

By Senator Gruters

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1 A bill to be entitled
2 An act relating to ad valorem taxation; amending s.
3 194.034, F.S.; exempting complaints acknowledged as
4 correct by the Department of Revenue from the
5 requirement for a value adjustment board to render a
6 written decision; authorizing a board to accept or
7 reject recommendations of a special magistrate in a
8 certain manner; making technical changes; amending s.
9 194.036, F.S.; revising prohibitions on the types of
10 suits a property appraiser may bring; making technical
11 changes; amending s. 196.012, F.S.; revising the types
12 of activities by lessees of governmental property
13 which are deemed to be governmental, municipal, or
14 public purposes or functions; making technical
15 changes; reenacting and amending s. 196.199, F.S.,
16 relating to government property exemptions; revising
17 the conditions pursuant to which a specified ad
18 valorem tax exemption remains valid; providing that a
19 lessee may not be required to submit further
20 applications for a specified ad valorem tax exemption
21 under certain circumstances; making technical changes;
22 reenacting ss. 193.122(4) and (6) and 194.181(2)(b),
23 (c), and (d), F.S., relating to certificates of value
24 adjustment board and property appraiser and parties to
25 a tax suit, respectively, to incorporate the amendment
26 made by this act to s. 194.036, F.S., in references
27 thereto; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (2) of section 194.034, Florida Statutes, is amended to read:

194.034 Hearing procedures; rules.—

(2) In each case, except if the complaint is withdrawn by the petitioner or if the complaint is acknowledged as correct by the property appraiser or the Department of Revenue, the value adjustment board shall render a written decision. All such decisions shall be issued within 20 calendar days after the last day the board is in session under s. 194.032. The decision of the board must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser. Findings of fact must be based on admitted evidence or a lack thereof. If a special magistrate has been appointed, the board must consider the recommendations of the special magistrate ~~shall be considered by the board~~ and may accept such recommendations without modification, accept such recommendations with modifications, or reject such recommendations. The clerk, upon issuance of a decision, ~~shall~~, on a form provided by the Department of Revenue, shall notify each taxpayer and the property appraiser of the decision of the board. This notification must ~~shall~~ be sent by first-class mail or by electronic means if selected by the taxpayer on the originally filed petition. If requested by the Department of Revenue, the clerk must ~~shall~~ provide to the department a copy of the decision or information relating to the tax impact of the findings and results of the board as described in s. 194.037 in the manner and form requested.

Section 2. Subsection (1) of section 194.036, Florida

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59 Statutes, is amended to read:

60 194.036 Appeals.—Appeals of the decisions of the board
61 shall be as follows:

62 (1) If the property appraiser disagrees with the decision
63 of the board, he or she may appeal the decision to the circuit
64 court if one or more of the following criteria are met:

65 (a) The property appraiser determines and affirmatively
66 asserts in any legal proceeding that there is a specific
67 constitutional or statutory violation, or a specific violation
68 of administrative rules, in the decision of the board, except
69 that ~~nothing herein shall authorize the property appraiser may~~
70 ~~not bring to institute any~~ suit to challenge the validity of any
71 portion of the constitution, or of any law, or any decision of a
72 board in which a statutory exemption is found to apply to a
73 parcel of property ~~duly enacted legislative act of this state;~~

74 (b) There is a variance from the property appraiser's
75 assessed value in excess of the following: 15 percent variance
76 from any assessment of \$50,000 or less; 10 percent variance from
77 any assessment in excess of \$50,000 but not in excess of
78 \$500,000; 7.5 percent variance from any assessment in excess of
79 \$500,000 but not in excess of \$1 million; or 5 percent variance
80 from any assessment in excess of \$1 million; or

81 (c) There is an assertion by the property appraiser to the
82 Department of Revenue that there exists a consistent and
83 continuous violation of the intent of the law or administrative
84 rules by the value adjustment board in its decisions. The
85 property appraiser shall notify the department of those portions
86 of the tax roll for which the assertion is made. The department
87 shall thereupon notify the clerk of the board who shall, within

