

## CHAPTER 194

## ADMINISTRATIVE AND JUDICIAL REVIEW OF PROPERTY TAXES

## PART I ADMINISTRATIVE REVIEW (ss. 194.011-194.037)

## PART II JUDICIAL REVIEW (ss. 194.171-194.231)

## PART III ASSESSMENT: PRESUMPTION OF CORRECTNESS (ss. 194.301, 194.3015)

## PART I

## ADMINISTRATIVE REVIEW

- 194.011 Assessment notice; objections to assessments.
- 194.013 Filing fees for petitions; disposition; waiver.
- 194.014 Partial payment of ad valorem taxes; proceedings before value adjustment board.
- 194.015 Value adjustment board.
- 194.032 Hearing purposes; timetable.
- 194.034 Hearing procedures; rules.
- 194.035 Special magistrates; property evaluators.
- 194.036 Appeals.
- 194.037 Disclosure of tax impact.

**194.011 Assessment notice; objections to assessments.—**

(1) Each taxpayer whose property is subject to real or tangible personal ad valorem taxes shall be notified of the assessment of each taxable item of such property, as provided in s. 200.069.

<sup>1</sup>(2) Any taxpayer who objects to the assessment placed on any property taxable to him or her, including the assessment of homestead property at less than just value under s. 193.155(8), may request the property appraiser to informally confer with the taxpayer. Upon receiving the request, the property appraiser, or a member of his or her staff, shall confer with the taxpayer regarding the correctness of the assessment. At this informal conference, the taxpayer shall present those facts considered by the taxpayer to be supportive of the taxpayer's claim for a change in the assessment of the property appraiser. The property appraiser or his or her representative at this conference shall present those facts considered by the property appraiser to be supportive of the correctness of the assessment. However, nothing herein shall be construed to be a prerequisite to administrative or judicial review of property assessments.

(3) A petition to the value adjustment board must be in substantially the form prescribed by the department. Notwithstanding s. 195.022, a county officer may not refuse to accept a form provided by the department for this purpose if the taxpayer chooses to use it. A petition to the value adjustment board shall describe the property by parcel number and shall be filed as follows:

(a) The property appraiser shall have available and shall distribute forms prescribed by the Department of Revenue on which the petition shall be made. Such petition shall be sworn to by the petitioner.

(b) The completed petition shall be filed with the clerk of the value adjustment board of the county, who shall acknowledge receipt thereof and promptly furnish a copy thereof to the property appraiser.

(c) The petition shall state the approximate time anticipated by the taxpayer to present and argue his or her petition before the board.

<sup>2</sup>(d) The petition may be filed, as to valuation issues, at any time during the taxable year on or before the 25th day following the mailing of notice by the property appraiser as provided in subsection (1). With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173, or s. 196.193 or notice by the tax collector under s. 197.2425.

(e) A condominium association, cooperative association, or any homeowners' association as defined in s. 723.075, with approval of its board of administration or directors, may file with the value adjustment board a single joint petition on behalf of any association members who own parcels of property which the property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition. The condominium association, cooperative association, or homeowners' association as defined in s. 723.075 shall provide the unit owners with notice of its intent to petition the value adjustment board and shall provide at least 20 days for a unit owner to elect, in writing, that his or her unit not be included in the petition.

(f) An owner of contiguous, undeveloped parcels may file with the value adjustment board a single joint petition if the property appraiser determines such parcels are substantially similar in nature.

(g) The individual, agent, or legal entity that signs the petition becomes an agent of the taxpayer for the purpose of serving process to obtain personal jurisdiction over the taxpayer for the entire value adjustment board proceedings, including any appeals of a board decision by the property appraiser pursuant to s. 194.036.

(4)(a) At least 15 days before the hearing the petitioner shall provide to the property appraiser a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the

value adjustment board and a summary of evidence to be presented by witnesses.

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

(5)(a) The department shall by rule prescribe uniform procedures for hearings before the value adjustment board which include requiring:

1. Procedures for the exchange of information and evidence by the property appraiser and the petitioner consistent with s. 194.032.

2. That the value adjustment board hold an organizational meeting for the purpose of making these procedures available to petitioners.

(b) The department shall develop a uniform policies and procedures manual that shall be used by value adjustment boards, special magistrates, and taxpayers in proceedings before value adjustment boards. The manual shall be made available, at a minimum, on the department's website and on the existing websites of the clerks of circuit courts.

