

1 A bill to be entitled
2 An act relating to community development
3 districts; amending s. 190.012, F.S.; providing
4 for the enforcement of deed restrictions in
5 certain circumstances; amending s. 190.046,
6 F.S.; providing for additional dissolution
7 procedures; amending s. 190.006, F.S.;
8 specifying procedures for selecting a chair at
9 the initial landowners' meeting; specifying
10 requirements for proxy voting; requiring notice
11 of landowners' elections; specifying the terms
12 of certain supervisors; providing for
13 nonpartisan elections; specifying the time that
14 resident supervisors assume office; authorizing
15 the supervisor of elections to designate seat
16 numbers for resident supervisors of the board;
17 providing procedures for filing qualifying
18 papers; allowing candidates the option of
19 paying a filing fee to qualify for the
20 election; specifying payment requirements;
21 specifying the number of petition signatures
22 required to qualify for the election; requiring
23 the county canvassing board to certify the
24 results of resident elections; providing an
25 effective date.

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

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29 Section 1. Subsection (4) is added to section 190.012,
30 Florida Statutes, to read:

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1 190.012 Special powers; public improvements and
2 community facilities.--The district shall have, and the board
3 may exercise, subject to the regulatory jurisdiction and
4 permitting authority of all applicable governmental bodies,
5 agencies, and special districts having authority with respect
6 to any area included therein, any or all of the following
7 special powers relating to public improvements and community
8 facilities authorized by this act:

9 (4)(a) To adopt rules necessary for the district to
10 enforce certain deed restrictions pertaining to the use and
11 operation of real property within the district. For the
12 purpose of this subsection, "deed restrictions" are those
13 covenants, conditions, and restrictions contained in any
14 applicable declarations of covenants and restrictions that
15 govern the use and operation of real property within the
16 district and, for which covenants, conditions, and
17 restrictions, there is no homeowners' association or property
18 owner's association having respective enforcement powers. The
19 district may adopt by rule all or certain portions of the deed
20 restrictions that:

21 1. Relate to limitations or prohibitions that apply
22 only to external structures and are deemed by the district to
23 be generally beneficial for the district's landowners and for
24 which enforcement by the district is appropriate, as
25 determined by the district's board of supervisors; or

26 2. Are consistent with the requirements of a
27 development order or regulatory agency permit.

28 (b) The board may vote to adopt such rules only when
29 all of the following conditions exist:

30 1. The district's geographic area contains no
31 homeowners' associations as defined in s. 720.301(7);

1 2. The district was in existence on the effective date
2 of this subsection, or is located within a development that
3 consists of multiple developments of regional impact and a
4 Florida Quality Development;

5 3. The majority of the board has been elected by
6 qualified electors pursuant to the provisions of s. 190.006;
7 and

8 4. The declarant in any applicable declarations of
9 covenants and restrictions has provided the board with a
10 written agreement that such rules may be adopted. A memorandum
11 of the agreement shall be recorded in the public records.

12 (c) Within 60 days after such rules taking effect, the
13 district shall record a notice of rule adoption stating
14 generally what rules were adopted and where a copy of the
15 rules may be obtained. Districts may impose fines for
16 violations of such rules and enforce such rules and fines in
17 circuit court through injunctive relief.

18 Section 2. Section 190.046, Florida Statutes, is
19 amended to read:

20 190.046 Termination, contraction, or expansion of
21 district.--

22 (1) The board may petition to contract or expand the
23 boundaries of a community development district in the
24 following manner:

25 (a) The petition shall contain the same information
26 required by s. 190.005(1)(a)1. and 8. In addition, if the
27 petitioner seeks to expand the district, the petition shall
28 describe the proposed timetable for construction of any
29 district services to the area, the estimated cost of
30 constructing the proposed services, and the designation of the
31 future general distribution, location, and extent of public

1 and private uses of land proposed for the area by the future
2 land use plan element of the adopted local government local
3 comprehensive plan. If the petitioner seeks to contract the
4 district, the petition shall describe what services and
5 facilities are currently provided by the district to the area
6 being removed, and the designation of the future general
7 distribution, location, and extent of public and private uses
8 of land proposed for the area by the future land element of
9 the adopted local government comprehensive plan.

