

1 A bill to be entitled

2 An act relating to value adjustment boards; amending
3 s. 192.0105, F.S.; adding rights to the Florida
4 Taxpayer's Bill of Rights concerning assessment
5 determinations; amending s. 194.011, F.S.; requiring
6 the Department of Revenue to adopt rules to establish
7 a transparent, fair, and uniform value adjustment
8 board process; providing that the uniform policies and
9 procedures manual developed by the department shall be
10 used by value adjustment board attorneys; defining the
11 term "value adjustment board attorney"; amending s.
12 194.015, F.S.; providing training requirements for
13 counsel to the value adjustment board; amending s.
14 194.034, F.S.; revising requirements for written
15 decisions rendered by a value adjustment board;
16 amending s. 194.035, F.S.; requiring certain persons
17 to complete training for special magistrates; revising
18 qualifications for special magistrates; providing
19 applicability; providing an effective date.

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21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsection (2) of section 192.0105, Florida
24 Statutes, is amended to read:

25 192.0105 Taxpayer rights.—There is created a Florida
26 Taxpayer's Bill of Rights for property taxes and assessments to

27 | guarantee that the rights, privacy, and property of the
 28 | taxpayers of this state are adequately safeguarded and protected
 29 | during tax levy, assessment, collection, and enforcement
 30 | processes administered under the revenue laws of this state. The
 31 | Taxpayer's Bill of Rights compiles, in one document, brief but
 32 | comprehensive statements that summarize the rights and
 33 | obligations of the property appraisers, tax collectors, clerks
 34 | of the court, local governing boards, the Department of Revenue,
 35 | and taxpayers. Additional rights afforded to payors of taxes and
 36 | assessments imposed under the revenue laws of this state are
 37 | provided in s. 213.015. The rights afforded taxpayers to assure
 38 | that their privacy and property are safeguarded and protected
 39 | during tax levy, assessment, and collection are available only
 40 | insofar as they are implemented in other parts of the Florida
 41 | Statutes or rules of the Department of Revenue. The rights so
 42 | guaranteed to state taxpayers in the Florida Statutes and the
 43 | departmental rules include:

44 | (2) THE RIGHT TO DUE PROCESS.—

45 | (a) The right to an assessed value of property that
 46 | conforms with the applicable provisions of the State
 47 | Constitution and the laws of this state applied consistently in
 48 | both assessment development by the property appraiser and
 49 | assessment review by the value adjustment board and the courts
 50 | of this state (see ss. 192.001, 194.011, and 194.301).

51 | ~~(b)-(a)~~ The right to an informal conference with the
 52 | property appraiser to present facts the taxpayer considers to

53 support changing the assessment and to have the property
54 appraiser present facts supportive of the assessment upon proper
55 request of any taxpayer who objects to the assessment placed on
56 his or her property (see s. 194.011(2)).

57 (c)~~(b)~~ The right to petition the value adjustment board
58 over objections to assessments, denial of exemption, denial of
59 agricultural classification, denial of historic classification,
60 denial of high-water recharge classification, disapproval of tax
61 deferral, and any penalties on deferred taxes imposed for
62 incorrect information willfully filed. Payment of estimated
63 taxes does not preclude the right of the taxpayer to challenge
64 his or her assessment (see ss. 194.011(3), 196.011(6) and
65 (9) (a), 196.151, 196.193(1) (c) and (5), 193.461(2), 193.503(7),
66 193.625(2), 197.2425, 197.301(2), and 197.2301(11)).

67 (d)~~(e)~~ The right to file a petition for exemption or
68 agricultural classification with the value adjustment board when
69 an application deadline is missed, upon demonstration of
70 particular extenuating circumstances for filing late (see ss.
71 193.461(3) (a) and 196.011(1), (7), (8), and (9) (e)).

72 (e)~~(d)~~ The right to prior notice of the value adjustment
73 board's hearing date, the right to the hearing at the scheduled
74 time, and the right to have the hearing rescheduled if the
75 hearing is not commenced within a reasonable time, not to exceed
76 2 hours, after the scheduled time (see s. 194.032(2)).

