



775512

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/17/2020	.	
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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