

1                                   A bill to be entitled  
2           An act relating to community associations; amending s.  
3           194.011, F.S.; providing that certain associations may  
4           represent, prosecute, or defend owners in certain  
5           proceedings; providing applicability; amending s.  
6           194.181, F.S.; providing and revising the parties  
7           considered as the defendant in a tax suit; requiring  
8           certain notice to be provided to unit owners in a  
9           specified way; providing unit owners options for  
10          defending a tax suit; imposing certain actions for  
11          unit owners who fail to respond to a specified notice;  
12          amending s. 514.0115, F.S.; providing that certain  
13          property association pools are exempt from Department  
14          of Health regulations; amending s. 718.111, F.S.;  
15          providing that a condominium association may take  
16          certain actions relating to a challenge to ad valorem  
17          taxes in its own name or on behalf of unit owners;  
18          providing applicability; requiring an association to  
19          provide a checklist and affidavit relating to certain  
20          records to certain persons; providing a timeframe for  
21          maintaining such checklist and affidavit; creating a  
22          rebuttable presumption; amending s. 718.501, F.S.;  
23          defining the term "financial issue"; authorizing the  
24          Division of Condominiums, Timeshares, and Mobile Homes  
25          to adopt rules; providing an effective date.

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

Section 1. Paragraph (e) of subsection (3) of section 194.011, Florida Statutes, is amended to read:

194.011 Assessment notice; objections to assessments.—

(3) A petition to the value adjustment board must be in substantially the form prescribed by the department. Notwithstanding s. 195.022, a county officer may not refuse to accept a form provided by the department for this purpose if the taxpayer chooses to use it. A petition to the value adjustment board must be signed by the taxpayer or be accompanied at the time of filing by the taxpayer's written authorization or power of attorney, unless the person filing the petition is listed in s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a petition with a value adjustment board without the taxpayer's signature or written authorization by certifying under penalty of perjury that he or she has authorization to file the petition on behalf of the taxpayer. If a taxpayer notifies the value adjustment board that a petition has been filed for the taxpayer's property without his or her consent, the value adjustment board may require the person filing the petition to provide written authorization from the taxpayer authorizing the person to proceed with the appeal before a hearing is held. If the value adjustment board finds that a person listed in s.

51 194.034(1)(a) willfully and knowingly filed a petition that was  
52 not authorized by the taxpayer, the value adjustment board shall  
53 require such person to provide the taxpayer's written  
54 authorization for representation to the value adjustment board  
55 clerk before any petition filed by that person is heard, for 1  
56 year after imposition of such requirement by the value  
57 adjustment board. A power of attorney or written authorization  
58 is valid for 1 assessment year, and a new power of attorney or  
59 written authorization by the taxpayer is required for each  
60 subsequent assessment year. A petition shall also describe the  
61 property by parcel number and shall be filed as follows:

62 (e)1. A condominium association, as defined in s. 718.103,  
63 a cooperative association, as defined in s. 719.103, or any  
64 homeowners' association, as defined in s. 723.075, with approval  
65 of its board of administration or directors, may file with the  
66 value adjustment board a single joint petition on behalf of any  
67 association members who own units or parcels of property which  
68 the property appraiser determines are substantially similar with  
69 respect to location, proximity to amenities, number of rooms,  
70 living area, and condition. The condominium association,  
71 cooperative association, or homeowners' association ~~as defined~~  
72 ~~in s. 723.075~~ shall provide the unit or parcel owners with  
73 notice of its intent to petition the value adjustment board and  
74 shall provide at least 20 days for a unit or parcel owner to  
75 elect, in writing, that his or her unit or parcel not be

76 | included in the petition.

77 |       2. A condominium association, as defined in s. 718.103, or  
 78 | a cooperative association, as defined in s. 719.103, that has  
 79 | filed a single joint petition under this subsection may continue  
 80 | to represent, prosecute, and defend the unit owners through any  
 81 | related subsequent proceeding in any tribunal, including  
 82 | judicial review under part II of this chapter and any appeals.  
 83 | This subparagraph is intended to clarify existing law and  
 84 | applies to cases pending on July 1, 2020.

85 |       Section 2. Subsection (2) of section 194.181, Florida  
 86 | Statutes, is amended to read:

87 |       194.181 Parties to a tax suit.—

88 |       (2) (a) In any case brought by a ~~the~~ taxpayer or a  
 89 | condominium or cooperative association, as defined in ss.  
 90 | 718.103 and 719.103 respectively, on behalf of some or all unit  
 91 | owners, contesting the assessment of any property, the county  
 92 | property appraiser ~~is the~~ shall be party defendant.

