

To: Value Adjustment Board Clerks and Administrators, Clerks of Court, Members of Value Adjustment Boards, Board Attorneys, Special Magistrates, Interested Parties, Property Appraisers, and Tax Collectors
From: James McAdams
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**FLORIDA DEPARTMENT OF REVENUE
PROPERTY TAX INFORMATIONAL BULLETIN**

Challenges to Property Tax Assessments

This is to advise that the 2009 Legislature enacted Chapter 2009-121, Laws of Florida. See House Bill 521. Effective June 4, 2009, this new law first applies to administrative reviews of assessments made as of January 1, 2009. House Bill 521 substantially rewrote section 194.301, Florida Statutes. See the 2008 version of section 194.301 for previous text.

An important change is that the new law requires a lower standard of proof for taxpayers who challenge their assessments. Under the new law, “preponderance of the evidence” is the standard of proof that applies in assessment challenges. The “clear and convincing evidence” standard of proof no longer applies. 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.

The new law contains several other important changes. See actual text below. Value adjustment boards and special magistrates must become familiar with the new law to ensure its implementation. Board attorneys are responsible for ensuring that this important new legislation is implemented for all value adjustment board hearings starting with 2009 assessments.

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

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.

Section 2. **(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.

This bulletin is provided by the Department of Revenue for your general information. If you wish to discuss this matter, you may send your questions to VAB@dor.state.fl.us or call Claudia Kemp at 850-488-4436.