

**DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement**

1. **Patron** Sal R. Iaquinto

2. **Bill Number** HB 570

3. **Committee** House Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Real Property Tax; Burden of Proof to
Appeal Assessments

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would shift the burden of proof from the taxpayer to the assessor when the taxpayer appeals the assessment of real property to a Board of Equalization or to a circuit court, and would remove the presumption that the assessor's valuation of real property is correct. The assessor would have the burden of proving that the property in question is valued at its fair market value or that the assessment is uniform in its application, or that the assessment is otherwise valid or legal.

Under current law, a property owner may appeal to a Board of Equalization or a circuit court seeking relief from an erroneous real property assessment. In all such cases, the taxpayer has the burden of proving that the property in question is valued at more than its fair market value.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not available (See Line 8.)

7. **Budget amendment necessary:** No.

8. Fiscal implications:

This bill would have no impact on state revenues. To the extent that shifting the burden of proof to the assessor results in more successful appeals, this bill may result in a decrease in real property assessments and a loss in local revenues.

9. Specific agency or political subdivisions affected:

All localities

10. **Technical amendment necessary:** No.

11. Other comments:

Current Law

Circuit courts within each county or city are authorized to appoint a Board of Equalization of real estate assessments, whose purpose is to hear complaints regarding a lack of uniformity or errors in acreage in a real property assessment, and complaints that real property is assessed at more than fair market value. Once the Board hears these complaints, it is authorized to increase or decrease assessments based on fairness.

Under current law, the taxpayer has the burden of proving that the property in question is valued at more than its fair market value, that the assessment is not uniform in its application, or that the assessment is otherwise not equalized. The taxpayer is required to produce substantial evidence that the valuation determined by the assessor is erroneous and was not arrived at in accordance with generally accepted appraisal practice in order to receive relief. Mistakes of fact, including computations that affect the assessment are deemed not to be in accordance with generally accepted appraisal practice. It is not necessary for the taxpayer to show that the assessment is a result of manifest error or disregards controlling evidence.

Any person assessed with any local tax can also appeal to the circuit court in the locality in which the property subject to tax is located to show that the tax was incorrectly assessed. In these proceedings, the taxpayer has the burden of proving that the property in question is assessed at more than its fair market value, the assessment is not uniform in its application, or the assessment is otherwise invalid or illegal. The taxpayer is not required to show that intentional, systematic and willful discrimination has been made.

Proposal

This bill would shift the burden of proof from the taxpayer to the assessor when the taxpayer appeals the assessment of real property to a Board of Equalization or to a circuit court, and would remove the presumption that the assessor's valuation of real property is correct. The assessor would have the burden of proving that the property in question is valued at its fair market value or that the assessment is uniform in its application, or that the assessment is otherwise valid or legal.

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Similar Legislation

House Bill 233 and Senate Bill 273 (identical) would: 1) authorize real estate assessors to require owners of affordable rental housing containing four or fewer residential units to furnish the assessor with statements of the income and expenses attributable to applicable parcels of real estate; 2) lower the evidentiary standard for a taxpayer seeking to show that the real estate assessor's valuation is erroneous; 3) prohibit assessors from reducing capitalization rates; and 4) deem Board of Equalization determinations on affordable rental housing presumptively correct for the succeeding two years or the

remainder of the assessment cycle, whichever occurs first, unless the assessor can demonstrate that a substantial change in value of the property has occurred.

House Bill 430 would provide 1) that the fair market value of certain affordable housing be determined using income production assessment methodology, based on the property's current use and restrictions and 2) that a locality's real property sales assessment ratio higher than 110% is prima facie proof that the locality has failed to assess at 100% of fair market value 3) additional requirements for real estate assessors; . 4) taxpayer's access to certain information related to assessments; and 5) additional requirements related to Boards of Equalization.

Senate Bill 271 would authorize the Board of Supervisors of localities with a county manager plan of government to appoint a Board of Equalization of Real Estate Assessments.

cc : Secretary of Finance

Date: 1/24/2010 KP
DLAS File Name: HB570F161