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88 15 days of the notification by the department, send the written
89 decisions of the board to the department. Within 30 days of the
90 receipt of the decisions by the department, the department shall
91 notify the property appraiser of its decision relative to
92 further judicial proceedings. If the department finds upon
93 investigation that a consistent and continuous violation of the
94 intent of the law or administrative rules by the board has
95 occurred, it must ~~shall so~~ inform the property appraiser, who
96 may thereupon bring suit in circuit court against the value
97 adjustment board for injunctive relief to prohibit continuation
98 of the violation of the law or administrative rules and for a
99 mandatory injunction to restore the tax roll to its just value
100 in such amount as determined by judicial proceeding. However,
101 when a final judicial decision is rendered as a result of an
102 appeal filed pursuant to this paragraph which alters or changes
103 an assessment of a parcel of property of any taxpayer not a
104 party to such procedure, such taxpayer shall have 60 days from
105 the date of the final judicial decision to file an action to
106 contest such altered or changed assessment pursuant to s.
107 194.171(1), and ~~the provisions of s. 194.171(2)~~ does ~~shall~~ not
108 bar such action.

109 Section 3. Subsection (6) of section 196.012, Florida
110 Statutes, is amended to read:

111 196.012 Definitions.—For the purpose of this chapter, the
112 following terms are defined as follows, except where the context
113 clearly indicates otherwise:

114 (6) Governmental, municipal, or public purpose or function
115 is ~~shall be~~ deemed to be served or performed when the lessee
116 under any leasehold interest created in property of the United

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117 States, the state or any of its political subdivisions, or any
118 municipality, agency, special district, authority, or other
119 public body corporate of the state is demonstrated to perform a
120 function or serve a governmental purpose that ~~which~~ could
121 properly be performed or served by an appropriate governmental
122 unit or that ~~which~~ is demonstrated to perform a function or
123 serve a purpose that ~~which~~ would otherwise be a valid subject
124 for the allocation of public funds. Such ~~For purposes of the~~
125 ~~preceding sentence,~~ an activity undertaken by a lessee which is
126 permitted under the terms of its lease of real property
127 designated as an aviation area on an airport layout plan that
128 ~~which~~ has been approved by the Federal Aviation Administration
129 and which real property is used for the administration,
130 operation, business offices and activities related specifically
131 thereto in connection with the conduct of an aircraft ~~full~~
132 ~~service~~ fixed base operation that ~~which~~ provides goods and
133 services to the general aviation public in the promotion of air
134 commerce is ~~shall be~~ deemed an activity that is part of the
135 administration of the airport and that ~~which~~ serves an essential
136 a governmental, municipal, or public purpose or function that
137 would otherwise be a valid subject for the allocation of public
138 funds. Any activity undertaken by a lessee which is permitted
139 under the terms of its lease of real property designated as a
140 public airport as defined in s. 332.004(14) by municipalities,
141 agencies, special districts, authorities, or other public bodies
142 corporate and public bodies politic of the state, a spaceport as
143 defined in s. 331.303, or which is located in a deepwater port
144 identified in s. 403.021(9) (b) and owned by one of the foregoing
145 governmental units, subject to a leasehold or other possessory

