointed to hear issues
353 regarding the valuation of real estate shall be a state
354 certified real estate appraiser with not less than 5 years'
355 experience in real property valuation. A special magistrate
356 appointed to hear issues regarding the valuation of tangible
357 personal property shall be a designated member of a nationally
358 recognized appraiser's organization with not less than 5 years'
359 experience in tangible personal property valuation. A special
360 magistrate need not be a resident of the county in which he or
361 she serves. A special magistrate may not represent a person
362 before the board in any tax year during which he or she has
363 served that board as a special magistrate. Before appointing a
364 special magistrate, a value adjustment board shall verify the

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365 special magistrate's qualifications. The value adjustment board
366 shall ensure that the selection of special magistrates is based
367 solely upon the experience and qualifications of the special
368 magistrate and is not influenced by the property appraiser. The
369 special magistrate shall accurately and completely preserve all
370 testimony and, in making recommendations to the value adjustment
371 board, shall include proposed findings of fact, conclusions of
372 law, and reasons for upholding or overturning the determination
373 of the property appraiser. The expense of hearings before
374 magistrates and any compensation of special magistrates shall be
375 borne three-fifths by the board of county commissioners and two-
376 fifths by the school board.

377 Section 8. This act applies to tax years beginning on or
378 after January 1, 2015.

379 Section 9. This act shall take effect July 1, 2014.