77 (f)~~(e)~~ The right to notice of date of certification of tax
78 rolls and receipt of property record card if requested (see ss.

79 193.122(2) and (3) and 194.032(2)).

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

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

93 (i) The right to an assessment review by a value
 94 adjustment board applying the same statutory criteria and
 95 appraisal practices lawfully applied by the property appraiser
 96 in developing the original assessment (see ss. 194.011 and
 97 194.301).

98 (j)~~(g)~~ The right to be sent a timely written decision by a
 99 the value adjustment board containing findings of fact and
 100 conclusions of law logically connected to the findings of fact
 101 that identifies each statutory criterion applicable to the
 102 assessment determination under administrative review and
 103 transparently states, based on the admitted evidence, the
 104 actions taken by the property appraiser in determining the

105 assessment (see ss. 194.011, 194.034, 194.301, and 194.3015).
 106 ~~and reasons for upholding or overturning the determination of~~
 107 ~~the property appraiser, and~~

108 (k) The right to advertised notice of all board actions,
 109 including appropriate narrative and column descriptions, in
 110 brief and nontechnical language (see s. ss. 194.034(2) and
 111 194.037(3)).

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

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

118 (n) ~~(i)~~ The right to bring action in circuit court to
 119 contest a tax assessment or appeal value adjustment board
 120 decisions to disapprove exemption or deny tax deferral (see ss.
 121 194.036(1)(c) and (2), 194.171, 196.151, and 197.2425).

122 Section 2. Subsection (5) of section 194.011, Florida
 123 Statutes, is amended to read:

124 194.011 Assessment notice; objections to assessments.—

125 (5)(a) The department shall by rule establish a
 126 transparent, fair, and uniform value adjustment board process.

127 Such rules shall include:

128 1. A procedure for determining the assessed value of
 129 property that conforms with the applicable provisions of the
 130 State Constitution and the laws of this state, which shall be

131 applied consistently in both assessment development by the
 132 property appraiser and assessment review by the value adjustment
 133 board.

134 2. ~~prescribe~~ Uniform procedures for hearings before the
 135 value adjustment board, including, but not limited to, ~~which~~
 136 ~~include requiring:~~

137 1. ~~procedures~~ for the exchange of information and evidence
 138 by the property appraiser and the petitioner consistent with s.
 139 194.032.

140 2. ~~That~~ The rules shall require the value adjustment board
 141 to hold an organizational meeting for the purpose of making
 142 these procedures available to petitioners.

143 3. Duties and responsibilities of the members of a value
 144 adjustment board relating to:

145 a. The oversight of the clerk of the value adjustment
 146 board, special magistrates, and value adjustment board
 147 attorneys.

148 b. The consideration of special magistrate recommendations
 149 and value adjustment board attorney recommendations.

150 4. Minimum qualifications for special magistrates and
 151 value adjustment board attorneys consistent with ss. 194.015 and
 152 194.035.

153 5. Minimum written contract requirements for special
 154 magistrates and value adjustment board attorneys specifying the
 155 duties of the position, standards of conduct, and performance
 156 standards.

157 6. Minimum requirements for written decisions of the value
158 adjustment board which shall require the inclusion of checklist
159 forms identifying each statutory criterion that applies to the
160 assessment determination under administrative review consistent
161 with ss. 194.034 and 194.301 and other applicable statutes.

162 7. Mandatory training requirements for special magistrates
163 and value adjustment board attorneys consistent with ss. 194.015
164 and 194.035 and any other training requirements deemed necessary
165 by the department.

166 8. Alternative qualifications or requirements for special
167 magistrates and value adjustment boards in counties with a
168 population of 75,000 or less consistent with the provisions of
169 this section and s. 194.035.

170 9. Any rules that the department deems necessary to
171 provide effective oversight of the value adjustment board
172 process and to ensure uniform and transparent compliance with
173 all applicable statutes and rules.

