

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Civil Justice & Property
2 Rights Subcommittee

3 Representative Fernandez-Barquin offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7

8 Section 1. Paragraph (e) of subsection (3) of section
9 194.011, Florida Statutes, is amended to read:

10 194.011 Assessment notice; objections to assessments.—

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

13 Notwithstanding s. 195.022, a county officer may not refuse to
14 accept a form provided by the department for this purpose if the
15 taxpayer chooses to use it. A petition to the value adjustment
16 board must be signed by the taxpayer or be accompanied at the

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

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41 (e)1. A condominium association, ~~as defined in s. 718.103,~~
42 a cooperative association as defined in s. 719.103, or any
43 homeowners' association as defined in s. 723.075, with approval
44 of its board of administration or directors, may file with the
45 value adjustment board a single joint petition on behalf of any
46 association members who own units or parcels of property which
47 the property appraiser determines are substantially similar with
48 respect to location, proximity to amenities, number of rooms,
49 living area, and condition. The condominium association,
50 cooperative association, or homeowners' association as defined
51 in s. 723.075 shall provide the unit or parcel owners with
52 notice of its intent to petition the value adjustment board. The
53 notice must include a statement that by not opting out of the
54 petition, the unit or parcel owner agrees that the association
55 shall also represent the unit or parcel owner in any related
56 proceedings, without the unit or parcel owners being named or
57 joined as parties. Such notice must be hand delivered or sent by
58 certified mail, return receipt requested, except that such
59 notice may be electronically transmitted to a unit or parcel
60 owner who has expressly consented in writing to receiving such
61 notices by electronic transmission. If the association is a
62 condominium association or cooperative association, the notice
63 must also be posted conspicuously on the condominium or
64 cooperative property in the same manner as notices of board
65 meetings under ss. 718.112(2) and 719.106(1). Such notice must

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66 ~~and shall~~ provide at least 14 ~~20~~ days for a unit or parcel owner
67 to elect, in writing, that his or her unit or parcel not be
68 included in the petition.

69 2. A condominium association as defined in s. 718.103 or a
70 cooperative association as defined in s. 719.103 which has filed
71 a single joint petition under this subsection has the right to
72 seek judicial review or appeal a decision on the single joint
73 petition and continue to represent the unit or parcel owners
74 throughout any related proceedings. If the property appraiser
75 seeks judicial review or appeals a decision on the single joint
76 petition, the association shall defend the unit or parcel owners
77 throughout any such related proceedings. The property appraiser
78 is not required to name the individual unit or parcel owners as
79 defendants in such proceedings. This subparagraph is intended to
80 clarify existing law and applies to cases pending on July 1,
81 2021.

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

84 194.181 Parties to a tax suit.—

85 (2)(a) In any case brought by a ~~the~~ taxpayer or a
86 condominium or cooperative association, as defined in ss.
87 718.103 and 719.103, respectively, on behalf of some or all unit
88 or parcel owners, contesting the assessment of any property, the
89 county property appraiser is a ~~shall be~~ party defendant.

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90 (b) Other than as provided in paragraph (c), in any case
91 brought by the property appraiser under pursuant to s.
92 194.036(1) (a) or (b), the taxpayer is a shall be party
93 defendant.

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

100 2. The condominium or cooperative association must provide
101 unit or parcel owners with notice of the property appraiser's
102 complaint and advise the unit or parcel owners that they may
103 elect to:

104 a. Retain their own counsel to defend the appeal for their
105 units or parcels;

106 b. Choose not to defend the appeal; or

107 c. Be represented by the association.

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

113 Additionally, the notice must be posted conspicuously on the
114 condominium or cooperative property, if applicable, in the same

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115 manner as notices of board meetings under ss. 718.112(2) and
116 719.106(1). The association must provide at least 14 days for a
117 unit or parcel owner to respond to the notice. Any unit or
118 parcel owner who does not respond to the association's notice
119 will be represented by the association.

120 4. If requested by a unit or parcel owner, the tax
121 collector shall accept payment of the estimated amount in
122 controversy, as determined by the tax collector, as to that unit
123 or parcel, whereupon the unit or parcel shall be released from
124 any lis pendens and the unit or parcel owner may elect to remain
125 in or be dismissed from the action.

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

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

131 718.111 The association.—

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

134 (a) The association may contract, sue, or be sued with
135 respect to the exercise or nonexercise of its powers. For these
136 purposes, the powers of the association include, but are not
137 limited to, the maintenance, management, and operation of the
138 condominium property.

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

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

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

151 3. Defend actions pertaining to ad valorem taxation of
152 commonly used facilities or units or in eminent domain actions;
153 and ~~or~~

154 4. Bring inverse condemnation actions.

155 (c) If the association has the authority to maintain a
156 class action, the association may be joined in an action as
157 representative of that class with reference to litigation and
158 disputes involving the matters for which the association could
159 bring a class action.

160 (d) The association, in its own name or on behalf of some
161 or all unit owners, may institute, file, protest, or maintain
162 any administrative challenge, lawsuit, appeal, or other
163 challenge to ad valorem taxes assessed on units, commonly used

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164 facilities, or common elements. In any subsequent proceeding,
165 lawsuit, appeal, or other challenge brought by the property
166 appraiser related to units that were the subject of a single
167 joint petition filed under s. 194.011(3), the association has
168 the right to represent the interest of the unit owners as
169 provided in s. 194.011(3)(e)2., and the unit owners are not
170 necessary or indispensable parties to such actions. This
171 paragraph is intended to clarify existing law and applies to
172 cases pending on July 1, 2021.

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

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

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

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182

T I T L E A M E N D M E N T

183

Remove everything before the enacting clause and insert:

184

An act relating to petition for objection to assessment;

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amending s. 194.011, F.S.; specifying requirements for the

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contents, delivery, and posting of certain association

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notices; providing that certain associations have the right

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to seek judicial review, appeal decisions, and represent

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189 unit or parcel owners in certain proceedings; requiring
190 certain associations to defend unit or parcel owners in
191 certain proceedings; providing that property appraisers are
192 not required to name individual unit or parcel owners as
193 defendants in such proceedings; providing applicability;
194 amending s. 194.181, F.S.; providing and revising the
195 parties considered as the defendants in a tax suit;
196 specifying requirements for the contents, delivery, and
197 posting of certain association notices; providing unit or
198 parcel owners' options for defending a tax suit; imposing
199 certain actions on unit or parcel owners who fail to
200 respond to a specified notice; specifying the conditions
201 for releasing a unit or parcel owner from a lis pendens
202 related to certain actions; amending s. 718.111, F.S.;
203 providing that a condominium association may take certain
204 actions relating to a challenge to ad valorem taxes in its
205 own name or on behalf of unit owners; providing
206 applicability; providing an effective date.

207