

# DEPARTMENT OF TAXATION

## 2011 Fiscal Impact Statement

1. **Patron** Thomas A. Greason

3. **Committee** House Finance

4. **Title** Real Property Tax; Statements of Income and Expense

2. **Bill Number** HB 1526

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would clarify that statements of income and expense may be used in a complaint before a Board of Equalization and in an action for relief in court from the determination of the Board of Equalization even if the statements were not timely presented to the assessor. The bill provides that the statements must be submitted to the Board of Equalization at least 30 days prior to the hearing before the Board.

Under current law, the failure to present statements of income and expense to the assessor bars the owner of the property from introducing such information in any judicial action to correct an erroneous assessment.

The effective date of this bill is not specified.

**6. Budget amendment necessary:** No.

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

**8. Fiscal implications:**

This bill would have no impact on state revenues. To the extent that allowing currently prohibited information to be presented to Boards of Equalization and courts 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, assessors may require that the owners of income-producing real estate in the county or city subject to local taxation, except rental property of no more than four units and property being used exclusively as an owner-occupied property, furnish to the assessor statements of income and expenses attributable over a specified period of time to each such parcel of real estate. The failure of an owner to furnish such a statement bars the owner from introducing into evidence, or using in any other manner, any of the required but not furnished income and expense information in any judicial action to correct an erroneous assessment.

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 clarify that statements of income and expense may be used in a complaint before a Board of Equalization and in an action for relief in court from the determination of the Board of Equalization even if the statements were not timely presented to the assessor. The bill provides that the statements must be submitted to the Board of Equalization at least 30 days prior to the hearing before the Board.

The effective date of this bill is not specified.

### Similar Legislation

**House Bill 1470** would authorize circuit courts for any locality to appoint up to two alternate board members to serve on local boards of equalization if a member of the board is absent or abstains.

**House Bill 1532** would lower the threshold percentage of taxes and liens on property from 50 percent to 20 percent of the assessed value of the parcel and, if only taxes, from 25 percent to 10 percent of the assessed value of the parcel to allow a special commissioner to convey the real estate to the locality.

**Senate Bill 784** would require that owners of four or more rental units of real property furnish statements of income and expenses attributable to that property to a real estate assessor, board, or department to determine whether the property is affordable rental housing.

**Senate Bill 785** would clarify that the partial exemption from the assessed value of real property subject to real property tax for improvements to rehabilitated, renovated, or replacement residential structures may not be reduced during the period of exemption and would clarify that the exemption runs with the land.

cc : Secretary of Finance

Date: 1/14/2011 AM  
DLAS File Name: HB1526F161