10 (b) For those districts initially established by
11 county ordinance, the petition for ordinance amendment shall
12 be filed with the county commission. If the land to be
13 included or excluded is, in whole or in part, within the
14 boundaries of a municipality, then the county commission shall
15 not amend the ordinance without municipal approval. A public
16 hearing shall be held in the same manner and with the same
17 public notice as other ordinance amendments. The county
18 commission shall consider the record of the public hearing and
19 the factors set forth in s. 190.005(1)(e) in making its
20 determination to grant or deny the petition for ordinance
21 amendment.

22 (c) For those districts initially established by
23 municipal ordinance pursuant to s. 190.005(2)(e), the
24 municipality shall assume the duties of the county commission
25 set forth in paragraph (b); however, if any of the land to be
26 included or excluded, in whole or in part, is outside the
27 boundaries of the municipality, then the municipality shall
28 not amend its ordinance without county commission approval.

29 (d)1. For those districts initially established by
30 administrative rule pursuant to s. 190.005(1), the petition
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1 shall be filed with the Florida Land and Water Adjudicatory
2 Commission.

3 2. Prior to filing the petition, the petitioner shall
4 pay a filing fee of \$1,500 to the county and to each
5 municipality the boundaries of which are contiguous with or
6 contain all or a portion of the land within the district or
7 the proposed amendment, and submit a copy of the petition to
8 the county and to each such municipality. In addition, if the
9 district is not the petitioner, the petitioner shall file the
10 petition with the district board of supervisors.

11 3. The county and each municipality shall have the
12 option of holding a public hearing as provided by s.
13 190.005(1)(c). However, such public hearing shall be limited
14 to consideration of the contents of the petition and whether
15 the petition for amendment should be supported by the county
16 or municipality.

17 4. The district board of supervisors shall, in lieu of
18 a hearing officer, hold the local public hearing provided for
19 by s. 190.005(1)(d). This local public hearing shall be
20 noticed in the same manner as provided in s. 190.005(1)(d).
21 Within 45 days of the conclusion of the hearing, the district
22 board of supervisors shall transmit to the Florida Land and
23 Water Adjudicatory Commission the full record of the local
24 hearing, the transcript of the hearing, any resolutions
25 adopted by the local general-purpose governments, and its
26 recommendation whether to grant the petition for amendment.
27 The commission shall then proceed in accordance with s.
28 190.005(1)(e).

29 5. A rule amending a district boundary shall describe
30 the land to be added or deleted.

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1 (e) In all cases, written consent of all the
2 landowners whose land is to be added to or deleted from the
3 district shall be required. The filing of the petition for
4 expansion or contraction by the district board of supervisors
5 shall constitute consent of the landowners within the district
6 other than of landowners whose land is proposed to be added to
7 or removed from the district.

8 (f)1. During the existence of a district initially
9 established by administrative rule, petitions to amend the
10 boundaries of the district pursuant to paragraphs (a)-(e)
11 shall be limited to a cumulative total of no more than 10
12 percent of the land in the initial district, and in no event
13 shall all such petitions to amend the boundaries ever
14 encompass more than a total of 250 acres.

15 2. For districts initially established by county or
16 municipal ordinance, the limitation provided by this paragraph
17 shall be a cumulative total of no more than 50 percent of the
18 land in the initial district, and in no event shall all such
19 petitions to amend the boundaries ever encompass more than a
20 total of 500 acres.

21 3. Boundary expansions for districts initially
22 established by county or municipal ordinance shall follow the
23 procedure set forth in paragraph (b) or paragraph (c).

24 (g) Petitions to amend the boundaries of the district
25 which exceed the amount of land specified in paragraph (f)
26 shall be considered petitions to establish a new district and
27 shall follow all of the procedures specified in s. 190.005.

28 (2) The district shall remain in existence unless:

29 (a) The district is merged with another district as
30 provided in subsection (3);

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1 (b) All of the specific community development systems,
2 facilities, and services that it is authorized to perform have
3 been transferred to a general-purpose unit of local government
4 in the manner provided in subsections (4), (5), and (6); or

5 (c) The district is dissolved as provided in
6 subsection (7), ~~or~~ subsection (8), or subsection (9).