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146 interest of a nongovernmental lessee that is deemed to perform
147 an aviation, airport, aerospace, maritime, or port purpose or
148 operation required for the operation of such facility is ~~shall~~
149 ~~be~~ deemed an activity that is part of the administration of the
150 airport, spaceport, or deepwater port and that serves an
151 essential a governmental, municipal, or public purpose that
152 would otherwise be a valid subject for the allocation of public
153 funds. The use by a lessee, licensee, or management company of
154 real property or a portion thereof as a convention center,
155 visitor center, sports facility with permanent seating, concert
156 hall, arena, stadium, park, or beach is deemed a use that serves
157 a governmental, municipal, or public purpose or function when
158 access to the property is open to the general public with or
159 without a charge for admission. If property deeded to a
160 municipality by the United States is subject to a requirement
161 that the Federal Government, through a schedule established by
162 the Secretary of the Interior, determine that the property is
163 being maintained for public historic preservation, park, or
164 recreational purposes and if those conditions are not met the
165 property will revert back to the Federal Government, then such
166 property is ~~shall be~~ deemed to serve a municipal or public
167 purpose. The term "governmental purpose" also includes a direct
168 use of property on federal lands in connection with the Federal
169 Government's Space Exploration Program or spaceport activities
170 as defined in s. 212.02(22). Real property and tangible personal
171 property owned by the Federal Government or Space Florida and
172 used for defense and space exploration purposes or which is put
173 to a use in support of such purposes is ~~thereof shall be~~ deemed
174 to perform an essential national governmental purpose and shall

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175 be exempt. As used in this chapter, the term "owned by the
176 lessee" ~~as used in this chapter~~ does not include personal
177 property, buildings, or other real property improvements used
178 for the administration, operation, business offices and
179 activities related specifically thereto in connection with the
180 conduct of an aircraft full service fixed based operation that
181 ~~which~~ provides goods and services to the general aviation public
182 in the promotion of air commerce provided that the real property
183 is designated as an aviation area on an airport layout plan
184 approved by the Federal Aviation Administration. For purposes of
185 determination of "ownership," buildings and other real property
186 improvements that ~~which~~ will revert to the airport authority or
187 other governmental unit upon expiration of the term of the lease
188 are ~~shall be~~ deemed "owned" by the governmental unit and not the
189 lessee. Providing two-way telecommunications services to the
190 public for hire by the use of a telecommunications facility, as
191 defined in s. 364.02(14), and for which a certificate is
192 required under chapter 364 does not constitute an exempt use for
193 purposes of s. 196.199, unless the telecommunications services
194 are provided by the operator of a public-use airport, as defined
195 in s. 332.004, for the operator's provision of
196 telecommunications services for the airport or its tenants,
197 concessionaires, or licensees, or unless the telecommunications
198 services are provided by a public hospital.

199 Section 4. Subsection (5) of section 196.199, Florida
200 Statutes, is amended, and paragraph (a) of subsection (2) of
201 that section is reenacted, to read:

202 196.199 Government property exemption.—

203 (2) Property owned by the following governmental units but

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204 used by nongovernmental lessees shall only be exempt from
205 taxation under the following conditions:

206 (a) Leasehold interests in property of the United States,
207 of the state or any of its several political subdivisions, or of
208 municipalities, agencies, authorities, and other public bodies
209 corporate of the state shall be exempt from ad valorem taxation
210 and the intangible tax pursuant to paragraph (b) only when the
211 lessee serves or performs a governmental, municipal, or public
212 purpose or function, as defined in s. 196.012(6). In all such
213 cases, all other interests in the leased property shall also be
214 exempt from ad valorem taxation. However, a leasehold interest
215 in property of the state may not be exempted from ad valorem
216 taxation when a nongovernmental lessee uses such property for
217 the operation of a multipurpose hazardous waste treatment
218 facility.

219 (5) Leasehold interests in governmental property may ~~shall~~
220 not be exempt pursuant to this subsection unless an application
221 for exemption has been filed on or before March 1 with the
222 property appraiser. The property appraiser shall review the
223 application and make findings of fact which shall be presented
224 to the value adjustment board at its convening, whereupon the
225 board shall take appropriate action regarding the application.
226 If the exemption in whole or in part is granted by the property
227 appraiser or the board, or established by judicial proceeding,
228 it remains ~~shall remain~~ valid for the duration of the lease,
229 including extensions thereof contemplated in the original lease,
230 unless the lessee changes its use, in which case the lessee must
231 reapply ~~shall again submit an application~~ for exemption. If the
232 operations of the lessee do not change after the exemption is

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233 granted, the lessee may not be required to submit any further
234 applications for exemption for the duration of the lease,
235 including extensions thereof contemplated in the original lease.
236 The requirements set forth in s. 196.194 ~~shall~~ apply to all
237 applications made under this subsection.