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

96 |       (c)1. In any case brought by the property appraiser under  
 97 | s. 194.036(1) (a) or (b) concerning a value adjustment board  
 98 | decision on a single joint petition filed by a condominium or  
 99 | cooperative association under s. 194.011(3), the association and  
 100 | all unit owners included in the single joint petition are the

101 party defendants.

102 2. The condominium or cooperative association must provide  
103 unit owners with notice of its intent to respond to or answer  
104 the property appraiser's complaint and advise the unit owners  
105 that they may elect to:

106 a. Retain their own counsel to defend the appeal;

107 b. Choose not to defend the appeal; or

108 c. Be represented together with other unit owners in the  
109 response or answer filed by the association.

110 3. The notice required in subparagraph 2. must be mailed,  
111 delivered, or electronically transmitted to unit owners and  
112 posted conspicuously on the condominium or cooperative property  
113 in the same manner for notice of board meetings under ss.  
114 718.112(2) and 719.106(1). Any unit owner who does not respond  
115 to the association's notice will be represented in the response  
116 or answer filed by the association.

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

120 Section 3. Paragraph (a) of subsection (2) of section  
121 514.0115, Florida Statutes, is amended to read:

122 514.0115 Exemptions from supervision or regulation;  
123 variances.—

124 (2) (a) Pools serving condominium, cooperative, and  
125 homeowners' associations, as well as other property

126 | associations, which have no more than 32 ~~condominium or~~  
 127 | ~~cooperative~~ units or parcels and which are not operated as a  
 128 | public lodging establishments are ~~establishment shall be~~ exempt  
 129 | from supervision under this chapter, except for water quality.

130 | Section 4. Paragraph (a) of subsection (1), subsection  
 131 | (3), and paragraphs (a), (b), (c), and (f) of subsection (12) of  
 132 | section 718.111, Florida Statutes, are amended to read:

133 | 718.111 The association.—

134 | (1) CORPORATE ENTITY.—

135 | (a) The operation of the condominium shall be by the  
 136 | association, which must be a Florida corporation for profit or a  
 137 | Florida corporation not for profit. However, any association  
 138 | which was in existence on January 1, 1977, need not be  
 139 | incorporated. The owners of units shall be shareholders or  
 140 | members of the association. The officers and directors of the  
 141 | association have a fiduciary relationship to the unit owners. It  
 142 | is the intent of the Legislature that nothing in this paragraph  
 143 | shall be construed as providing for or removing a requirement of  
 144 | a fiduciary relationship between any manager employed by the  
 145 | association and the unit owners. An officer, director, or  
 146 | manager may not solicit, offer to accept, or accept any thing or  
 147 | service of value or kickback for which consideration has not  
 148 | been provided for his or her own benefit or that of his or her  
 149 | immediate family, from any person providing or proposing to  
 150 | provide goods or services to the association. Any such officer,

151 director, or manager who knowingly so solicits, offers to  
152 accept, or accepts any thing or service of value or kickback is  
153 subject to a civil penalty under s. 718.501(2)(d) ~~pursuant to s.~~  
154 ~~718.501(1)(d)~~ and, if applicable, a criminal penalty as provided  
155 in paragraph (d). However, this paragraph does not prohibit an  
156 officer, director, or manager from accepting services or items  
157 received in connection with trade fairs or education programs.  
158 An association may operate more than one condominium.

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

161 (a) The association may contract, sue, or be sued with  
162 respect to the exercise or nonexercise of its powers. For these  
163 purposes, the powers of the association include, but are not  
164 limited to, the maintenance, management, and operation of the  
165 condominium property.

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

168 1. Institute, maintain, settle, or appeal actions or  
169 hearings in its name on behalf of all unit owners concerning  
170 matters of common interest to most or all unit owners,  
171 including, but not limited to, the common elements; the roof and  
172 structural components of a building or other improvements;  
173 mechanical, electrical, and plumbing elements serving an  
174 improvement or a building; representations of the developer  
175 pertaining to any existing or proposed commonly used facilities;

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

178        3. Defend actions pertaining to ad valorem taxation of  
179 commonly used facilities or units or related to ~~in~~ eminent  
180 domain; or

181        4. Bring inverse condemnation actions.

182        (c) If the association has the authority to maintain a  
183 class action, the association may be joined in an action as  
184 representative of that class with reference to litigation and  
185 disputes involving the matters for which the association could  
186 bring a class action.