(6) The following provisions apply to petitions to the value adjustment board concerning the assessment of homestead property at less than just value under s. 193.155(8):

(a) If the taxpayer does not agree with the amount of the assessment limitation difference for which the taxpayer qualifies as stated by the property appraiser in the county where the previous homestead property was located, or if the property appraiser in that county has not stated that the taxpayer qualifies to transfer any assessment limitation difference, upon the taxpayer filing a petition to the value adjustment board in the county where the new homestead property is located, the value adjustment board in that county shall, upon receiving the appeal, send a notice to the value adjustment board in the county where the previous homestead was located, which shall reconvene if it has already adjourned.

(b) Such notice operates as a petition in, and creates an appeal to, the value adjustment board in the county where the previous homestead was located of all issues surrounding the previous assessment differential for the taxpayer involved. However, the taxpayer may not petition to have the just, assessed, or taxable value of the previous homestead changed.

(c) The value adjustment board in the county where the previous homestead was located shall set the petition for hearing and notify the taxpayer, the property appraiser in the county where the previous homestead was located, the property appraiser in the county where the new homestead is located, and the value adjustment board in that county, and shall hear the appeal. Such appeal shall be heard by an attorney special magistrate

if the value adjustment board in the county where the previous homestead was located uses special magistrates. The taxpayer may attend such hearing and present evidence, but need not do so. The value adjustment board in the county where the previous homestead was located shall issue a decision and send a copy of the decision to the value adjustment board in the county where the new homestead is located.

(d) In hearing the appeal in the county where the new homestead is located, that value adjustment board shall consider the decision of the value adjustment board in the county where the previous homestead was located on the issues pertaining to the previous homestead and on the amount of any assessment reduction for which the taxpayer qualifies. The value adjustment board in the county where the new homestead is located may not hold its hearing until it has received the decision from the value adjustment board in the county where the previous homestead was located.

(e) In any circuit court proceeding to review the decision of the value adjustment board in the county where the new homestead is located, the court may also review the decision of the value adjustment board in the county where the previous homestead was located.

**History.**—s. 25, ch. 4322, 1895; GS 525; s. 1, ch. 5605, 1907; ss. 23, 66, ch. 5596, 1907; RGS 723, 724; CGL 929, 930; s. 1, ch. 67-415; ss. 1, 2, ch. 69-55; s. 1, ch. 69-140; ss. 21, 35, ch. 69-106; s. 25, ch. 70-243; s. 34, ch. 71-355; s. 11, ch. 73-172; s. 5, ch. 76-133; s. 1, ch. 76-234; s. 1, ch. 77-102; s. 1, ch. 77-174; s. 2, ch. 78-354; s. 36, ch. 80-274; s. 13, ch. 82-208; ss. 8, 55, 80, ch. 82-226; s. 209, ch. 85-342; s. 1, ch. 86-175; s. 1, ch. 88-146; s. 143, ch. 91-112; s. 1, ch. 92-32; s. 977, ch. 95-147; s. 6, ch. 95-404; s. 4, ch. 96-204; s. 3, ch. 97-117; s. 3, ch. 2002-18; s. 1, ch. 2004-349; s. 7, ch. 2008-173; s. 3, ch. 2008-197; s. 2, ch. 2011-93; s. 54, ch. 2011-151.

**1Note.**—Section 13, ch. 2008-173, provides that:

"(1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) Notwithstanding any other provision of law, such emergency rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules."

**2Note.**—

A. Section 4, ch. 2011-93, provides that "[t]he Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer the provisions of this act. The emergency rules shall remain in effect for 6 months after the rules are adopted and the rules may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules."

B. Section 6, ch. 2011-93, provides that "[t]his act shall take effect upon becoming a law, and first applies to ad valorem tax rolls for 2011."

**Note.**—Former s. 193.25.

#### **194.013 Filing fees for petitions; disposition; waiver.—**

(1) If so required by resolution of the value adjustment board, a petition filed pursuant to s. 194.011 shall be accompanied by a filing fee to be paid to the clerk of the value adjustment board in an amount determined by the board not to exceed \$15 for each separate parcel of property, real or personal, covered by the petition and subject to appeal. However, no such filing fee may be required with respect to an appeal from the disapproval of homestead exemption under s. 196.151 or from the denial of tax deferral under s. 197.2425. Only a single filing fee shall be charged under this section as to any particular parcel of property despite the existence of multiple issues and hearings pertaining to such parcel. For joint petitions filed pursuant to s. 194.011(3)(e) or (f), a single filing fee shall be charged. Such fee shall be calculated as the cost of the special magistrate for the time involved in hearing the joint petition and shall not

exceed \$5 per parcel. Said fee is to be proportionately paid by affected parcel owners.

(2) The value adjustment board shall waive the filing fee with respect to a petition filed by a taxpayer who demonstrates at the time of filing, by an appropriate certificate or other documentation issued by the Department of Children and Family Services and submitted with the petition, that the petitioner is then an eligible recipient of temporary assistance under chapter 414.

