

PROPOSED COMMITTEE SUBSTUTE

Bill No. PCS for HB 521

COUNCIL/COMMITTEE ACTION

ADOPTED (Y/N)

ADOPTED AS AMENDED (Y/N)

ADOPTED W/O OBJECTION (Y/N)

FAILED TO ADOPT (Y/N)

WITHDRAWN (Y/N)

OTHER

1 **Council/Committee hearing bill:** Military & Local Affairs Policy
 2 Committee

3
 4 The Military & Local Affairs Policy Committee offered the
 5 following:

Proposed Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

10 An act relating to ad valorem assessments; amending s.
 11 194.301, F.S.; revising the burden of proof in the
 12 challenge of an assessment; requiring property
 13 appraisers to prove compliance with certain laws and
 14 appraisal practices; deleting provisions relating to a
 15 presumption of correctness of an assessment by a
 16 property appraiser; requiring a taxpayer to prove
 17 entitlement to an ad valorem tax exemption or
 18 classification by a preponderance of the evidence;
 19 providing legislative intent; providing for
 20 retroactive application; providing an effective date.

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

23

PROPOSED COMMITTEE SUBSTUTE

24 Section 1. Section 194.301, Florida Statutes, is amended
25 to read:

26 194.301 Presumption of correctness and burden of proof in
27 challenges to ad valorem tax value assessment.--

28 (1) In any administrative or judicial action in which a
29 taxpayer challenges an ad valorem tax assessment of value, the
30 property appraiser has the burden of going forward and proving
31 that his or her assessment was arrived at by complying with s.
32 193.011 and professionally accepted appraisal practices,
33 including mass appraisal standards, if appropriate, in which
34 case the assessment shall be presumed correct. The taxpayer has
35 the burden of proving by a preponderance of the evidence that
36 the assessment of value exceeds just value or that the
37 assessment is based upon appraisal practices that are different
38 from the appraisal practices generally applied to comparable
39 property within the same class. In any judicial action in which
40 the property appraiser challenges the value adjustment board's
41 determination of value, the property appraiser has the burden of
42 proving by a preponderance of the evidence that the assessment
43 established by the value adjustment board is less than just
44 value ~~appraiser's assessment shall be presumed correct. This~~
45 ~~presumption of correctness is lost if the taxpayer shows by a~~
46 ~~preponderance of the evidence that either the property appraiser~~
47 ~~has failed to consider properly the criteria in s. 193.011 or if~~
48 ~~the property appraiser's assessment is arbitrarily based on~~
49 ~~appraisal practices which are different from the appraisal~~
50 ~~practices generally applied by the property appraiser to~~
51 ~~comparable property within the same class and within the same~~
52 ~~county. If the presumption of correctness is lost, the taxpayer~~
53 ~~shall have the burden of proving by a preponderance of the~~
54 ~~evidence that the appraiser's assessment is in excess of just~~
55 ~~value. If the presumption of correctness is retained, the~~
56 ~~taxpayer shall have the burden of proving by clear and~~
57 ~~convincing evidence that the appraiser's assessment is in excess~~

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58 ~~of just value. In no case shall the taxpayer have the burden of~~
59 ~~proving that the property appraiser's assessment is not~~
60 ~~supported by any reasonable hypothesis of a legal assessment.~~ If
61 the property appraiser's assessment is determined to be
62 erroneous, the value adjustment board or the court can establish
63 the assessment if ~~there exists~~ competent, substantial evidence
64 exists in the record, which cumulatively meets the requirements
65 of s. 193.011 and professionally accepted appraisal practices,
66 including mass appraisal standards, if appropriate. If the
67 record lacks competent, substantial evidence ~~meeting the just~~
68 ~~value criteria of s. 193.011,~~ the matter shall be remanded to
69 the property appraiser with appropriate directions from the
70 value adjustment board or the court. The burdens of proof
71 provided in this subsection apply to the challenge of an
72 assessment that is revised after the assessment is remanded to
73 the property appraiser by a value adjustment board or court.

74 (2) In any administrative or judicial action in which a
75 denial of an exemption or assessment classification is
76 challenged, the denial by the property appraiser does not have a
77 presumption of correctness. In such actions, the taxpayer has
78 the burden of proving entitlement to an exemption or assessment
79 classification by a preponderance of the evidence.

80 Section 2. It is the express intent of the Legislature
81 that a taxpayer shall never have the burden of proving that the
82 property appraiser's assessment is not supported by any
83 reasonable hypothesis of a legal assessment. All cases
84 establishing the every-reasonable-hypothesis standard were
85 expressly rejected by the Legislature on the adoption of chapter
86 97-85, Laws of Florida. It is the further intent of the
87 Legislature that any cases published since 1997 citing the
88 every-reasonable-hypothesis standard are expressly rejected to
89 the extent that they are interpretative of legislative intent.

90 Section 3. Section 2 of this act is intended to clarify
91 existing law and apply retroactively.

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92 Section 4. This act shall take effect upon becoming a law
93 and first applies to assessments in 2009.
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