7 (3) The district may merge with other community
8 development districts upon filing a petition for establishment
9 of a community development district pursuant to s. 190.005 or
10 may merge with any other special districts upon filing a
11 petition for establishment of a community development district
12 pursuant to s. 190.005. The government formed by a merger
13 involving a community development district pursuant to this
14 section shall assume all indebtedness of, and receive title
15 to, all property owned by the preexisting special districts.
16 Prior to filing said petition, the districts desiring to merge
17 shall enter into a merger agreement and shall provide for the
18 proper allocation of the indebtedness so assumed and the
19 manner in which said debt shall be retired. The approval of
20 the merger agreement by the board of supervisors elected by
21 the electors of the district shall constitute consent of the
22 landowners within the district.

23 (4) The local general-purpose government within the
24 geographical boundaries of which the district lies may adopt a
25 nonemergency ordinance providing for a plan for the transfer
26 of a specific community development service from a district to
27 the local general-purpose government. The plan must provide
28 for the assumption and guarantee of the district debt that is
29 related to the service by the local general-purpose government
30 and must demonstrate the ability of the local general-purpose
31 government to provide such service:

1 (a) As efficiently as the district.

2 (b) At a level of quality equal to or higher than the
3 level of quality actually delivered by the district to the
4 users of the service.

5 (c) At a charge equal to or lower than the actual
6 charge by the district to the users of the service.

7 (5) No later than 30 days following the adoption of a
8 transfer plan ordinance, the board of supervisors may file, in
9 the circuit court for the county in which the local
10 general-purpose government that adopted the ordinance is
11 located, a petition seeking review by certiorari of the
12 factual and legal basis for the adoption of the transfer plan
13 ordinance.

14 (6) Upon the transfer of all of the community
15 development services of the district to a general-purpose unit
16 of local government, the district shall be terminated in
17 accordance with a plan of termination which shall be adopted
18 by the board of supervisors and filed with the clerk of the
19 circuit court.

20 (7) If, within 5 years after the effective date of the
21 rule or ordinance establishing ~~creating~~ the district, a
22 landowner has not received a development permit, as defined in
23 chapter 380, on some part or all of the area covered by the
24 district, then the district will be automatically dissolved
25 and a judge of the circuit court shall cause a statement to
26 that effect to be filed in the public records.

27 (8) In the event the district has become inactive
28 pursuant to s. 189.4044, the respective board of county
29 commissioners or city commission shall be informed and it
30 shall take appropriate action.

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1 (9) If a district has no outstanding financial
2 obligations and no operating or maintenance responsibilities,
3 upon the petition of the district, the district may be
4 dissolved by a nonemergency ordinance of the general-purpose
5 local governmental entity that established the district or, if
6 the district was established by rule of the Florida Land and
7 Water Adjudicatory Commission, the district may be dissolved
8 by repeal of such rule of the commission.

9 Section 3. Section 190.006, Florida Statutes, is
10 amended to read:

11 190.006 Board of supervisors; members and meetings.--

12 (1) The board of the district shall exercise the
13 powers granted to the district pursuant to this act. The board
14 shall consist of five members; except as otherwise provided
15 herein, each member shall hold office for a term of 2 years or
16 4 years, as provided in this section,and until a successor is
17 chosen and qualifies. The members of the board must be
18 residents of the state and citizens of the United States.

19 (2)(a) Within 90 days following the effective date of
20 the rule or ordinance establishing the district, there shall
21 be held a meeting of the landowners of the district for the
22 purpose of electing five supervisors for the district. Notice
23 of the landowners' meeting shall be published once a week for
24 2 consecutive weeks in a newspaper which is in general
25 circulation in the area of the district, the last day of such
26 publication to be not fewer than 14 days or more than 28 days
27 before the date of the election. The landowners, when
28 assembled at such meeting, shall organize by electing a chair
29 who shall conduct the meeting. The chair may be any person
30 present at the meeting. If the chair is a landowner or proxy
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1 holder of a landowner, he or she may nominate candidates and
2 make and second motions.