187        (d) The association, in its own name or on behalf of some  
188 or all unit owners, may institute, file, protest, maintain, or  
189 defend any administrative challenge, lawsuit, appeal, or other  
190 challenge to ad valorem taxes assessed on units for commonly  
191 used facilities or common elements. The affected association  
192 members are not necessary or indispensable parties to such  
193 actions. This paragraph is intended to clarify existing law and  
194 applies to cases pending on July 1, 2020.

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

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



201 (12) OFFICIAL RECORDS.—

202 (a) From the inception of the association, the association  
203 shall maintain each of the following items, if applicable, which  
204 constitutes the official records of the association:

205 1. A copy of the plans, permits, warranties, and other  
206 items provided by the developer under ~~pursuant to~~ s. 718.301(4).

207 2. A photocopy of the recorded declaration of condominium  
208 of each condominium operated by the association and each  
209 amendment to each declaration.

210 3. A photocopy of the recorded bylaws of the association  
211 and each amendment to the bylaws.

212 4. A certified copy of the articles of incorporation of  
213 the association, or other documents creating the association,  
214 and each amendment thereto.

215 5. A copy of the current rules of the association.

216 6. A book or books that contain the minutes of all  
217 meetings of the association, the board of administration, and  
218 the unit owners.

219 7. A current roster of all unit owners and their mailing  
220 addresses, unit identifications, voting certifications, and, if  
221 known, telephone numbers. The association shall also maintain  
222 the e-mail addresses and facsimile numbers of unit owners  
223 consenting to receive notice by electronic transmission. The e-  
224 mail addresses and facsimile numbers are not accessible to unit  
225 owners if consent to receive notice by electronic transmission

226 is not provided in accordance with sub-subparagraph (c)3.e.  
 227 However, the association is not liable for an inadvertent  
 228 disclosure of the e-mail address or facsimile number for  
 229 receiving electronic transmission of notices.

230 8. All current insurance policies of the association and  
 231 condominiums operated by the association.

232 9. A current copy of any management agreement, lease, or  
 233 other contract to which the association is a party or under  
 234 which the association or the unit owners have an obligation or  
 235 responsibility.

236 10. Bills of sale or transfer for all property owned by  
 237 the association.

238 11. Accounting records for the association and separate  
 239 accounting records for each condominium that the association  
 240 operates. Any person who knowingly or intentionally defaces or  
 241 destroys such records, or who knowingly or intentionally fails  
 242 to create or maintain such records, with the intent of causing  
 243 harm to the association or one or more of its members, is  
 244 personally subject to a civil penalty under s. 718.501(2)(d)  
 245 ~~pursuant to s. 718.501(1)(d)~~. The accounting records must  
 246 include, but are not limited to:

247 a. Accurate, itemized, and detailed records of all  
 248 receipts and expenditures.

249 b. A current account and a monthly, bimonthly, or  
 250 quarterly statement of the account for each unit designating the

251 name of the unit owner, the due date and amount of each  
 252 assessment, the amount paid on the account, and the balance due.

253 c. All audits, reviews, accounting statements, and  
 254 financial reports of the association or condominium.

255 d. All contracts for work to be performed. Bids for work  
 256 to be performed are also considered official records and must be  
 257 maintained by the association.

258 12. Ballots, sign-in sheets, voting proxies, and all other  
 259 papers and electronic records relating to voting by unit owners,  
 260 which must be maintained for 1 year from the date of the  
 261 election, vote, or meeting to which the document relates,  
 262 notwithstanding paragraph (b).

263 13. All rental records if the association is acting as  
 264 agent for the rental of condominium units.

265 14. A copy of the current question and answer sheet as  
 266 described in s. 718.504.

267 15. All other written records of the association not  
 268 specifically included in the foregoing which are related to the  
 269 operation of the association.

270 16. A copy of the inspection report as described in s.  
 271 718.301(4)(p).

272 17. Bids for materials, equipment, or services.

273 (b) The official records specified in subparagraphs (a)1.-  
 274 6. must be permanently maintained from the inception of the  
 275 association. All other official records must be maintained

276 within the state for at least 7 years, unless otherwise provided  
277 by general law. All official records must be maintained in a  
278 manner and format determined by the division so that the records  
279 are easily accessible for inspection. The records of the  
280 association shall be made available to a unit owner within 45  
281 miles of the condominium property or within the county in which  
282 the condominium property is located within 10 working days after  
283 receipt of a written request by the board or its designee.  
284 However, such distance requirement does not apply to an  
285 association governing a timeshare condominium. This paragraph  
286 may be complied with by having a copy of the official records of  
287 the association available for inspection or copying on the  
288 condominium property or association property, or the association  
289 may offer the option of making the records available to a unit  
290 owner electronically via the Internet or by allowing the records  
291 to be viewed in electronic format on a computer screen and  
292 printed upon request. The association is not responsible for the  
293 use or misuse of the information provided to an association  
294 member or his or her authorized representative pursuant to the  
295 compliance requirements of this chapter unless the association  
296 has an affirmative duty not to disclose such information  
297 pursuant to this chapter.