(3) All filing fees imposed under this section shall be paid to the clerk of the value adjustment board at the time of filing. If such fees are not paid at that time, the petition shall be deemed invalid and shall be rejected.

(4) All filing fees collected by the clerk shall be allocated and utilized to defray, to the extent possible, the costs incurred in connection with the administration and operation of the value adjustment board.

**History.**—s. 19, ch. 83-204; s. 210, ch. 85-342; s. 2, ch. 86-175; s. 4, ch. 86-300; s. 2, ch. 88-146; s. 144, ch. 91-112; s. 55, ch. 96-175; s. 18, ch. 99-8; s. 3, ch. 2000-262; s. 70, ch. 2004-11; s. 55, ch. 2011-151.

#### **194.014 Partial payment of ad valorem taxes; proceedings before value adjustment board.—**

(1)(a) A petitioner before the value adjustment board who challenges the assessed value of property must pay all of the non-ad valorem assessments and make a partial payment of at least 75 percent of the ad valorem taxes, less the applicable discount under s. 197.162, before the taxes become delinquent pursuant to s. 197.333.

(b)1. A petitioner before the value adjustment board who challenges the denial of a classification or exemption, or the assessment based on an argument that the property was not substantially complete as of January 1, must pay all of the non-ad valorem assessments and the amount of the tax which the taxpayer admits in good faith to be owing, less the applicable discount under s. 197.162, before the taxes become delinquent pursuant to s. 197.333.

2. If the value adjustment board determines that the amount of the tax that the taxpayer has admitted to be owing pursuant to this paragraph is grossly disproportionate to the amount of the tax found to be due and that the taxpayer's admission was not made in good faith, the tax collector must collect a penalty at the rate of 10 percent of the deficiency per year from the date the taxes became delinquent pursuant to s. 197.333.

(c) The value adjustment board must deny the petition by written decision by April 20 if the petitioner fails to make the payment required by this subsection. The clerk, upon issuance of the decision, shall, on a form provided by the Department of Revenue, notify by first-class mail each taxpayer, the property appraiser, and the department of the decision of the board.

(2) If the value adjustment board determines that the petitioner owes ad valorem taxes in excess of the amount paid, the unpaid amount accrues interest at the rate of 12 percent per year from the date the taxes became delinquent pursuant to s. 197.333 until the unpaid amount is paid. If the value adjustment board determines that a refund is due, the overpaid amount accrues interest at the rate of 12 percent per year from the date the taxes became delinquent pursuant to s. 197.333 until a refund is paid. Interest does not accrue

on amounts paid in excess of 100 percent of the current taxes due as provided on the tax notice issued pursuant to s. 197.322.

(3) This section does not apply to petitions for ad valorem tax deferrals pursuant to chapter 197.

**History.**—s. 1, ch. 2011-181.

**194.015 Value adjustment board.**—There is hereby created a value adjustment board for each county, which shall consist of two members of the governing body of the county as elected from the membership of the board of said governing body, one of whom shall be elected chairperson, and one member of the school board as elected from the membership of the school board, and two citizen members, one of whom shall be appointed by the governing body of the county and must own homestead property within the county and one of whom must be appointed by the school board and must own a business occupying commercial space located within the school district. A citizen member may not be a member or an employee of any taxing authority, and may not be a person who represents property owners in any administrative or judicial review of property taxes. The members of the board may be temporarily replaced by other members of the respective boards on appointment by their respective chairpersons. Any three members shall constitute a quorum of the board, except that each quorum must include at least one member of said governing board, at least one member of the school board, and at least one citizen member and no meeting of the board shall take place unless a quorum is present. Members of the board may receive such per diem compensation as is allowed by law for state employees if both bodies elect to allow such compensation. The clerk of the governing body of the county shall be the clerk of the value adjustment board. The board shall appoint private counsel who has practiced law for over 5 years and who shall receive such compensation as may be established by the board. The private counsel may not represent the property appraiser, the tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes. No meeting of the board shall take place unless counsel to the board is present. Two-fifths of the expenses of the board shall be borne by the district school board and three-fifths by the district county commission.

**History.**—s. 2, ch. 69-140; s. 1, ch. 69-300; s. 26, ch. 70-243; s. 22, ch. 73-172; s. 5, ch. 74-234; s. 1, ch. 75-77; s. 6, ch. 76-133; s. 2, ch. 76-234; s. 1, ch. 77-69; s. 145, ch. 91-112; s. 978, ch. 95-147; s. 4, ch. 2008-197.

