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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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03/12/2020 06:30 PM

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Senator Gruters moved the following:

1           **Senate Amendment to Substitute Amendment (271678) (with**  
2 **title amendment)**

3  
4           Between lines 161 and 162  
5 insert:

6           Section 6. Paragraph (e) of subsection (3) of section  
7 194.011, Florida Statutes, is amended to read:

8           194.011 Assessment notice; objections to assessments.—

9           (3) A petition to the value adjustment board must be in  
10 substantially the form prescribed by the department.

11 Notwithstanding s. 195.022, a county officer may not refuse to



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

39 (e) 1. A condominium association as described in chapter  
40 718, a cooperative association as described in chapter 719, or a



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41 ~~any~~ homeowners' association as defined in s. 723.075, with  
42 approval of its board of administration or directors, may file  
43 with the value adjustment board a single joint petition on  
44 behalf of any association members who own units or parcels of  
45 property which the property appraiser determines are  
46 substantially similar with respect to location, proximity to  
47 amenities, number of rooms, living area, and condition. The  
48 condominium association, cooperative association, or homeowners'  
49 association ~~as defined in s. 723.075~~ shall provide the unit or  
50 parcel owners with notice of its intent to petition the value  
51 adjustment board by hand delivery or certified mail, return  
52 receipt requested, except that such notice may be electronically  
53 transmitted to a unit or parcel owner who has expressly  
54 consented in writing to receiving notices by electronic  
55 transmission. If the association is a condominium or cooperative  
56 association, the notice must also be posted conspicuously on the  
57 condominium or cooperative property in the same manner as a  
58 notice of board meeting under ss. 718.112(2) and 719.106(1),  
59 respectively. Such notice must ~~and shall~~ provide at least 20  
60 days for a unit or parcel owner to elect, in writing, that his  
61 or her unit or parcel not be included in the petition.

62 2. A condominium association as described in chapter 718,  
63 or a cooperative association as described in chapter 719, which  
64 has filed a single joint petition under this subsection may  
65 continue to represent, prosecute, or defend the unit owners  
66 through any related subsequent proceeding in any tribunal,  
67 including judicial review under part II of this chapter and any  
68 appeals. This subparagraph is intended to clarify existing law  
69 and applies to cases pending on July 1, 2020.



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70 Section 7. Subsection (2) of section 194.181, Florida  
71 Statutes, is amended to read:

72 194.181 Parties to a tax suit.—

73 (2) (a) In any case brought by a ~~the~~ taxpayer or a  
74 condominium or cooperative association, as described in chapters  
75 718 and 719, respectively, on behalf of some or all unit owners  
76 to contest ~~contesting~~ the assessment of any property, the county  
77 property appraiser is the ~~shall be~~ party defendant.

78 (b) Except as provided in paragraph (c), in any case  
79 brought by the property appraiser under ~~pursuant to~~ s.  
80 194.036(1) (a) or (b), the taxpayer is the ~~shall be~~ party  
81 defendant.

82 (c) In any case brought by the property appraiser under s.  
83 194.036(1) (a) or (b) concerning a value adjustment board  
84 decision on a single joint petition filed by a condominium or  
85 cooperative association under s. 194.011(3), the association and  
86 all unit owners included in the single joint petition are the  
87 party defendants.

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

92 a. Retain their own counsel to defend the appeal;  
93 b. Choose not to defend the appeal; or  
94 c. Be represented together with other unit owners in the  
95 response or answer filed by the association.

96 2. The notice required in subparagraph 1. must be hand  
97 delivered or sent by certified mail, return receipt requested,  
98 to the unit owners, except that such notice may be



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99 electronically transmitted to a unit owner who has expressly  
100 consented in writing to receiving notices through electronic  
101 transmission. Additionally, the notice must be posted  
102 conspicuously on the condominium or cooperative property in the  
103 same manner as is required for notice of board meetings under  
104 ss. 718.112(2) and 719.106(1), respectively. The association  
105 must provide at least 14 days for the unit owners to respond to  
106 the notice. Any unit owner who does not respond to the  
107 association's notice will be represented by the association.

