

By Senator Dockery

15-1178-03

See HB 885

1 A bill to be entitled
 2 An act relating to community development
 3 districts; amending s. 190.005, F.S.;
 4 increasing the size of community development
 5 districts established by county commissions;
 6 amending s. 190.011, F.S.; authorizing the
 7 district to enforce deed restrictions and
 8 architectural review for residential properties
 9 within its boundaries; amending s. 190.048,
 10 F.S.; revising and clarifying requirements
 11 relating to disclosure to purchasers of real
 12 estate within a district; providing an
 13 effective date.

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

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 17 Section 1. Section 190.005, Florida Statutes, is
 18 amended to read:

19 190.005 Establishment of district.--

20 (1) The exclusive and uniform method for the
 21 establishment of a community development district with a size
 22 of 2,500 ~~1,000~~ acres or more shall be pursuant to a rule,
 23 adopted under chapter 120 by the Florida Land and Water
 24 Adjudicatory Commission, granting a petition for the
 25 establishment of a community development district.

26 (a) A petition for the establishment of a community
 27 development district shall be filed by the petitioner with the
 28 Florida Land and Water Adjudicatory Commission. The petition
 29 shall contain:

30 1. A metes and bounds description of the external
 31 boundaries of the district. Any real property within the

1 external boundaries of the district which is to be excluded
2 from the district shall be specifically described, and the
3 last known address of all owners of such real property shall
4 be listed. The petition shall also address the impact of the
5 proposed district on any real property within the external
6 boundaries of the district which is to be excluded from the
7 district.

8 2. The written consent to the establishment of the
9 district by all landowners whose real property is to be
10 included in the district or documentation demonstrating that
11 the petitioner has control by deed, trust agreement, contract,
12 or option of 100 percent of the real property to be included
13 in the district, and when real property to be included in the
14 district is owned by a governmental entity and subject to a
15 ground lease as described in s. 190.003(13), the written
16 consent by such governmental entity.

17 3. A designation of five persons to be the initial
18 members of the board of supervisors, who shall serve in that
19 office until replaced by elected members as provided in s.
20 190.006.

21 4. The proposed name of the district.

22 5. A map of the proposed district showing current
23 major trunk water mains and sewer interceptors and outfalls if
24 in existence.

25 6. Based upon available data, the proposed timetable
26 for construction of the district services and the estimated
27 cost of constructing the proposed services. These estimates
28 shall be submitted in good faith but shall not be binding and
29 may be subject to change.

30 7. A designation of the future general distribution,
31 location, and extent of public and private uses of land

1 proposed for the area within the district by the future land
2 use plan element of the effective local government
3 comprehensive plan of which all mandatory elements have been
4 adopted by the applicable general-purpose local government in
5 compliance with the Local Government Comprehensive Planning
6 and Land Development Regulation Act.

7 8. A statement of estimated regulatory costs in
8 accordance with the requirements of s. 120.541.

9 (b) Prior to filing the petition, the petitioner
10 shall:

11 1. Pay a filing fee of \$15,000 to the county and to
12 each municipality the boundaries of which are contiguous with,
13 or contain all or a portion of the land within, the external
14 boundaries of the district.

15 2. Submit a copy of the petition to the county and to
16 each municipality the boundaries of which are contiguous with,
17 or contain all or a portion of, the land within the external
18 boundaries of the district.

19 (c) Such county and each such municipality may conduct
20 a public hearing to consider the relationship of the petition
21 to the factors specified in paragraph (e). The public hearing
22 shall be concluded within 45 days after the date the petition
23 is filed unless an extension of time is requested by the
24 petitioner and granted by the county or municipality. The
25 county or municipality holding such public hearing may by
26 resolution express its support of, or objection to the
27 granting of, the petition by the Florida Land and Water
28 Adjudicatory Commission. A resolution must base any objection
29 to the granting of the petition upon the factors specified in
30 paragraph (e). Such county or municipality may present its
31 resolution of support or objection at the Florida Land and

1 Water Adjudicatory Commission hearing and shall be afforded an
2 opportunity to present relevant information in support of its
3 resolution.

4 (d) A local public hearing on the petition shall be
5 conducted by a hearing officer in conformance with the
6 applicable requirements and procedures of the Administrative
7 Procedure Act. The hearing shall include oral and written
8 comments on the petition pertinent to the factors specified in
9 paragraph (e). The hearing shall be held at an accessible
10 location in the county in which the community development
11 district is to be located. The petitioner shall cause a notice
12 of the hearing to be published in a newspaper at least once a
13 week for the 4 successive weeks immediately prior to the
14 hearing. Such notice shall give the time and place for the
15 hearing, a description of the area to be included in the
16 district, which description shall include a map showing
17 clearly the area to be covered by the district, and any other
18 relevant information which the establishing governing bodies
19 may require. The advertisement shall not be placed in that
20 portion of the newspaper where legal notices and classified
21 advertisements appear. The advertisement shall be published in
22 a newspaper of general paid circulation in the county and of
23 general interest and readership in the community, not one of
24 limited subject matter, pursuant to chapter 50. Whenever
25 possible, the advertisement shall appear in a newspaper that
26 is published at least 5 days a week, unless the only newspaper
27 in the community is published fewer than 5 days a week. All
28 affected units of general-purpose local government and the
29 general public shall be given an opportunity to appear at the
30 hearing and present oral or written comments on the petition.

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1 (e) The Florida Land and Water Adjudicatory Commission
2 shall consider the entire record of the local hearing, the
3 transcript of the hearing, resolutions adopted by local
4 general-purpose governments as provided in paragraph (c), and
5 the following factors and make a determination to grant or
6 deny a petition for the establishment of a community
7 development district:

8 1. Whether all statements contained within the
9 petition have been found to be true and correct.