#### **194.032 Hearing purposes; timetable.—**

(1)(a) The value adjustment board shall meet not earlier than 30 days and not later than 60 days after the mailing of the notice provided in s. 194.011(1); however, no board hearing shall be held before approval of all or any part of the assessment rolls by the Department of Revenue. The board shall meet for the following purposes:

1. Hearing petitions relating to assessments filed pursuant to s. 194.011(3).

2. Hearing complaints relating to homestead exemptions as provided for under s. 196.151.

3. Hearing appeals from exemptions denied, or disputes arising from exemptions granted, upon the filing of exemption applications under s. 196.011.

4. Hearing appeals concerning ad valorem tax deferrals and classifications.

(b) Notwithstanding the provisions of paragraph (a), the value adjustment board may meet prior to the approval of the assessment rolls by the Department of Revenue, but not earlier than July 1, to hear appeals pertaining to the denial by the property appraiser of exemptions, agricultural and high-water recharge classifications, classifications as historic property used for commercial or certain nonprofit purposes, and deferrals under subparagraphs (a)2., 3., and 4. In such event, however, the board may not certify any assessments under s. 193.122 until the Department of Revenue has approved the assessments in accordance with s. 193.1142 and all hearings have been held with respect to the particular parcel under appeal.

(c) In no event may a hearing be held pursuant to this subsection relative to valuation issues prior to completion of the hearings required under s. 200.065(2)(c).

(2)(a) The clerk of the governing body of the county shall prepare a schedule of appearances before the board based on petitions timely filed with him or her. The clerk shall notify each petitioner of the scheduled time of his or her appearance at least 25 calendar days before the day of the scheduled appearance. The notice must indicate whether the petition has been scheduled to be heard at a particular time or during a block of time. If the petition has been scheduled to be heard within a block of time, the beginning and ending of that block of time must be indicated on the notice; however, as provided in paragraph (b), a petitioner may not be required to wait for more than a reasonable time, not to exceed 2 hours, after the beginning of the block of time. If the petitioner checked the appropriate box on the petition form to request a copy of the property record card containing relevant information used in computing the current assessment, the property appraiser must provide the copy to the petitioner upon receipt of the petition from the clerk regardless of whether the petitioner initiates evidence exchange, unless the property record card is available online from the property appraiser. Upon receipt of the notice, the petitioner may reschedule the hearing a single time by submitting to the clerk a written request to reschedule, at least 5 calendar days before the day of the originally scheduled hearing.

(b) A petitioner may not be required to wait for more than a reasonable time, not to exceed 2 hours, after the scheduled time for the hearing to commence. If the hearing is not commenced within that time, the petitioner may inform the chairperson of the meeting that he or she intends to leave. If the petitioner leaves, the clerk shall reschedule the hearing, and the rescheduling is not considered to be a request to reschedule as provided in paragraph (a).

(c) Failure on three occasions with respect to any single tax year to convene at the scheduled time of meetings of the board is grounds for removal from office by the Governor for neglect of duties.

(3) The board shall remain in session from day to day until all petitions, complaints, appeals, and disputes

are heard. If all or any part of an assessment roll has been disapproved by the department pursuant to s. 193.1142, the board shall reconvene to hear petitions, complaints, or appeals and disputes filed upon the finally approved roll or part of a roll.

**History.**—s. 4, ch. 69-140; ss. 21, 35, ch. 69-106; s. 27, ch. 70-243; s. 12, ch. 73-172; s. 6, ch. 74-234; s. 7, ch. 76-133; s. 3, ch. 76-234; s. 1, ch. 77-174; s. 13, ch. 77-301; ss. 1, 9, 37, ch. 80-274; s. 5, ch. 81-308; ss. 14, 16, ch. 82-208; ss. 9, 11, 23, 26, 80, ch. 82-226; ss. 20, 21, 22, 23, 24, 25, ch. 83-204; s. 146, ch. 91-112; s. 979, ch. 95-147; s. 5, ch. 96-204; s. 4, ch. 97-117; s. 2, ch. 98-52; s. 3, ch. 2002-18; s. 2, ch. 2004-349; s. 11, ch. 2012-193; s. 8, ch. 2013-109.

#### **194.034 Hearing procedures; rules.—**

(1)(a) Petitioners before the board may be represented by an attorney or agent and present testimony and other evidence. The property appraiser or his or her authorized representatives may be represented by an attorney in defending the property appraiser's assessment or opposing an exemption and may present testimony and other evidence. The property appraiser, each petitioner, and all witnesses shall be required, upon the request of either party, to testify under oath as administered by the chairperson of the board. Hearings shall be conducted in the manner prescribed by rules of the department, which rules shall include the right of cross-examination of any witness.

