

1 A bill to be entitled
2 An act relating to petition for objection to
3 assessment; amending s. 194.011, F.S.; specifying
4 requirements for the contents, delivery, and posting
5 of certain association notices; providing that certain
6 associations have the right to seek judicial review,
7 appeal decisions, and represent unit or parcel owners
8 in certain proceedings; requiring certain associations
9 to defend unit or parcel owners in certain
10 proceedings; providing that property appraisers are
11 not required to name individual unit or parcel owners
12 as defendants in such proceedings; providing
13 applicability; amending s. 194.181, F.S.; providing
14 and revising the parties considered as the defendants
15 in a tax suit; specifying requirements for the
16 contents, delivery, and posting of certain association
17 notices; providing unit or parcel owners' options for
18 defending a tax suit; imposing certain actions on unit
19 or parcel owners who fail to respond to a specified
20 notice; specifying the conditions for releasing a unit
21 or parcel owner from a lis pendens related to certain
22 actions; amending s. 718.111, F.S.; providing that a
23 condominium association may take certain actions
24 relating to a challenge to ad valorem taxes in its own
25 name or on behalf of unit owners; providing

26 applicability; providing an effective date.

27

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

29

30 Section 1. Paragraph (e) of subsection (3) of section
31 194.011, Florida Statutes, is amended to read:

32 194.011 Assessment notice; objections to assessments.—

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

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

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

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

76 | petition, the unit or parcel owner agrees that the association
 77 | shall also represent the unit or parcel owner in any related
 78 | proceedings, without the unit or parcel owners being named or
 79 | joined as parties. Such notice must be hand delivered or sent by
 80 | certified mail, return receipt requested, except that such
 81 | notice may be electronically transmitted to a unit or parcel
 82 | owner who has expressly consented in writing to receiving such
 83 | notices by electronic transmission. If the association is a
 84 | condominium association or cooperative association, the notice
 85 | must also be posted conspicuously on the condominium or
 86 | cooperative property in the same manner as notices of board
 87 | meetings under ss. 718.112(2) and 719.106(1). Such notice must
 88 | ~~and shall~~ provide at least 14 ~~20~~ days for a unit or parcel owner
 89 | to elect, in writing, that his or her unit or parcel not be
 90 | included in the petition.

91 | 2. A condominium association as defined in s. 718.103 or a
 92 | cooperative association as defined in s. 719.103 which has filed
 93 | a single joint petition under this subsection has the right to
 94 | seek judicial review or appeal a decision on the single joint
 95 | petition and continue to represent the unit or parcel owners
 96 | throughout any related proceedings. If the property appraiser
 97 | seeks judicial review or appeals a decision on the single joint
 98 | petition, the association shall defend the unit or parcel owners
 99 | throughout any such related proceedings. The property appraiser
 100 | is not required to name the individual unit or parcel owners as

101 defendants in such proceedings. This subparagraph is intended to
 102 clarify existing law and applies to cases pending on July 1,
 103 2021.

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

106 194.181 Parties to a tax suit.—

107 (2) (a) In any case brought by a ~~the~~ taxpayer or a
 108 condominium or cooperative association, as defined in ss.
 109 718.103 and 719.103, respectively, on behalf of some or all unit
 110 or parcel owners, contesting the assessment of any property, the
 111 county property appraiser is a ~~shall be~~ party defendant.

112 (b) Other than as provided in paragraph (c), in any case
 113 brought by the property appraiser under ~~pursuant to~~ s.
 114 194.036(1) (a) or (b), the taxpayer is a ~~shall be~~ party
 115 defendant.

116 (c)1. In any case brought by the property appraiser under
 117 s. 194.036(1) (a) or (b) relating to a value adjustment board
 118 decision on a single joint petition filed by a condominium or
 119 cooperative association under s. 194.011(3), the association is
 120 the only required party defendant. The individual unit or parcel
 121 owners are not required to be named as parties.

122 2. The condominium or cooperative association must provide
 123 unit or parcel owners with notice of the property appraiser's
 124 complaint and advise the unit or parcel owners that they may
 125 elect to:

126 a. Retain their own counsel to defend the appeal for their
 127 units or parcels;

128 b. Choose not to defend the appeal; or

129 c. Be represented by the association.

130 3. The notice required in subparagraph 2. must be hand
 131 delivered or sent by certified mail, return receipt requested,
 132 except that such notice may be electronically transmitted to a
 133 unit or parcel owner who has expressly consented in writing to
 134 receiving such notices through electronic transmission.

135 Additionally, the notice must be posted conspicuously on the
 136 condominium or cooperative property, if applicable, in the same
 137 manner as notices of board meetings under ss. 718.112(2) and
 138 719.106(1). The association must provide at least 14 days for a
 139 unit or parcel owner to respond to the notice. Any unit or
 140 parcel owner who does not respond to the association's notice
 141 will be represented by the association.

142 4. If requested by a unit or parcel owner, the tax
 143 collector shall accept payment of the estimated amount in
 144 controversy, as determined by the tax collector, as to that unit
 145 or parcel, whereupon the unit or parcel shall be released from
 146 any lis pendens and the unit or parcel owner may elect to remain
 147 in or be dismissed from the action.

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

151 Section 3. Subsection (3) of section 718.111, Florida
 152 Statutes, is amended to read:

153 718.111 The association.—

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

156 (a) The association may contract, sue, or be sued with
 157 respect to the exercise or nonexercise of its powers. For these
 158 purposes, the powers of the association include, but are not
 159 limited to, the maintenance, management, and operation of the
 160 condominium property.

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

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

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

173 3. Defend actions pertaining to ad valorem taxation of
 174 commonly used facilities or units or in eminent domain actions;
 175 and ~~or~~

176 4. Bring inverse condemnation actions.

177 (c) If the association has the authority to maintain a
178 class action, the association may be joined in an action as
179 representative of that class with reference to litigation and
180 disputes involving the matters for which the association could
181 bring a class action.

182 (d) The association, in its own name or on behalf of some
183 or all unit owners, may institute, file, protest, or maintain
184 any administrative challenge, lawsuit, appeal, or other
185 challenge to ad valorem taxes assessed on units, commonly used
186 facilities, or common elements. In any subsequent proceeding,
187 lawsuit, appeal, or other challenge brought by the property
188 appraiser related to units that were the subject of a single
189 joint petition filed under s. 194.011(3), the association has
190 the right to represent the interest of the unit owners as
191 provided in s. 194.011(3)(e)2., and the unit owners are not
192 necessary or indispensable parties to such actions. This
193 paragraph is intended to clarify existing law and applies to
194 cases pending on July 1, 2021.

195 (e) This section does not limit ~~Nothing herein limits~~ any
196 statutory or common-law right of any individual unit owner or
197 class of unit owners to bring any action without participation
198 by the association which may otherwise be available.

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

CS/HB 649

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201 Section 4. This act shall take effect July 1, 2021.