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

111 Section 8. Paragraph (a) of subsection (1) and subsection  
112 (3) of section 718.111, Florida Statutes, is amended to read:

113 718.111 The association.—

114 (1) CORPORATE ENTITY.—

115 (a) The operation of the condominium shall be by the  
116 association, which must be a Florida corporation for profit or a  
117 Florida corporation not for profit. However, any association  
118 which was in existence on January 1, 1977, need not be  
119 incorporated. The owners of units shall be shareholders or  
120 members of the association. The officers and directors of the  
121 association have a fiduciary relationship to the unit owners. It  
122 is the intent of the Legislature that nothing in this paragraph  
123 shall be construed as providing for or removing a requirement of  
124 a fiduciary relationship between any manager employed by the  
125 association and the unit owners. An officer, director, or  
126 manager may not solicit, offer to accept, or accept any thing or  
127 service of value or kickback for which consideration has not



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128 been provided for his or her own benefit or that of his or her  
129 immediate family, from any person providing or proposing to  
130 provide goods or services to the association. Any such officer,  
131 director, or manager who knowingly so solicits, offers to  
132 accept, or accepts any thing or service of value or kickback is  
133 subject to a civil penalty under 718.501(2)(d) ~~pursuant to s.~~  
134 ~~718.501(1)(d)~~ and, if applicable, a criminal penalty as provided  
135 in paragraph (d). However, this paragraph does not prohibit an  
136 officer, director, or manager from accepting services or items  
137 received in connection with trade fairs or education programs.  
138 An association may operate more than one condominium.

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

141 (a) The association may contract, sue, or be sued with  
142 respect to the exercise or nonexercise of its powers. For these  
143 purposes, the powers of the association include, but are not  
144 limited to, the maintenance, management, and operation of the  
145 condominium property.

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

148 1. Institute, maintain, settle, or appeal actions or  
149 hearings in its name on behalf of all unit owners concerning  
150 matters of common interest to most or all unit owners,  
151 including, but not limited to, the common elements; the roof and  
152 structural components of a building or other improvements;  
153 mechanical, electrical, and plumbing elements serving an  
154 improvement or a building; representations of the developer  
155 pertaining to any existing or proposed commonly used facilities;

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



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157 facilities and on units; ~~and may~~  
158 3. Defend actions pertaining to ad valorem taxation of  
159 commonly used facilities or units or related to in eminent  
160 domain; or  
161 4. Bring inverse condemnation actions.  
162 (c) If the association has the authority to maintain a  
163 class action, the association may be joined in an action as  
164 representative of that class with reference to litigation and  
165 disputes involving the matters for which the association could  
166 bring a class action.  
167 (d) The association, in its own name or on behalf of some  
168 or all unit owners, may institute, file, protest, maintain, or  
169 defend any administrative challenge, lawsuit, appeal, or other  
170 challenge to ad valorem taxes assessed on units, commonly used  
171 facilities, or common elements. Except as provided in s.  
172 194.181(2)(c)1., the affected association members are not  
173 necessary or indispensable parties to such actions. This  
174 paragraph is intended to clarify existing law and applies to  
175 cases pending on July 1, 2020, and to cases beginning  
176 thereafter.  
177 (e) Nothing herein limits any statutory or common-law right  
178 of any individual unit owner or class of unit owners to bring  
179 any action without participation by the association which may  
180 otherwise be available.  
181 (f) An association may not hire an attorney who represents  
182 the management company of the association.  
183  
184  
185 ===== T I T L E A M E N D M E N T =====



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186 And the title is amended as follows:

187       Between lines 1828 and 1829

188 insert:

189       amending s. 194.011, F.S.; revising certain notice  
190       requiremetns; providing that certain associations may  
191       continue to represent, prosecute, or defend unit  
192       owners in certain proceedings; providing  
193       applicability; amending s. 194.181, F.S.; revising the  
194       parties considered to be the defendant in a tax suit;  
195       requiring condominium and cooperative associations to  
196       provide unit owners with certain notice and  
197       information under certain circumstances; providing  
198       requirements for such notice; specifying that a unit  
199       owner who does not respond to the notice will be  
200       represented by the association; amending s. 718.111,  
201       F.S.; amending s. 718.111, F.S.; revising a  
202       condominium association's authority as a party in  
203       certain tax suits; providing construction and  
204       applicability;