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

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

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

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

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

(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, 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. If a special magistrate has been appointed, the recommendations of the special magistrate shall be considered by the board. The clerk, upon issuance of a decision, shall, on a form provided by the Department of Revenue, notify each taxpayer

and the property appraiser of the decision of the board. This notification shall be 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 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.

(3) Appearance before an advisory board or agency created by the county may not be required as a prerequisite condition to appearing before the value adjustment board.

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

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

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

**History.**—s. 21, ch. 83-204; s. 12, ch. 83-216; s. 3, ch. 86-175; s. 147, ch. 91-112; s. 2, ch. 92-32; s. 980, ch. 95-147; s. 71, ch. 2004-11; s. 2, ch. 2011-181; s. 12, ch. 2012-193; s. 4, ch. 2013-192.

#### **194.035 Special magistrates; property evaluators.—**

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

requests for reimbursement in any year exceeds the amount available pursuant to this section, payments to all counties shall be prorated accordingly. If a county having a population less than 75,000 does not appoint a special magistrate to hear each petition, the person or persons designated to hear petitions before the value adjustment board or the attorney appointed to advise the value adjustment board shall attend the training provided pursuant to subsection (3), regardless of whether the person would otherwise be required to attend, but shall not be required to pay the tuition fee specified in subsection (3). A special magistrate appointed to hear issues of exemptions and classifications shall be a member of The Florida Bar with no less than 5 years' experience in the area of ad valorem taxation. A special magistrate appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than 5 years' experience in real property valuation. A special magistrate appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than 5 years' experience in tangible personal property valuation. A special magistrate need not be a resident of the county in which he or she serves. A special magistrate may not represent a person before the board in any tax year during which he or she has served that board as a special magistrate. Before appointing a special magistrate, a value adjustment board shall verify the special magistrate's qualifications. The value adjustment board shall ensure that the selection of special magistrates is based solely upon the experience and qualifications of the special magistrate and is not influenced by the property appraiser. The special magistrate shall accurately and completely preserve all testimony and, in making recommendations to the value adjustment board, shall include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser. The expense of hearings before magistrates and any compensation of special magistrates shall be borne three-fifths by the board of county commissioners and two-fifths by the school board.

(2) The value adjustment board of each county may employ qualified property appraisers or evaluators to appear before the value adjustment board at that meeting of the board which is held for the purpose of hearing complaints. Such property appraisers or evaluators shall present testimony as to the just value of any property the value of which is contested before the board and shall submit to examination by the board, the taxpayer, and the property appraiser.

(3) The department shall provide and conduct training for special magistrates at least once each state fiscal year in at least five locations throughout the state. Such training shall emphasize the department's standard measures of value, including the guidelines for real and tangible personal property. Notwithstanding subsection (1), a person who has 3 years of relevant experience and who has completed the training provided by the department under this subsection may be appointed as a special magistrate. The training shall be open to the public. The department shall charge tuition

fees to any person attending this training in an amount sufficient to fund the department's costs to conduct all aspects of the training. The department shall deposit the fees collected into the Certification Program Trust Fund pursuant to s. 195.002(2).

**History.**—s. 22, ch. 83-204; s. 148, ch. 91-112; s. 981, ch. 95-147; s. 4, ch. 2002-18; s. 72, ch. 2004-11; s. 5, ch. 2008-197.

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

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

(a) The property appraiser determines and affirmatively asserts in any legal proceeding that there is a specific constitutional or statutory violation, or a specific violation of administrative rules, in the decision of the board, except that nothing herein shall authorize the property appraiser to institute any suit to challenge the validity of any portion of the constitution or of any duly enacted legislative act of this state;

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

(c) There is an assertion by the property appraiser to the Department of Revenue that there exists a consistent and continuous violation of the intent of the law or administrative rules by the value adjustment board in its decisions. The property appraiser shall notify the department of those portions of the tax roll for which the assertion is made. The department shall thereupon notify the clerk of the board who shall, within 15 days of the notification by the department, send the written decisions of the board to the department. Within 30 days of the receipt of the decisions by the department, the department shall notify the property appraiser of its decision relative to further judicial proceedings. If the department finds upon investigation that a consistent and continuous violation of the intent of the law or administrative rules by the board has occurred, it shall so inform the property appraiser, who may thereupon bring suit in circuit court against the value adjustment board for injunctive relief to prohibit continuation of the violation of the law or administrative rules and for a mandatory injunction to restore the tax roll to its just value in such amount as determined by judicial proceeding. However, when a final judicial decision is rendered as a result of an appeal filed pursuant to this paragraph which alters or changes an assessment of a parcel of property of any taxpayer not a party to such procedure, such taxpayer shall have 60 days from the date of the final judicial decision to file an action to contest such altered or changed assessment pursuant to s. 194.171(1), and the provisions of s. 194.171(2) shall not bar such action.

