

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Tomkow offered the following:

Amendment (with title amendment)

Remove lines 76-224 and insert:

homeowners' association, as defined in s. 720.301 ~~s. 723.075~~, with approval of its board of administration or directors, may file with the value adjustment board a single joint petition on behalf of any association members who own units or parcels of property which the property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition. The condominium association, cooperative association, or homeowners' association ~~as defined in s. 723.075~~ shall provide the unit or

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14 parcel owners with notice of its intent to petition the value
15 adjustment board by hand delivery or certified mail, return
16 receipt requested, except that such notice may be electronically
17 transmitted to a unit or parcel owner who has expressly
18 consented in writing to receiving notices by electronic
19 transmission. If the association is a condominium or cooperative
20 association, the notice must also be posted conspicuously on the
21 condominium or cooperative property in the same manner as notice
22 of board meetings under ss. 718.112(2) and 719.106(1). Such
23 notice must ~~and shall~~ provide at least 14 ~~20~~ days for a unit or
24 parcel owner to elect, in writing, that his or her unit or
25 parcel not be included in the petition.

26 2. A condominium association, as defined in s. 718.103, a
27 cooperative association, as defined in s. 719.103, or a
28 homeowners' association, as defined in s. 720.301, that has
29 filed a single joint petition under this subsection may continue
30 to represent, prosecute, and defend the unit or parcel owners
31 through any related subsequent proceeding in any tribunal,
32 including judicial review under part II of this chapter and any
33 appeals. This subparagraph is intended to clarify existing law
34 and applies to cases pending on July 1, 2020.

35 Section 2. Subsection (2) of section 194.181, Florida
36 Statutes, is amended to read:

37 194.181 Parties to a tax suit.—

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38 (2) (a) In any case brought by a the taxpayer or a
39 condominium, cooperative, or homeowners' association, as defined
40 in ss. 718.103, 719.103, and 720.301 respectively, on behalf of
41 some or all unit or parcel owners, contesting the assessment of
42 any property, the county property appraiser is the ~~shall be~~
43 party defendant.

44 (b) In any case brought by the property appraiser under
45 ~~pursuant to~~ s. 194.036(1) (a) or (b), the taxpayer is the ~~shall~~
46 ~~be~~ party defendant.

47 (c)1. In any case brought by the property appraiser under
48 s. 194.036(1) (a) or (b) concerning a value adjustment board
49 decision on a single joint petition filed by a condominium,
50 cooperative, or homeowners' association under s. 194.011(3), the
51 association and all unit or parcel owners included in the single
52 joint petition are the party defendants.

53 2. The condominium, cooperative, or homeowners'
54 association must provide unit or parcel owners with notice of
55 its intent to respond to or answer the property appraiser's
56 complaint and advise the unit or parcel owners that they may
57 elect to:

- 58 a. Retain their own counsel to defend the appeal;
59 b. Choose not to defend the appeal; or
60 c. Be represented together with other unit or parcel
61 owners by the association.

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62 3. The notice required in subparagraph 2. must be hand
63 delivered or sent by certified mail, return receipt requested,
64 to the unit or parcel owners, except that such notice may be
65 electronically transmitted to a unit or parcel owner who has
66 expressly consented in writing to receiving notices through
67 electronic transmission. Additionally, the notice must be posted
68 conspicuously on the condominium or cooperative property, if
69 applicable, in the same manner as notice of board meetings under
70 ss. 718.112(2) and 719.106(1). The association must provide at
71 least 14 days for a unit or parcel owner to respond to the
72 notice. Any unit or parcel owner who does not respond to the
73 association's notice will be represented by the association.

74 (d) In any case brought by the property appraiser under
75 pursuant to s. 194.036(1)(c), the value adjustment board is the
76 shall be party defendant.

77 Section 3. Paragraph (a) of subsection (2) of section
78 514.0115, Florida Statutes, is amended to read:

79 514.0115 Exemptions from supervision or regulation;
80 variances.—

81 (2) (a) Pools serving condominium, cooperative, and
82 homeowners' associations, as well as other property
83 associations, which have no more than 32 ~~condominium or~~
84 ~~cooperative~~ units or parcels and which are not operated as a
85 public lodging establishments are ~~establishment shall be~~ exempt
86 from supervision under this chapter, except for water quality.