298 (c)1. The official records of the association are open to  
299 inspection by any association member or the authorized  
300 representative of such member at all reasonable times. The right

301 to inspect the records includes the right to make or obtain  
302 copies, at the reasonable expense, if any, of the member or  
303 authorized representative of such member. A renter of a unit has  
304 a right to inspect and copy the association's bylaws and rules.  
305 The association must provide a checklist to the member,  
306 authorized representative of such member, or renter of all  
307 records that are made available for inspection and copying in  
308 response to a written request. If any or all of the  
309 association's official records are not available, such records  
310 must be identified on the checklist provided to the person  
311 requesting the records. The association must also provide the  
312 person requesting the records a sworn affidavit attesting to the  
313 veracity of the checklist executed by the person responding to  
314 the written request on behalf of the association. The  
315 association must maintain a copy of the checklist and affidavit  
316 for at least 7 years. Delivery of the checklist and sworn  
317 affidavit to the person requesting the records creates a  
318 rebuttable presumption that the association complied with this  
319 paragraph. The association may adopt reasonable rules regarding  
320 the frequency, time, location, notice, and manner of record  
321 inspections and copying. The failure of an association to  
322 provide the records within 10 working days after receipt of a  
323 written request creates a rebuttable presumption that the  
324 association willfully failed to comply with this paragraph. A  
325 unit owner who is denied access to official records is entitled

326 to the actual damages or minimum damages for the association's  
327 willful failure to comply. Minimum damages are \$50 per calendar  
328 day for up to 10 days, beginning on the 11th working day after  
329 receipt of the written request. The failure to permit inspection  
330 entitles any person prevailing in an enforcement action to  
331 recover reasonable attorney fees from the person in control of  
332 the records who, directly or indirectly, knowingly denied access  
333 to the records.

334 2. Any person who knowingly or intentionally defaces or  
335 destroys accounting records that are required by this chapter to  
336 be maintained during the period for which such records are  
337 required to be maintained, or who knowingly or intentionally  
338 fails to create or maintain accounting records that are required  
339 to be created or maintained, with the intent of causing harm to  
340 the association or one or more of its members, is personally  
341 subject to a civil penalty under s. 718.501(2)(d) ~~pursuant to s.~~  
342 ~~718.501(1)(d)~~.

343 3. The association shall maintain an adequate number of  
344 copies of the declaration, articles of incorporation, bylaws,  
345 and rules, and all amendments to each of the foregoing, as well  
346 as the question and answer sheet as described in s. 718.504 and  
347 year-end financial information required under this section, on  
348 the condominium property to ensure their availability to unit  
349 owners and prospective purchasers, and may charge its actual  
350 costs for preparing and furnishing these documents to those

351 requesting the documents. An association shall allow a member or  
352 his or her authorized representative to use a portable device,  
353 including a smartphone, tablet, portable scanner, or any other  
354 technology capable of scanning or taking photographs, to make an  
355 electronic copy of the official records in lieu of the  
356 association's providing the member or his or her authorized  
357 representative with a copy of such records. The association may  
358 not charge a member or his or her authorized representative for  
359 the use of a portable device. Notwithstanding this paragraph,  
360 the following records are not accessible to unit owners:

361 a. Any record protected by the lawyer-client privilege as  
362 described in s. 90.502 and any record protected by the work-  
363 product privilege, including a record prepared by an association  
364 attorney or prepared at the attorney's express direction, which  
365 reflects a mental impression, conclusion, litigation strategy,  
366 or legal theory of the attorney or the association, and which  
367 was prepared exclusively for civil or criminal litigation or for  
368 adversarial administrative proceedings, or which was prepared in  
369 anticipation of such litigation or proceedings until the  
370 conclusion of the litigation or proceedings.

371 b. Information obtained by an association in connection  
372 with the approval of the lease, sale, or other transfer of a  
373 unit.

374 c. Personnel records of association or management company  
375 employees, including, but not limited to, disciplinary, payroll,

376 health, and insurance records. For purposes of this sub-  
377 subparagraph, the term "personnel records" does not include  
378 written employment agreements with an association employee or  
379 management company, or budgetary or financial records that  
380 indicate the compensation paid to an association employee.