(2) Any taxpayer may bring an action to contest a tax assessment pursuant to s. 194.171.

(3) The circuit court proceeding shall be de novo, and the burden of proof shall be upon the party initiating the action.

**History.**—s. 23, ch. 83-204; s. 149, ch. 91-112; s. 982, ch. 95-147.

**194.037 Disclosure of tax impact.**—

(1) After hearing all petitions, complaints, appeals, and disputes, the clerk shall make public notice of the findings and results of the board in at least a quarter-page size advertisement of a standard size or tabloid size newspaper, and the headline shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county. The newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter, pursuant to chapter 50. The headline shall read: TAX IMPACT OF VALUE ADJUSTMENT BOARD. The public notice shall list the members of the value adjustment board and the taxing authorities to which they are elected. The form shall show, in columnar form, for each of the property classes listed under subsection (2), the following information, with appropriate column totals:

(a) In the first column, the number of parcels for which the board granted exemptions that had been denied or that had not been acted upon by the property appraiser.

(b) In the second column, the number of parcels for which petitions were filed concerning a property tax exemption.

(c) In the third column, the number of parcels for which the board considered the petition and reduced the assessment from that made by the property appraiser on the initial assessment roll.

(d) In the fourth column, the number of parcels for which petitions were filed but not considered by the board because such petitions were withdrawn or settled prior to the board's consideration.

(e) In the fifth column, the number of parcels for which petitions were filed requesting a change in assessed value, including requested changes in assessment classification.

(f) In the sixth column, the net change in taxable value from the assessor's initial roll which results from board decisions.

(g) In the seventh column, the net shift in taxes to parcels not granted relief by the board. The shift shall be computed as the amount shown in column 6 multiplied by the applicable millage rates adopted by the taxing authorities in hearings held pursuant to s. 200.065(2)(d) or adopted by vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution, but without adjustment as authorized pursuant to s. 200.065(6). If for any taxing authority the hearing has not been completed at the time the notice required herein is prepared, the millage rate used shall be that adopted in the hearing held pursuant to s. 200.065(2)(c).

(2) There must be a line entry in each of the columns described in subsection (1), for each of the following property classes:

(a) Improved residential property, which must be identified as "Residential."

(b) Improved commercial property, which must be identified as "Commercial."

(c) Improved industrial property, utility property, leasehold interests, subsurface rights, and other property not properly attributable to other classes listed in this section, which must be identified as "Industrial and Misc."

(d) Agricultural property, which must be identified as "Agricultural."

(e) High-water recharge property, which must be identified as "High-Water Recharge."

(f) Historic property used for commercial or certain nonprofit purposes, which shall be identified as "Historic Commercial or Nonprofit."

(g) Tangible personal property, which must be identified as "Business Machinery and Equipment."

(h) Vacant land and nonagricultural acreage, which must be identified as "Vacant Lots and Acreage."

(3) The form of the notice, including appropriate narrative and column descriptions, shall be prescribed by department rule and shall be brief and nontechnical to minimize confusion for the average taxpayer.

**History.**—s. 24, ch. 83-204; s. 150, ch. 91-112; s. 6, ch. 96-204; s. 5, ch. 97-117; s. 6, ch. 2007-321; s. 6, ch. 2008-197.

## PART II

### JUDICIAL REVIEW

- 194.171 Circuit court to have original jurisdiction in tax cases.
- 194.181 Parties to a tax suit.
- 194.192 Costs; interest on unpaid taxes; penalty.
- 194.211 Injunction against tax sales.
- 194.231 Parties in suits relating to distribution, etc., of funds to counties, etc.

#### 194.171 Circuit court to have original jurisdiction in tax cases.—

(1) The circuit courts have original jurisdiction at law of all matters relating to property taxation. Venue is in the county where the property is located, except that venue shall be in Leon County when the property is assessed pursuant to s. 193.085(4).

(2) No action shall be brought to contest a tax assessment after 60 days from the date the assessment being contested is certified for collection under s. 193.122(2), or after 60 days from the date a decision is rendered concerning such assessment by the value adjustment board if a petition contesting the assessment had not received final action by the value adjustment board prior to extension of the roll under s. 197.323.

(3) Before an action to contest a tax assessment may be brought, the taxpayer shall pay to the collector not less than the amount of the tax which the taxpayer admits in good faith to be owing. The collector shall issue a receipt for the payment, and the receipt shall be filed with the complaint. Notwithstanding the provisions of chapter 197, payment of the taxes the taxpayer admits to be due and owing and the timely filing of an action pursuant to this section shall suspend all

procedures for the collection of taxes prior to final disposition of the action.

