Legislative Action

Sen. Gruters moved the following:

**Senate Amendment to Substitute Amendment (271678) (with title amendment)**

Between lines 161 and 162

Insert:

Section 6. 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
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
time of filing by the taxpayer’s written authorization or power
16 of attorney, unless the person filing the petition is listed in
17 s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a
18 petition with a value adjustment board without the taxpayer’s
19 signature or written authorization by certifying under penalty
20 of perjury that he or she has authorization to file the petition
21 on behalf of the taxpayer. If a taxpayer notifies the value
22 adjustment board that a petition has been filed for the
23 taxpayer’s property without his or her consent, the value
24 adjustment board may require the person filing the petition to
25 provide written authorization from the taxpayer authorizing the
26 person to proceed with the appeal before a hearing is held. If
27 the value adjustment board finds that a person listed in s.
28 194.034(1)(a) willfully and knowingly filed a petition that was
29 not authorized by the taxpayer, the value adjustment board shall
30 require such person to provide the taxpayer’s written
31 authorization for representation to the value adjustment board
32 clerk before any petition filed by that person is heard, for 1
33 year after imposition of such requirement by the value
34 adjustment board. A power of attorney or written authorization
35 is valid for 1 assessment year, and a new power of attorney or
36 written authorization by the taxpayer is required for each
37 subsequent assessment year. A petition shall also describe the
38 property by parcel number and shall be filed as follows:
39 (e)1. A condominium association as described in chapter
40 718, a cooperative association as described in chapter 719, or a
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 by hand delivery or 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 notices by electronic transmission. If the association is a condominium or cooperative association, the notice must also be posted conspicuously on the condominium or cooperative property in the same manner as a notice of board meeting under ss. 718.112(2) and 719.106(1), respectively. Such notice must and shall provide at least 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 described in chapter 718, or a cooperative association as described in chapter 719, which has filed a single joint petition under this subsection may continue to represent, prosecute, or defend the unit owners through any related subsequent proceeding in any tribunal, including judicial review under part II of this chapter and any appeals. This subparagraph is intended to clarify existing law and applies to cases pending on July 1, 2020.
Section 7. 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 taxpayer or a condominium or cooperative association, as described in chapters 718 and 719, respectively, on behalf of some or all unit owners to contest the assessment of any property, the county property appraiser is the party defendant.

(b) Except as provided in paragraph (c), in any case brought by the property appraiser under s. 194.036(1)(a) or (b), the taxpayer is the party defendant.

(c) In any case brought by the property appraiser under s. 194.036(1)(a) or (b) concerning a value adjustment board decision on a single joint petition filed by a condominium or cooperative association under s. 194.011(3), the association and all unit owners included in the single joint petition are the party defendants.

1. The condominium or cooperative association must provide unit owners with notice of its intent to respond to or answer the property appraiser’s complaint and advise the unit owners that they may elect to:

   a. Retain their own counsel to defend the appeal;
   b. Choose not to defend the appeal; or
   c. Be represented together with other unit owners in the response or answer filed by the association.

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

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

Section 8. Paragraph (a) of subsection (1) and subsection (3) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(1) CORPORATE ENTITY.—

(a) The operation of the condominium shall be by the association, which must be a Florida corporation for profit or a Florida corporation not for profit. However, any association which was in existence on January 1, 1977, need not be incorporated. The owners of units shall be shareholders or members of the association. The officers and directors of the association have a fiduciary relationship to the unit owners. It is the intent of the Legislature that nothing in this paragraph shall be construed as providing for or removing a requirement of a fiduciary relationship between any manager employed by the association and the unit owners. An officer, director, or manager may not solicit, offer to accept, or accept any thing or service of value or kickback for which consideration has not
been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association. Any such officer, director, or manager who knowingly so solicits, offers to accept, or accepts any thing or service of value or kickback is subject to a civil penalty under 718.501(2)(d) pursuant to s. 718.501(1)(d) and, if applicable, a criminal penalty as provided in paragraph (d). However, this paragraph does not prohibit an officer, director, or manager from accepting services or items received in connection with trade fairs or education programs.

An association may operate more than one condominium.

(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; representations of the developer pertaining to any existing or proposed commonly used facilities;

2. Protests and protest ad valorem taxes on commonly used

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facilities and on units; and may

3. Defend actions pertaining to ad valorem taxation of
commonly used facilities or units or related to in eminent
domain; 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, maintain, or
defend any administrative challenge, lawsuit, appeal, or other
challenge to ad valorem taxes assessed on units, commonly used
facilities, or common elements. Except as provided in s.
194.181(2)(c)1., the affected association members 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, 2020, and to cases beginning
thereafter.

(e) 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.
And the title is amended as follows:

Between lines 1828 and 1829

insert:

amending s. 194.011, F.S.; revising certain notice requirements; providing that certain associations may continue to represent, prosecute, or defend unit owners in certain proceedings; providing applicability; amending s. 194.181, F.S.; revising the parties considered to be the defendant in a tax suit; requiring condominium and cooperative associations to provide unit owners with certain notice and information under certain circumstances; providing requirements for such notice; specifying that a unit owner who does not respond to the notice will be represented by the association; amending s. 718.111, F.S.; amending s. 718.111, F.S.; revising a condominium association’s authority as a party in certain tax suits; providing construction and applicability;