

## CHAPTER 2021-209

### Committee Substitute for House Bill No. 649

An act relating to petition for objection to assessment; amending s. 194.011, F.S.; specifying requirements for the contents, delivery, and posting of certain association notices; providing that certain associations have the right to seek judicial review, appeal decisions, and represent unit or parcel owners in certain proceedings; requiring certain associations to defend unit or parcel owners in certain proceedings; providing that property appraisers are not required to name individual unit or parcel owners as defendants in such proceedings; providing applicability; amending s. 194.181, F.S.; providing and revising the parties considered as the defendants in a tax suit; specifying requirements for the contents, delivery, and posting of certain association notices; providing unit or parcel owners' options for defending a tax suit; imposing certain actions on unit or parcel owners who fail to respond to a specified notice; specifying the conditions for releasing a unit or parcel owner from a lis pendens related to certain actions; amending s. 718.111, F.S.; providing that a condominium association may take certain actions relating to a challenge to ad valorem taxes in its own name or on behalf of unit owners; providing applicability; providing an effective date.

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

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 accept a form provided by the department for this purpose if the taxpayer chooses to use it. A petition to the value adjustment board must be signed by the taxpayer or be accompanied at the time of filing by the taxpayer's written authorization or power of attorney, unless the person filing the petition is listed in s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a petition with a value adjustment board without the taxpayer's signature or written authorization by certifying under penalty of perjury that he or she has authorization to file the petition on behalf of the taxpayer. If a taxpayer notifies the value adjustment board that a petition has been filed for the taxpayer's property without his or her consent, the value adjustment board may require the person filing the petition to provide written authorization from the taxpayer authorizing the person to proceed with the appeal before a hearing is held. If the value adjustment board finds that a person listed in s. 194.034(1)(a) willfully and knowingly filed a petition that was not authorized by the taxpayer, the value adjustment board shall require such person to provide the taxpayer's written authorization for representation to the value adjustment board clerk before any

petition filed by that person is heard, for 1 year after imposition of such requirement by the value adjustment board. A power of attorney or written authorization is valid for 1 assessment year, and a new power of attorney or written authorization by the taxpayer is required for each subsequent assessment year. A petition shall also describe the property by parcel number and shall be filed as follows:

(e)1. A condominium association, as defined in s. 718.103, a cooperative association as defined in s. 719.103, or any homeowners' association as defined in s. 723.075, with approval of its board of administration or directors, may file with the value adjustment board a single joint petition on behalf of any association members who own units or parcels of property which the property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition. The condominium association, cooperative association, or homeowners' association as defined in s. 723.075 shall provide the unit or parcel owners with notice of its intent to petition the value adjustment board. The notice must include a statement that by not opting out of the petition, the unit or parcel owner agrees that the association shall also represent the unit or parcel owner in any related proceedings, without the unit or parcel owners being named or joined as parties. Such notice must be hand delivered or sent by certified mail, return receipt requested, except that such notice may be electronically transmitted to a unit or parcel owner who has expressly consented in writing to receiving such notices by electronic transmission. If the association is a condominium association or cooperative association, the notice must also be posted conspicuously on the condominium or cooperative property in the same manner as notices of board meetings under ss. 718.112(2) and 719.106(1). Such notice must and shall provide at least 14 20 days for a unit or parcel owner to elect, in writing, that his or her unit or parcel not be included in the petition.

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

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

194.181 Parties to a tax suit.—

(2)(a) In any case brought by a ~~the~~ taxpayer or a condominium or cooperative association, as defined in ss. 718.103 and 719.103, respectively,

on behalf of some or all unit or parcel owners, contesting the assessment of any property, the county property appraiser is a shall be party defendant.

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

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

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

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

b. Choose not to defend the appeal; or

c. Be represented by the association.

3. The notice required in subparagraph 2. must be hand delivered or sent by certified mail, return receipt requested, except that such notice may be electronically transmitted to a unit or parcel owner who has expressly consented in writing to receiving such notices through electronic transmission. Additionally, the notice must be posted conspicuously on the condominium or cooperative property, if applicable, in the same manner as notices of board meetings under ss. 718.112(2) and 719.106(1). The association must provide at least 14 days for a unit or parcel owner to respond to the notice. Any unit or parcel owner who does not respond to the association's notice will be represented by the association.

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

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

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

718.111 The association.—

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

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

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

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

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

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

4. Bring inverse condemnation actions.

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

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

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

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

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

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.