(4) Payment of a tax shall not be deemed an admission that the tax was due and shall not prejudice the right to bring a timely action as provided in subsection (2) to challenge such tax and seek a refund.

(5) No action to contest a tax assessment may be maintained, and any such action shall be dismissed, unless all taxes on the property assessed in years after the action is brought, which the taxpayer in good faith admits to be owing, are paid before they become delinquent.

(6) The requirements of subsections (2), (3), and (5) are jurisdictional. No court shall have jurisdiction in such cases until after the requirements of both subsections (2) and (3) have been met. A court shall lose jurisdiction of a case when the taxpayer has failed to comply with the requirements of subsection (5).

**History.**—s. 1, ch. 8586, 1921; CGL 1038; s. 2, ch. 29737, 1955; s. 1, ch. 67-538; ss. 1, 2, ch. 69-55; s. 8, ch. 69-102; s. 6, ch. 69-140; ss. 30, 31, ch. 70-243; s. 1, ch. 72-239; s. 6, ch. 74-234; s. 17, ch. 82-226; s. 7, ch. 83-204; s. 56, ch. 83-217; s. 211, ch. 85-342; s. 3, ch. 88-146; s. 151, ch. 91-112; s. 32, ch. 94-353; s. 1470, ch. 95-147.

**Note.**—Former ss. 192.21, 194.151, 196.01.

#### 194.181 Parties to a tax suit.—

(1) The plaintiff in any tax suit shall be:

(a) The taxpayer or other person contesting the assessment of any tax, the payment of which he or she is responsible for under a statute or a person who is responsible for the entire tax payment pursuant to a contract and has the written consent of the property owner, or the condominium association, cooperative association, or homeowners' association as defined in s. 723.075 which operates the units subject to the assessment; or

(b) The property appraiser pursuant to s. 194.036.

(2) In any case brought by the taxpayer or association contesting the assessment of any property, the county property appraiser shall be party defendant. In any case brought by the property appraiser pursuant to s. 194.036(1)(a) or (b), the taxpayer shall be party defendant. In any case brought by the property appraiser pursuant to s. 194.036(1)(c), the value adjustment board shall be party defendant.

(3) In any suit involving the collection of any tax on property, as well as questions relating to tax certificates or applications for tax deeds, the tax collector charged under the law with collecting such tax shall be the defendant.

(4) In any suit involving a tax other than an ad valorem tax on property, the tax collector charged under the law with collecting such tax shall be defendant. However, this section does not apply in any instance wherein general law provides for some other person to be the party defendant.

(5) In any suit in which the assessment of any tax, or the collection of any tax, tax certificate, or tax deed is contested on the ground that it is contrary to the State Constitution, the official of the state government responsible for overall supervision of the assessment and collection of such tax shall be made a party defendant of such suit. Any such suit shall be brought in that county having venue under s. 194.171 or, when that section is inapplicable, in the Circuit Court of Leon County, and

the attorney for the defendant county officer shall upon request represent the state official in any such suit or proceeding, for which he or she shall receive no additional compensation.

(6) In any suit in which the validity of any statute or regulation found in, or issued pursuant to, chapters 192-197, inclusive, is contested, the public officer affected may be a party plaintiff.

**History.**—s. 3, ch. 8586, 1921; CGL 1040; ss. 1, 2, ch. 69-55; s. 7, ch. 69-140; s. 32, ch. 70-243; s. 1, ch. 73-74; s. 9, ch. 76-133; s. 4, ch. 76-234; s. 1, ch. 77-174; s. 27, ch. 83-204; s. 4, ch. 88-146; s. 152, ch. 91-112; s. 983, ch. 95-147; s. 7, ch. 2004-349.

**Note.**—Former s. 196.03.

#### **194.192 Costs; interest on unpaid taxes; penalty.—**

(1) In any suit involving the assessment or collection of any tax, the court shall assess all costs.

(2) If the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid, it shall enter judgment against the taxpayer for the deficiency and for interest on the deficiency at the rate of 12 percent per year from the date the tax became delinquent. If it finds that the amount of tax which the taxpayer has admitted to be owing is grossly disproportionate to the amount of tax found to be due and that the taxpayer's admission was not made in good faith, the court shall also assess a penalty at the rate of 10 percent of the deficiency per year from the date the tax became delinquent.

**History.**—s. 8, ch. 69-140; s. 33, ch. 70-243; s. 35, ch. 71-355; s. 2, ch. 72-239; s. 18, ch. 82-226; s. 4, ch. 96-397.

