

By Senator Garcia

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

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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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

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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

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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

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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

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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 used  
 172 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;

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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.

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