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

181 (c) As used in this subsection, the term "value adjustment
182 board attorney" means a person appointed pursuant to s. 194.015

183 to provide counsel to a value adjustment board.

184 Section 3. Section 194.015, Florida Statutes, is amended
185 to read:

186 194.015 Value adjustment board.—There is hereby created a
187 value adjustment board for each county, which shall consist of
188 two members of the governing body of the county as elected from
189 the membership of the board of said governing body, one of whom
190 shall be elected chairperson, and one member of the school board
191 as elected from the membership of the school board, and two
192 citizen members, one of whom shall be appointed by the governing
193 body of the county and must own homestead property within the
194 county and one of whom must be appointed by the school board and
195 must own a business occupying commercial space located within
196 the school district. A citizen member may not be a member or an
197 employee of any taxing authority, and may not be a person who
198 represents property owners in any administrative or judicial
199 review of property taxes. The members of the board may be
200 temporarily replaced by other members of the respective boards
201 on appointment by their respective chairpersons. Any three
202 members shall constitute a quorum of the board, except that each
203 quorum must include at least one member of said governing board,
204 at least one member of the school board, and at least one
205 citizen member and no meeting of the board shall take place
206 unless a quorum is present. Members of the board may receive
207 such per diem compensation as is allowed by law for state
208 employees if both bodies elect to allow such compensation. The

209 clerk of the governing body of the county shall be the clerk of
 210 the value adjustment board. The board shall appoint private
 211 counsel who has practiced law for over 5 years and who shall
 212 receive such compensation as may be established by the board.
 213 The private counsel may not represent the property appraiser,
 214 the tax collector, any taxing authority, or any property owner
 215 in any administrative or judicial review of property taxes.
 216 Counsel appointed to advise the board must attend and complete
 217 the training provided and conducted by the department for
 218 special magistrates described in s. 194.035(3). A ~~Ne~~ meeting of
 219 the board may not ~~shall~~ take place unless counsel to the board
 220 is present. Two-fifths of the expenses of the board shall be
 221 borne by the district school board and three-fifths by the
 222 district county commission.

223 Section 4. Subsection (2) of section 194.034, Florida
 224 Statutes, is amended to read:

225 194.034 Hearing procedures; rules.—

226 (2) In each case, except if the complaint is withdrawn by
 227 the petitioner or if the complaint is acknowledged as correct by
 228 the property appraiser, the value adjustment board shall render
 229 a written decision. All such decisions shall be issued within 20
 230 calendar days after the last day the board is in session under
 231 s. 194.032. The decision of the board must contain findings of
 232 fact and conclusions of law and must include reasons for
 233 upholding or overturning the determination of the property
 234 appraiser. Findings of fact must be based on admitted evidence

235 or a lack thereof and must be accompanied by a transparent
 236 statement describing how the information and methodology used by
 237 the property appraiser in developing the assessment complies
 238 with relevant statutory criteria. Conclusions of law must be
 239 logically connected to the findings of fact and must be stated
 240 in statutory terms. Written decisions must be prepared using a
 241 series of checklist forms provided by the department that
 242 identify each statutory criterion applicable to the assessment
 243 determination. If a special magistrate has been appointed, the
 244 recommendations of the special magistrate shall be considered by
 245 the board. The clerk, upon issuance of a decision, shall, on a
 246 form provided by the Department of Revenue, notify each taxpayer
 247 and the property appraiser of the decision of the board. This
 248 notification shall be by first-class mail or by electronic means
 249 if selected by the taxpayer on the originally filed petition. If
 250 requested by the Department of Revenue, the clerk shall provide
 251 to the department a copy of the decision or information relating
 252 to the tax impact of the findings and results of the board as
 253 described in s. 194.037 in the manner and form requested.