3 (b) At such meeting, each landowner shall be entitled
4 to cast one vote per acre of land owned by him or her and
5 located within the district for each person to be elected. A
6 landowner may vote in person or by proxy in writing. Each
7 proxy must be signed by one of the legal owners of the
8 property for which the vote is cast and must contain the typed
9 or printed name of the individual who signed the proxy; the
10 street address, legal description of the property, or tax
11 parcel identification number; and the number of authorized
12 votes. If the proxy authorizes more than one vote, each
13 property must be listed and the number of acres of each
14 property must be included. The signature on a proxy need not
15 be notarized.A fraction of an acre shall be treated as 1
16 acre, entitling the landowner to one vote with respect
17 thereto. The two candidates receiving the highest number of
18 votes shall be elected for a period of 4 years, and the three
19 candidates receiving the next largest number of votes shall be
20 elected for a period of 2 years, with the term of office for
21 each successful candidate commencing upon election. The
22 members of the first board elected by landowners shall serve
23 their respective 4-year or 2-year terms; however, the next
24 election by landowners shall be held on the first Tuesday in
25 November. Thereafter, there shall be an election of
26 supervisors for the district every 2 years in November on a
27 date established by the board and noticed pursuant to
28 paragraph (a). The second and subsequent landowners' election
29 shall be announced at a public meeting of the board at least
30 90 days prior to the date of the landowners' meeting and shall
31 also be noticed pursuant to paragraph (a). Instructions on how

1 all landowners may participate in the election, along with
2 sample proxies, shall be provided during the board meeting
3 that announces the landowners' meeting.The two candidates
4 receiving the highest number of votes shall be elected to
5 serve for a 4-year period, and the remaining candidate elected
6 shall serve for a 2-year period.

7 (3)(a)1. If the board proposes to exercise the ad
8 valorem taxing power authorized by s. 190.021, the district
9 board shall call an election at which the members of the board
10 of supervisors will be elected. Such election shall be held
11 in conjunction with a primary or general election unless the
12 district bears the cost of a special election. Each member
13 shall be elected by the qualified electors of the district for
14 a term of 4 years, except that, at the first such election,
15 three members shall be elected for a period of 4 years and two
16 members shall be elected for a period of 2 years. All elected
17 board members must be qualified electors of the district.

18 2.a. Regardless of whether a district has proposed to
19 levy ad valorem taxes, commencing 6 years after the initial
20 appointment of members or, for a district exceeding 5,000
21 acres in area, 10 years after the initial appointment of
22 members, the position of each member whose term has expired
23 shall be filled by a qualified elector of the district,
24 elected by the qualified electors of the district. However,
25 for those districts established after June 21, 1991, and for
26 those existing districts established after December 31, 1983,
27 which have less than 50 qualified electors on June 21, 1991,
28 sub-subparagraphs b. and d.c. shall apply.

29 ~~b. For those districts to which this sub-subparagraph~~
30 ~~applies~~ If, in the 6th year after the initial appointment of
31 members, or 10 years after such initial appointment for

1 districts exceeding 5,000 acres in area, there are not at
2 least 250 qualified electors in the district, or for a
3 district exceeding 5,000 acres, there are not at least 500
4 qualified electors, members of the board shall continue to be
5 elected by landowners.

6 b. After the 6th or 10th year, once a district reaches
7 250 or 500 qualified electors, respectively, then the
8 ~~positions~~ position of two board members whose terms are
9 expiring shall be filled by qualified electors of the
10 district, elected by the qualified electors of the district
11 for 4-year terms. ~~One of these board members shall serve a~~
12 ~~2-year term, and the other a 4-year term.~~ The remaining board
13 member whose term is expiring shall be elected for a 4-year
14 term by the landowners and is not required to be a qualified
15 elector. Thereafter, as terms expire, board members shall be
16 qualified electors elected by qualified electors of the
17 district for a term of 4 years.

18 c. Once a district qualifies to have any of its board
19 members elected by the qualified electors of the district, the
20 initial and all subsequent elections by the qualified electors
21 of the district shall be held at the general election in
22 November. The board shall adopt a resolution if necessary to
23 implement this requirement when the board determines the
24 number of qualified electors as required by sub-subparagraph
25 d., to extend or reduce the terms of current board members.

