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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2020	.	
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The Committee on Innovation, Industry, and Technology (Pizzo) recommended the following:

Senate Amendment (with title amendment)

Delete lines 37 - 106

and insert:

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



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11 accept a form provided by the department for this purpose if the
12 taxpayer chooses to use it. A petition to the value adjustment
13 board must be signed by the taxpayer or be accompanied at the
14 time of filing by the taxpayer's written authorization or power
15 of attorney, unless the person filing the petition is listed in
16 s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a
17 petition with a value adjustment board without the taxpayer's
18 signature or written authorization by certifying under penalty
19 of perjury that he or she has authorization to file the petition
20 on behalf of the taxpayer. If a taxpayer notifies the value
21 adjustment board that a petition has been filed for the
22 taxpayer's property without his or her consent, the value
23 adjustment board may require the person filing the petition to
24 provide written authorization from the taxpayer authorizing the
25 person to proceed with the appeal before a hearing is held. If
26 the value adjustment board finds that a person listed in s.
27 194.034(1)(a) willfully and knowingly filed a petition that was
28 not authorized by the taxpayer, the value adjustment board shall
29 require such person to provide the taxpayer's written
30 authorization for representation to the value adjustment board
31 clerk before any petition filed by that person is heard, for 1
32 year after imposition of such requirement by the value
33 adjustment board. A power of attorney or written authorization
34 is valid for 1 assessment year, and a new power of attorney or
35 written authorization by the taxpayer is required for each
36 subsequent assessment year. A petition shall also describe the
37 property by parcel number and shall be filed as follows:

38 (e)1. A condominium association as described in chapter
39 718, a cooperative association as described in chapter 719, or a



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40 ~~any~~ homeowners' association as defined in s. 723.075, with
41 approval of its board of administration or directors, may file
42 with the value adjustment board a single joint petition on
43 behalf of any association members who own units or parcels of
44 property which the property appraiser determines are
45 substantially similar with respect to location, proximity to
46 amenities, number of rooms, living area, and condition. The
47 condominium association, cooperative association, or homeowners'
48 association ~~as defined in s. 723.075~~ shall provide the unit or
49 parcel owners with notice of its intent to petition the value
50 adjustment board and shall provide at least 20 days for a unit
51 or parcel owner to elect, in writing, that his or her unit or
52 parcel not be included in the petition.

53 2. A condominium association as described in chapter 718,
54 or a cooperative association as described in chapter 719, which
55 has filed a single joint petition under this subsection may
56 continue to represent, prosecute, or defend the unit owners
57 through any related subsequent proceeding in any tribunal,
58 including judicial review under part II of this chapter and any
59 appeals. This subparagraph is intended to clarify existing law
60 and applies to cases pending on July 1, 2020.

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

63 194.181 Parties to a tax suit.—

64 (2) (a) In any case brought by a ~~the~~ taxpayer or a
65 condominium or cooperative association, as described in chapters
66 718 and 719, respectively, on behalf of some or all unit owners
67 to contest ~~contesting~~ the assessment of any property, the county
68 property appraiser ~~is the~~ shall be party defendant.



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69 (b) Except as provided in paragraph (c), in any case
70 brought by the property appraiser under ~~pursuant to~~ s.
71 194.036(1) (a) or (b), the taxpayer is the ~~shall be~~ party
72 defendant.

73 (c) In any case brought by the property appraiser under s.
74 194.036(1) (a) or (b) concerning a value adjustment board
75 decision on a single joint petition filed by a condominium or
76 cooperative association under s. 194.011(3), the association and
77 all unit owners included in the single joint petition are the
78 party defendants.

79 1. The condominium or cooperative association must provide
80 unit owners with notice of its intent to respond to or answer
81 the property appraiser's complaint and advise the unit owners
82 that they may elect to:

- 83 a. Retain their own counsel to defend the appeal;
84 b. Choose not to defend the appeal; or
85 c. Be represented together with other unit owners in the
86 response or answer filed by the association.

87 2. The notice required in subparagraph 1. must be mailed,
88 delivered, or electronically transmitted to unit owners and
89 posted conspicuously on the condominium or cooperative property
90 in the same manner as is required for notice of board meetings
91 under ss. 718.112(2) or 719.106(1), as applicable. Any unit
92 owner who does not respond to the association's notice will be
93 represented in the response or answer filed by the association.