254 Section 5. Subsections (1) and (3) of section 194.035,
 255 Florida Statutes, are amended to read:

256 194.035 Special magistrates; property evaluators.—

257 (1) In counties having a population of more than 75,000,
 258 the board shall appoint special magistrates for the purpose of
 259 taking testimony and making recommendations to the board, which
 260 recommendations the board may act upon without further hearing.

261 These special magistrates may not be elected or appointed
262 officials or employees of the county but shall be selected from
263 a list of those qualified individuals who are willing to serve
264 as special magistrates. Employees and elected or appointed
265 officials of a taxing jurisdiction or of the state may not serve
266 as special magistrates. The clerk of the board shall annually
267 notify such individuals or their professional associations to
268 make known to them that opportunities to serve as special
269 magistrates exist. The Department of Revenue shall provide a
270 list of qualified special magistrates to any county with a
271 population of 75,000 or less. Subject to appropriation, the
272 department shall reimburse counties with a population of 75,000
273 or less for payments made to special magistrates appointed for
274 the purpose of taking testimony and making recommendations to
275 the value adjustment board pursuant to this section. The
276 department shall establish a reasonable range for payments per
277 case to special magistrates based on such payments in other
278 counties. Requests for reimbursement of payments outside this
279 range shall be justified by the county. If the total of all
280 requests for reimbursement in any year exceeds the amount
281 available pursuant to this section, payments to all counties
282 shall be prorated accordingly. If a county having a population
283 less than 75,000 does not appoint a special magistrate to hear
284 each petition, the person or persons designated to hear
285 petitions before the value adjustment board or the attorney
286 appointed to advise the value adjustment board shall attend and

287 complete the training provided pursuant to subsection (3),
288 regardless of whether the person would otherwise be required to
289 attend, but shall not be required to pay the tuition fee
290 specified in subsection (3). A special magistrate appointed to
291 hear issues of exemptions and classifications shall be a member
292 of The Florida Bar with no less than 5 years' experience in the
293 area of ad valorem taxation. A special magistrate appointed to
294 hear issues regarding the valuation of real estate shall be a
295 state certified real estate appraiser with not less than 5
296 years' experience in real property valuation. A special
297 magistrate appointed to hear issues regarding the valuation of
298 tangible personal property shall be a designated member of a
299 nationally recognized appraiser's organization with not less
300 than 5 years' experience in tangible personal property
301 valuation. A special magistrate need not be a resident of the
302 county in which he or she serves. A special magistrate may not
303 represent a person before the board in any tax year during which
304 he or she has served that board as a special magistrate. Before
305 appointing a special magistrate, a value adjustment board shall
306 verify the special magistrate's qualifications. The value
307 adjustment board shall ensure that the selection of special
308 magistrates is based solely upon the experience and
309 qualifications of the special magistrate and is not influenced
310 by the property appraiser. The special magistrate shall
311 accurately and completely preserve all testimony and, in making
312 recommendations to the value adjustment board, shall include

313 proposed findings of fact, conclusions of law, and reasons for
314 upholding or overturning the determination of the property
315 appraiser. The expense of hearings before magistrates and any
316 compensation of special magistrates shall be borne three-fifths
317 by the board of county commissioners and two-fifths by the
318 school board.

319 (3) The department shall provide and conduct training for
320 special magistrates at least once each state fiscal year in at
321 least five locations throughout the state. Such training shall
322 emphasize the department's standard measures of value, including
323 the guidelines for real and tangible personal property.

324 ~~Notwithstanding subsection (1), a person who has 3 years of~~
325 ~~relevant experience and who has completed the training provided~~
326 ~~by the department under this subsection may be appointed as a~~
327 ~~special magistrate.~~ The training shall be open to the public.
328 The department shall charge tuition fees to any person attending
329 this training in an amount sufficient to fund the department's
330 costs to conduct all aspects of the training. The department
331 shall deposit the fees collected into the Certification Program
332 Trust Fund pursuant to s. 195.002(2).

333 Section 6. This act applies to tax years beginning on or
334 after January 1, 2015.

335 Section 7. This act shall take effect July 1, 2014.