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87 Section 4. Paragraph (a) of subsection (1), subsection
88 (3), and paragraphs (a), (b), (c), and (f) of subsection (12) of
89 section 718.111, Florida Statutes, are amended to read:

90 718.111 The association.—

91 (1) CORPORATE ENTITY.—

92 (a) The operation of the condominium shall be by the
93 association, which must be a Florida corporation for profit or a
94 Florida corporation not for profit. However, any association
95 which was in existence on January 1, 1977, need not be
96 incorporated. The owners of units shall be shareholders or
97 members of the association. The officers and directors of the
98 association have a fiduciary relationship to the unit owners. It
99 is the intent of the Legislature that nothing in this paragraph
100 shall be construed as providing for or removing a requirement of
101 a fiduciary relationship between any manager employed by the
102 association and the unit owners. An officer, director, or
103 manager may not solicit, offer to accept, or accept any thing or
104 service of value or kickback for which consideration has not
105 been provided for his or her own benefit or that of his or her
106 immediate family, from any person providing or proposing to
107 provide goods or services to the association. Any such officer,
108 director, or manager who knowingly so solicits, offers to
109 accept, or accepts any thing or service of value or kickback is
110 subject to a civil penalty under s. 718.501(2)(d) ~~pursuant to s.~~
111 ~~718.501(1)(d)~~ and, if applicable, a criminal penalty as provided

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112 in paragraph (d). However, this paragraph does not prohibit an
113 officer, director, or manager from accepting services or items
114 received in connection with trade fairs or education programs.
115 An association may operate more than one condominium.

116 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
117 SUE, AND BE SUED; CONFLICT OF INTEREST.—

118 (a) The association may contract, sue, or be sued with
119 respect to the exercise or nonexercise of its powers. For these
120 purposes, the powers of the association include, but are not
121 limited to, the maintenance, management, and operation of the
122 condominium property.

123 (b) After control of the association is obtained by unit
124 owners other than the developer, the association may:

125 1. Institute, maintain, settle, or appeal actions or
126 hearings in its name on behalf of all unit owners concerning
127 matters of common interest to most or all unit owners,
128 including, but not limited to, the common elements; the roof and
129 structural components of a building or other improvements;
130 mechanical, electrical, and plumbing elements serving an
131 improvement or a building; representations of the developer
132 pertaining to any existing or proposed commonly used facilities;

133 2. Protest ~~and protesting~~ ad valorem taxes on commonly
134 used facilities and on units; ~~and may~~

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135 3. Defend actions pertaining to ad valorem taxation of
136 commonly used facilities or units or related to in eminent
137 domain; or

138 4. Bring inverse condemnation actions.

139 (c) If the association has the authority to maintain a
140 class action, the association may be joined in an action as
141 representative of that class with reference to litigation and
142 disputes involving the matters for which the association could
143 bring a class action.

144 (d) The association, in its own name or on behalf of some
145 or all unit owners, may institute, file, protest, maintain, or
146 defend any administrative challenge, lawsuit, appeal, or other
147 challenge to ad valorem taxes assessed on units, commonly used
148 facilities, or common elements. Other than as provided in s.
149 194.181(2)(c)1., the affected association members are not
150 necessary or indispensable parties to such actions. This
151 paragraph is intended to clarify existing law and applies to
152 cases pending on July 1, 2020.

153 (e) Nothing herein limits any statutory or common-law
154 right of any individual unit owner or class of unit owners to
155 bring any action without participation by the association which
156 may otherwise be available.

157 (f) An association may not hire an attorney who represents
158 the management company of the association.

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T I T L E A M E N D M E N T

Remove lines 7-12 and insert:
in a specified way; specifying a timeframe for a unit
or parcel owner to respond; amending s. 194.181, F.S.;
providing and revising the parties considered as the
defendant in a tax suit; requiring certain notice to
be provided to unit or parcel owners in a specified
way; providing unit or parcel owners options for
defending a tax suit; specifying a timeframe for a
unit or parcel owner to respond; imposing certain
actions for unit or parcel owners who

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