238 Section 5. For the purpose of incorporating the amendment
239 made by this act to section 194.036, Florida Statutes, in
240 references thereto, subsections (4) and (6) of section 193.122,
241 Florida Statutes, are reenacted to read:

242 193.122 Certificates of value adjustment board and property
243 appraiser; extensions on the assessment rolls.-

244 (4) An appeal of a value adjustment board decision pursuant
245 to s. 194.036(1)(a) or (b) by the property appraiser shall be
246 filed prior to extension of the tax roll under subsection (2)
247 or, if the roll was extended pursuant to s. 197.323, within 30
248 days of recertification under subsection (3). The roll may be
249 certified by the property appraiser prior to an appeal being
250 filed pursuant to s. 194.036(1)(c), but such appeal shall be
251 filed within 20 days after receipt of the decision of the
252 department relative to further judicial proceedings.

253 (6) The property appraiser may extend millage as required
254 in subsection (2) against the assessment roll and certify it to
255 the tax collector even though there are parcels subject to
256 judicial or administrative review pursuant to s. 194.036(1).
257 Such parcels shall be certified and have taxes extended against
258 them in accordance with the decisions of the value adjustment
259 board or the property appraiser's valuation if the roll has been
260 extended pursuant to s. 197.323, except that payment of such
261 taxes by the taxpayer shall not preclude the taxpayer from being

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262 required to pay additional taxes in accordance with final
263 judicial determination of an appeal filed pursuant to s.
264 194.036(1).

265 Section 6. For the purpose of incorporating the amendment
266 made by this act to section 194.036, Florida Statutes, in
267 references thereto, paragraphs (b), (c), and (d) of subsection
268 (2) of section 194.181, Florida Statutes, are reenacted to read:

269 194.181 Parties to a tax suit.—

270 (2)

271 (b) Other than as provided in paragraph (c), in any case
272 brought by the property appraiser under s. 194.036(1)(a) or (b),
273 the taxpayer is a party defendant.

274 (c)1. In any case brought by the property appraiser under
275 s. 194.036(1)(a) or (b) relating to a value adjustment board
276 decision on a single joint petition filed by a condominium or
277 cooperative association under s. 194.011(3), the association is
278 the only required party defendant. The individual unit or parcel
279 owners are not required to be named as parties.

280 2. The condominium or cooperative association must provide
281 unit or parcel owners with notice of the property appraiser's
282 complaint and advise the unit or parcel owners that they may
283 elect to:

284 a. Retain their own counsel to defend the appeal for their
285 units or parcels;

286 b. Choose not to defend the appeal; or

287 c. Be represented by the association.

288 3. The notice required in subparagraph 2. must be hand
289 delivered or sent by certified mail, return receipt requested,
290 except that such notice may be electronically transmitted to a

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291 unit or parcel owner who has expressly consented in writing to
292 receiving such notices through electronic transmission.
293 Additionally, the notice must be posted conspicuously on the
294 condominium or cooperative property, if applicable, in the same
295 manner as notices of board meetings under ss. 718.112(2) and
296 719.106(1). The association must provide at least 14 days for a
297 unit or parcel owner to respond to the notice. Any unit or
298 parcel owner who does not respond to the association's notice
299 will be represented by the association.

300 4. If requested by a unit or parcel owner, the tax
301 collector shall accept payment of the estimated amount in
302 controversy, as determined by the tax collector, as to that unit
303 or parcel, whereupon the unit or parcel shall be released from
304 any lis pendens and the unit or parcel owner may elect to remain
305 in or be dismissed from the action.

306 (d) In any case brought by the property appraiser under s.
307 194.036(1)(c), the value adjustment board is a party defendant.

308 Section 7. This act shall take effect July 1, 2022.