381 d. Medical records of unit owners.

382 e. Social security numbers, driver license numbers, credit  
383 card numbers, e-mail addresses, telephone numbers, facsimile  
384 numbers, emergency contact information, addresses of a unit  
385 owner other than as provided to fulfill the association's notice  
386 requirements, and other personal identifying information of any  
387 person, excluding the person's name, unit designation, mailing  
388 address, property address, and any address, e-mail address, or  
389 facsimile number provided to the association to fulfill the  
390 association's notice requirements. Notwithstanding the  
391 restrictions in this sub-subparagraph, an association may print  
392 and distribute to unit ~~parcel~~ owners a directory containing the  
393 name, unit ~~parcel~~ address, and all telephone numbers of each  
394 unit ~~parcel~~ owner. However, an owner may exclude his or her  
395 telephone numbers from the directory by so requesting in writing  
396 to the association. An owner may consent in writing to the  
397 disclosure of other contact information described in this sub-  
398 subparagraph. The association is not liable for the inadvertent  
399 disclosure of information that is protected under this sub-  
400 subparagraph if the information is included in an official



401 record of the association and is voluntarily provided by an  
402 owner and not requested by the association.

403 f. Electronic security measures that are used by the  
404 association to safeguard data, including passwords.

405 g. The software and operating system used by the  
406 association which allow the manipulation of data, even if the  
407 owner owns a copy of the same software used by the association.  
408 The data is part of the official records of the association.

409 (f) An outgoing board or committee member must relinquish  
410 all official records and property of the association in his or  
411 her possession or under his or her control to the incoming board  
412 within 5 days after the election. The division shall impose a  
413 civil penalty as set forth in s. 718.501(2)(d)6. ~~s.~~  
414 ~~718.501(1)(d)6.~~ against an outgoing board or committee member  
415 who willfully and knowingly fails to relinquish such records and  
416 property.

417 Section 5. Subsections (1) and (2) of section 718.501,  
418 Florida Statutes, are renumbered as subsections (2) and (3),  
419 respectively, paragraphs (h) and (j) of present subsection (1)  
420 of that section are amended, and a new subsection (1) is added  
421 to that section, to read:

422 718.501 Authority, responsibility, and duties of Division  
423 of Florida Condominiums, Timeshares, and Mobile Homes.—

424 (1) As used in this section, the term "financial issue"  
425 means an issue related to operating budgets; reserve schedules;

426 accounting records under s. 718.111(12)(a)11.; notices of  
427 meetings; minutes of meetings discussing budget or financial  
428 issues; assessments for common expenses, fees, or fines; the  
429 commingling of funds; and any other record necessary to  
430 determine the revenues and expenses of the association. The  
431 division may adopt rules to further define what a financial  
432 issue is under this section.

433 (2)~~(1)~~ The division may enforce and ensure compliance with  
434 the provisions of this chapter and rules relating to the  
435 development, construction, sale, lease, ownership, operation,  
436 and management of residential condominium units. In performing  
437 its duties, the division has complete jurisdiction to  
438 investigate complaints and enforce compliance with respect to  
439 associations that are still under developer control or the  
440 control of a bulk assignee or bulk buyer pursuant to part VII of  
441 this chapter and complaints against developers, bulk assignees,  
442 or bulk buyers involving improper turnover or failure to  
443 turnover, pursuant to s. 718.301. However, after turnover has  
444 occurred, the division has jurisdiction to investigate  
445 complaints related only to financial issues, elections, and the  
446 maintenance of and unit owner access to association records  
447 under ~~pursuant to~~ s. 718.111(12).

448 (h) The division shall furnish each association that pays  
449 the fees required by paragraph (3)(a) ~~paragraph (2)(a)~~ a copy of  
450 this chapter, as amended, and the rules adopted thereto on an

451 annual basis.

452 (j) The division shall provide training and educational  
453 programs for condominium association board members and unit  
454 owners. The training may, in the division's discretion, include  
455 web-based electronic media, and live training and seminars in  
456 various locations throughout the state. The division may review  
457 and approve education and training programs for board members  
458 and unit owners offered by providers and shall maintain a  
459 current list of approved programs and providers and make such  
460 list available to board members and unit owners in a reasonable  
461 and cost-effective manner. The division may adopt rules to  
462 establish requirements for the training and educational programs  
463 required in this paragraph.

464 Section 6. This act shall take effect July 1, 2020.