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

97 Section 3. Paragraphs (a) and (d) of subsection (1),



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98 subsection (3), paragraphs (a), (b), (c), and (g) of subsection
99 (12), and paragraph (b) of subsection (15) of section 718.111,
100 Florida Statutes, are amended to read:

101 718.111 The association.—

102 (1) CORPORATE ENTITY.—

103 (a) The operation of the condominium shall be by the
104 association, which must be a Florida corporation for profit or a
105 Florida corporation not for profit. However, any association
106 which was in existence on January 1, 1977, need not be
107 incorporated. The owners of units shall be shareholders or
108 members of the association. The officers and directors of the
109 association have a fiduciary relationship to the unit owners. It
110 is the intent of the Legislature that nothing in this paragraph
111 shall be construed as providing for or removing a requirement of
112 a fiduciary relationship between any manager employed by the
113 association and the unit owners. An officer, director, or
114 manager may not solicit, offer to accept, or accept any thing or
115 service of value or kickback for which consideration has not
116 been provided for his or her own benefit or that of his or her
117 immediate family, from any person providing or proposing to
118 provide goods or services to the association. Any such officer,
119 director, or manager who knowingly so solicits, offers to
120 accept, or accepts any thing or service of value or kickback
121 commits a felony of the third degree, punishable as provided in
122 s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil
123 penalty pursuant to s. 718.501(1)(d) and, if applicable, a
124 criminal penalty as provided in paragraph (d). However, this
125 paragraph does not prohibit an officer, director, or manager
126 from accepting services or items received in connection with



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127 trade fairs or education programs. An association may operate
128 more than one condominium.

129 (d) As required by s. 617.0830, an officer, director, or
130 agent shall discharge his or her duties in good faith, with the
131 care an ordinarily prudent person in a like position would
132 exercise under similar circumstances, and in a manner he or she
133 reasonably believes to be in the interests of the association.
134 An officer, director, or agent shall be liable for monetary
135 damages as provided in s. 617.0834 if such officer, director, or
136 agent breached or failed to perform his or her duties and the
137 breach of, or failure to perform, his or her duties constitutes
138 a violation of criminal law as provided in s. 617.0834;
139 constitutes a transaction from which the officer or director
140 derived an improper personal benefit, either directly or
141 indirectly; or constitutes recklessness or an act or omission
142 that was in bad faith, with malicious purpose, or in a manner
143 exhibiting wanton and willful disregard of human rights, safety,
144 or property. ~~Forgery of a ballot envelope or voting certificate
145 used in a condominium association election is punishable as
146 provided in s. 831.01, the theft or embezzlement of funds of a
147 condominium association is punishable as provided in s. 812.014,
148 and the destruction of or the refusal to allow inspection or
149 copying of an official record of a condominium association that
150 is accessible to unit owners within the time periods required by
151 general law in furtherance of any crime is punishable as
152 tampering with physical evidence as provided in s. 918.13 or as
153 obstruction of justice as provided in chapter 843. An officer or
154 director charged by information or indictment with a crime
155 referenced in this paragraph must be removed from office, and~~



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156 the vacancy shall be filled as provided in s. 718.112(2)(d)2.
157 until the end of the officer's or director's period of
158 suspension or the end of his or her term of office, whichever
159 occurs first. If a criminal charge is pending against the
160 officer or director, he or she may not be appointed or elected
161 to a position as an officer or a director of any association and
162 may not have access to the official records of any association,
163 except pursuant to a court order. However, if the charges are
164 resolved without a finding of guilt, the officer or director
165 must be reinstated for the remainder of his or her term of
166 office, if any.

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

169 (a) The association may contract, sue, or be sued with
170 respect to the exercise or nonexercise of its powers. For these
171 purposes, the powers of the association include, but are not
172 limited to, the maintenance, management, and operation of the
173 condominium property.

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

176 1. Institute, maintain, settle, or appeal actions or
177 hearings in its name on behalf of all unit owners concerning
178 matters of common interest to most or all unit owners,
179 including, but not limited to, the common elements; the roof and
180 structural components of a building or other improvements;
181 mechanical, electrical, and plumbing elements serving an
182 improvement or a building; representations of the developer
183 pertaining to any existing or proposed commonly used facilities;

184 2. Protest ~~and protesting~~ ad valorem taxes on commonly used



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185 facilities and on units; ~~and may~~

186 3. Defend actions pertaining to ad valorem taxation of
187 commonly used facilities or units or pertaining to in eminent
188 domain; or

189 4. Bring inverse condemnation actions.

190 (c) If the association has the authority to maintain a
191 class action, the association may be joined in an action as
192 representative of that class with reference to litigation and
193 disputes involving the matters for which the association could
194 bring a class action.

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

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

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

209
210 ===== T I T L E A M E N D M E N T =====

211 And the title is amended as follows:

212 Delete lines 3 - 5

213 and insert:



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214 s. 194.011, F.S.; providing that certain associations
215 may continue to represent, prosecute, or defend unit
216 owners in certain proceedings; providing
217 applicability; amending s. 194.181, F.S.; revising the
218 parties considered to be the defendant in a tax suit;
219 requiring condominium and cooperative associations to
220 provide unit owners with certain notice and
221 information under certain circumstances; providing
222 requirements for such notice; specifying that a unit
223 owner who does not respond to the notice will be
224 represented in the response or answer filed by the
225 association; amending s. 718.111, F.S.; revising
226 criminal penalties relating to the acceptance of
227 things or services of value or kickbacks; authorizing
228 a condominium association to take certain actions
229 relating to ad valorem taxes assessed on units for
230 commonly used facilities or common elements; providing
231 applicability; revising the documents required to be