**194.211 Injunction against tax sales.**—In any tax suit, the court may issue injunctions to restrain the sale of real or personal property for any tax which shall appear to be contrary to law or equity, and in no case shall any complaint be dismissed because the tax assessment complained of, or the injunction asked for, involves personal property only.

**History.**—s. 2, ch. 8586, 1921; CGL 1039; ss. 1, 2, ch. 69-55; s. 34, ch. 70-243.

**Note.**—Former s. 196.02.

#### **194.231 Parties in suits relating to distribution, etc., of funds to counties, etc.—**

(1) No court shall hereafter enter any interlocutory or final order, decree, or judgment in any case involving the validity or constitutionality of any law relating to the distribution, apportionment, or allocation of any state excise or other taxes equally to the several counties in this state under such law, until it shall be made to appear of record in the case that the party to the cause seeking such order, decree, or judgment has duly served upon the chairperson of the board of county commissioners or the chairperson of the school board of each of the counties of this state or upon both such chairpersons of said boards, depending upon whether one or both of said boards has an interest in the subject matter, written notice of the pendency of the case and thereafter of all hearings of all applications or motions for such orders, decrees or judgments in such cases, at least 5 days before all hearings.

(2) Such notice shall state the time, place and date of each such hearing and adjournments thereof, and shall be accompanied by copy of the complaint and petition, motion or application for any such order,

decree, or judgment and the exhibits thereto attached, if any; and upon such service such boards of such counties having an interest in the subject matter of the case shall forthwith be and become parties to the cause, and shall be by order of the court properly aligned as parties plaintiff or defendant.

**History.**—s. 1, ch. 19029, 1939; CGL 1940 Supp. 1279(110-f); s. 2, ch. 29737, 1955; ss. 1, 2, ch. 69-55; s. 1, ch. 69-300; s. 984, ch. 95-147.

**Note.**—Former s. 196.13.

### **PART III**

#### **ASSESSMENT: PRESUMPTION OF CORRECTNESS**

194.301 Challenge to ad valorem tax assessment.

194.3015 Burden of proof.

#### **194.301 Challenge to ad valorem tax assessment.—**

(1) In any administrative or judicial action in which a taxpayer challenges an ad valorem tax assessment of value, the property appraiser's assessment is presumed correct if the appraiser proves by a preponderance of the evidence that the assessment was arrived at by complying with s. 193.011, any other applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices, including mass appraisal standards, if appropriate. However, a taxpayer who challenges an assessment is entitled to a determination by the value adjustment board or court of the appropriateness of the appraisal methodology used in making the assessment. The value of property must be determined by an appraisal methodology that complies with the criteria of s. 193.011 and professionally accepted appraisal practices. The provisions of this subsection preempt any prior case law that is inconsistent with this subsection.

(2) In an administrative or judicial action in which an ad valorem tax assessment is challenged, the burden of proof is on the party initiating the challenge.

(a) If the challenge is to the assessed value of the property, the party initiating the challenge has the burden of proving by a preponderance of the evidence that the assessed value:

1. Does not represent the just value of the property after taking into account any applicable limits on annual increases in the value of the property;

2. Does not represent the classified use value or fractional value of the property if the property is required to be assessed based on its character or use; or

3. Is arbitrarily based on appraisal practices that are different from the appraisal practices generally applied by the property appraiser to comparable property within the same county.

(b) If the party challenging the assessment satisfies the requirements of paragraph (a), the presumption provided in subsection (1) is overcome, and the value adjustment board or the court shall establish the assessment if there is competent, substantial evidence of value in the record which cumulatively meets the criteria of s. 193.011 and professionally accepted appraisal practices. If the record lacks such evidence,



the matter must be remanded to the property appraiser with appropriate directions from the value adjustment board or the court, and the property appraiser must comply with those directions.

(c) If the revised assessment following remand is challenged, the procedures described in this section apply.

(d) If the challenge is to the classification or exemption status of the property, there is no presumption of correctness, and the party initiating the challenge has the burden of proving by a preponderance of the evidence that the classification or exempt status assigned to the property is incorrect.

**History.**—s. 1, ch. 97-85; s. 1, ch. 2009-121.

#### **194.3015 Burden of proof.—**

(1) It is the express intent of the Legislature that a taxpayer shall never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis of a legal assessment. All cases establishing the every-reasonable-hypothesis standard were expressly rejected by the Legislature on the adoption of chapter 97-85, Laws of Florida. It is the further intent of the Legislature that any cases published since 1997 citing the every-reasonable-hypothesis standard are expressly rejected to the extent that they are interpretative of legislative intent.

(2) This section is intended to clarify existing law and apply retroactively.

**History.**—s. 2, ch. 2009-121.