10 2. Whether the establishment of the district is
11 inconsistent with any applicable element or portion of the
12 state comprehensive plan or of the effective local government
13 comprehensive plan.

14 3. Whether the area of land within the proposed
15 district is of sufficient size, is sufficiently compact, and
16 is sufficiently contiguous to be developable as one functional
17 interrelated community.

18 4. Whether the district is the best alternative
19 available for delivering community development services and
20 facilities to the area that will be served by the district.

21 5. Whether the community development services and
22 facilities of the district will be incompatible with the
23 capacity and uses of existing local and regional community
24 development services and facilities.

25 6. Whether the area that will be served by the
26 district is amenable to separate special-district government.

27 (f) The Florida Land and Water Adjudicatory Commission
28 shall not adopt any rule which would expand, modify, or delete
29 any provision of the uniform community development district
30 charter as set forth in ss. 190.006-190.041, except as
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1 provided in s. 190.012. A rule establishing a community
2 development district shall:

3 1. Describe the external boundaries of the district
4 and any real property within the external boundaries of the
5 district which is to be excluded.

6 2. Name five persons designated to be the initial
7 members of the board of supervisors.

8 3. Name the district.

9 (g) The Florida Land and Water Adjudicatory Commission
10 may adopt rules setting forth its procedures for considering
11 petitions to establish, expand, modify, or delete uniform
12 community development districts or portions thereof consistent
13 with the provisions of this section.

14 (2) The exclusive and uniform method for the
15 establishment of a community development district of less than
16 2,500 ~~1,000~~ acres in size shall be pursuant to an ordinance
17 adopted by the county commission of the county having
18 jurisdiction over the majority of land in the area in which
19 the district is to be located granting a petition for the
20 establishment of a community development district as follows:

21 (a) A petition for the establishment of a community
22 development district shall be filed by the petitioner with the
23 county commission. The petition shall contain the same
24 information as required in paragraph (1)(a).

25 (b) A public hearing on the petition shall be
26 conducted by the county commission in accordance with the
27 requirements and procedures of paragraph (1)(d).

28 (c) The county commission shall consider the record of
29 the public hearing and the factors set forth in paragraph
30 (1)(e) in making its determination to grant or deny a petition
31 for the establishment of a community development district.

1 (d) The county commission shall not adopt any
2 ordinance which would expand, modify, or delete any provision
3 of the uniform community development district charter as set
4 forth in ss. 190.006-190.041. An ordinance establishing a
5 community development district shall include the matters
6 provided for in paragraph (1)(f).

7 (e) If all of the land in the area for the proposed
8 district is within the territorial jurisdiction of a municipal
9 corporation, then the petition requesting establishment of a
10 community development district under this act shall be filed
11 by the petitioner with that particular municipal corporation.
12 In such event, the duties of the county, hereinabove
13 described, in action upon the petition shall be the duties of
14 the municipal corporation. If any of the land area of a
15 proposed district is within the land area of a municipality,
16 the county commission may not create the district without
17 municipal approval.

18 (f) Notwithstanding any other provision of this
19 subsection, within 90 days after a petition for the
20 establishment of a community development district has been
21 filed pursuant to this subsection, the governing body of the
22 county or municipal corporation may transfer the petition to
23 the Florida Land and Water Adjudicatory Commission, which
24 shall make the determination to grant or deny the petition as
25 provided in subsection (1). A county or municipal corporation
26 shall have no right or power to grant or deny a petition that
27 has been transferred to the Florida Land and Water
28 Adjudicatory Commission.

29 (3) The governing body of any existing special
30 district, created to provide one or more of the public
31 improvements and community facilities authorized by this act,

1 may petition for reestablishment of the existing district as a
2 community development district pursuant to this act. The
3 petition shall contain the information specified in
4 subparagraphs (1)(a)1., 3., 4., 5., 6., and 7. and shall not
5 require payment of a fee pursuant to paragraph (1)(b). In such
6 case, the new district so formed shall assume the existing
7 obligations, indebtedness, and guarantees of indebtedness of
8 the district so subsumed, and the existing district shall be
9 terminated.

10 Section 2. Subsection (17) is added to section
11 190.011, Florida Statutes, to read:

12 190.011 General powers.--The district shall have, and
13 the board may exercise, the following powers:

14 (17) To enforce deed restrictions and architectural
15 review for residential properties within its boundaries, as
16 described in s. 720.305.

17 Section 3. Section 190.048, Florida Statutes, is
18 amended to read:

19 190.048 Sale of real estate within a district;
20 required disclosure to purchaser.--Subsequent to the
21 establishment of a district under this chapter, each contract
22 for the initial sale of a parcel of real property and each
23 contract for the initial sale of a residential unit within the
24 district shall include, immediately prior to the space
25 reserved in the contract for the signature of the purchaser,
26 the following disclosure statement in boldfaced and
27 conspicuous type which is larger than the type in the
28 remaining text of the contract: "THE ... (Name of
29 District) COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY
30 TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS
31 PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION,

1 OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES
2 AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE
3 GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS
4 ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES
5 AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED
6 FOR BY LAW. THE BOND ASSESSMENT FOR THE CURRENT FISCAL YEAR IS
7 (amount) AND THE TOTAL OF THE OTHER ASSESSMENTS FOR THE
8 CURRENT FISCAL YEAR IS (amount)."

9 Section 4. This act shall take effect upon becoming a
10 law.

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