26 d.c. On or before June 1 ~~July 15~~ of each year, the
27 board shall determine the number of qualified electors in the
28 district as of the immediately preceding April 15 ~~June 1~~. The
29 board shall use and rely upon the official records maintained
30 by the supervisor of elections and property appraiser or tax
31 collector in each county in making this determination. Such

1 determination shall be made at a properly noticed meeting of
2 the board and shall become a part of the official minutes of
3 the district.

4 (b) Elections of board members by qualified electors
5 held pursuant to this subsection shall be nonpartisan and
6 shall be conducted in the manner prescribed by law for holding
7 general elections. Board members shall assume the office on
8 the second Tuesday following their election.

9 (c) Candidates seeking election to office by qualified
10 electors under this subsection shall conduct their campaigns
11 in accordance with the provisions of chapter 106 and shall
12 file qualifying papers and qualify for individual seats in
13 accordance with s. 99.061. Candidates shall pay a qualifying
14 fee, which shall consist of a filing fee and an election
15 assessment or, as an alternative, shall file a petition signed
16 by not less than 1 percent of the registered voters of the
17 district, ~~Candidates shall file petitions,~~ and take the oath
18 required in s. 99.021, with the supervisor of elections in the
19 county affected by such candidacy. The amount of the filing
20 fee is 3 percent of \$4,800; however, if the electors have
21 provided for compensation pursuant to subsection (8), the
22 amount of the filing fee is 3 percent of the maximum annual
23 compensation so provided. The amount of the election
24 assessment is 1 percent of \$4,800; however, if the electors
25 have provided for compensation pursuant to subsection (8), the
26 amount of the election assessment is 1 percent of the maximum
27 annual compensation so provided. The filing fee and election
28 assessment shall be distributed as provided in s. 105.031(3).

29 (d) The supervisor of elections shall appoint the
30 inspectors and clerks of elections, prepare and furnish the
31 ballots, designate polling places, and canvass the returns of

1 the election of board members by qualified electors. The
2 county canvassing board ~~of county commissioners~~ shall declare
3 and certify the results of the election.

4 (4) Members of the board shall be known as supervisors
5 and, upon entering into office, shall take and subscribe to
6 the oath of office as prescribed by s. 876.05. They shall
7 hold office for the terms for which they were elected or
8 appointed and until their successors are chosen and qualified.
9 If, during the term of office, a vacancy occurs, the remaining
10 members of the board shall fill the vacancy by an appointment
11 for the remainder of the unexpired term.

12 (5) A majority of the members of the board constitutes
13 a quorum for the purposes of conducting its business and
14 exercising its powers and for all other purposes. Action
15 taken by the district shall be upon a vote of a majority of
16 the members present unless general law or a rule of the
17 district requires a greater number.

18 (6) As soon as practicable after each election or
19 appointment, the board shall organize by electing one of its
20 members as chair and by electing a secretary, who need not be
21 a member of the board, and such other officers as the board
22 may deem necessary.

23 (7) The board shall keep a permanent record book
24 entitled "Record of Proceedings of ...(name of district)...
25 Community Development District," in which shall be recorded
26 minutes of all meetings, resolutions, proceedings,
27 certificates, bonds given by all employees, and any and all
28 corporate acts. The record book shall at reasonable times be
29 opened to inspection in the same manner as state, county, and
30 municipal records pursuant to chapter 119. The record book
31 shall be kept at the office or other regular place of business

1 maintained by the board in the county or municipality in which
2 the district is located or within the boundaries of a
3 development of regional impact or Florida Quality Development,
4 or combination of a development of regional impact and Florida
5 Quality Development, which includes the district.

6 (8) Each supervisor shall be entitled to receive for
7 his or her services an amount not to exceed \$200 per meeting
8 of the board of supervisors, not to exceed \$4,800 per year per
9 supervisor, or an amount established by the electors at
10 referendum. In addition, each supervisor shall receive travel
11 and per diem expenses as set forth in s. 112.061.

12 (9) All meetings of the board shall be open to the
13 public and governed by the provisions of chapter 286.

14 Section 4. This act shall take effect upon becoming a
15 law.

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