

CHAMBER ACTION

1 The Committee on Local Government & Veterans' Affairs recommends  
2 the following:

3  
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to community development districts;  
8 amending s. 190.006, F.S.; specifying procedures for  
9 selecting a chair at the initial landowners' meeting;  
10 specifying requirements for proxy voting; requiring notice  
11 of landowners' elections; specifying the terms of certain  
12 supervisors; providing for certain future elections to be  
13 held at the general election in November; requiring a  
14 resolution of the board if necessary to conform to the  
15 November general election cycle; providing for nonpartisan  
16 elections; specifying the time that resident supervisors  
17 assume office; authorizing the supervisor of elections to  
18 designate seat numbers for resident supervisors of the  
19 board; providing procedures for filing qualifying papers;  
20 allowing candidates the option of paying a filing fee to  
21 qualify for the election; specifying payment requirements;  
22 specifying the number of petition signatures required to  
23 qualify for the election; requiring the county canvassing

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24 board to certify the results of resident elections;  
 25 amending s. 190.012, F.S.; authorizing districts to adopt  
 26 rules to enforce real property use and operation deed  
 27 restrictions; providing a definition; providing  
 28 requirements and limitations; authorizing districts to  
 29 impose fines and enforce rules and fines through  
 30 injunctive relief; amending s. 190.046, F.S.; providing  
 31 for additional dissolution procedures; providing an  
 32 effective date.

33

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

35

36 Section 1. Subsections (1), (2), and (3) of section  
 37 190.006, Florida Statutes, are amended to read:

38 190.006 Board of supervisors; members and meetings.--

39 (1) The board of the district shall exercise the powers  
 40 granted to the district pursuant to this act. The board shall  
 41 consist of five members; except as otherwise provided herein,  
 42 each member shall hold office for a term of 2 years or 4 years,  
 43 as provided in this section, and until a successor is chosen and  
 44 qualifies. The members of the board must be residents of the  
 45 state and citizens of the United States.

46 (2)(a) Within 90 days following the effective date of the  
 47 rule or ordinance establishing the district, there shall be held  
 48 a meeting of the landowners of the district for the purpose of  
 49 electing five supervisors for the district. Notice of the  
 50 landowners' meeting shall be published once a week for 2  
 51 consecutive weeks in a newspaper which is in general circulation

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52 | in the area of the district, the last day of such publication to  
53 | be not fewer than 14 days or more than 28 days before the date  
54 | of the election. The landowners, when assembled at such  
55 | meeting, shall organize by electing a chair who shall conduct  
56 | the meeting. The chair may be any person present at the meeting.  
57 | If the chair is a landowner or proxy holder of a landowner, he  
58 | or she may nominate candidates and make and second motions.

59 | (b) At such meeting, each landowner shall be entitled to  
60 | cast one vote per acre of land owned by him or her and located  
61 | within the district for each person to be elected. A landowner  
62 | may vote in person or by proxy in writing. Each proxy must be  
63 | signed by one of the legal owners of the property for which the  
64 | vote is cast and must contain the typed or printed name of the  
65 | individual who signed the proxy; the street address, legal  
66 | description of the property, or tax parcel identification  
67 | number; and the number of authorized votes. If the proxy  
68 | authorizes more than one vote, each property must be listed and  
69 | the number of acres of each property must be included. The  
70 | signature on a proxy need not be notarized. A fraction of an  
71 | acre shall be treated as 1 acre, entitling the landowner to one  
72 | vote with respect thereto. The two candidates receiving the  
73 | highest number of votes shall be elected for a period of 4  
74 | years, and the three candidates receiving the next largest  
75 | number of votes shall be elected for a period of 2 years, with  
76 | the term of office for each successful candidate commencing upon  
77 | election. The members of the first board elected by landowners  
78 | shall serve their respective 4-year or 2-year terms; however,  
79 | the next election by landowners shall be held on the first

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80 Tuesday in November. Thereafter, there shall be an election of  
81 supervisors for the district every 2 years in November on a date  
82 established by the board and noticed pursuant to paragraph (a).  
83 The second and subsequent landowners' election shall be  
84 announced at a public meeting of the board at least 90 days  
85 prior to the date of the landowners' meeting and shall also be  
86 noticed pursuant to paragraph (a). Instructions on how all  
87 landowners may participate in the election, along with sample  
88 proxies, shall be provided during the board meeting that  
89 announces the landowners' meeting. The two candidates receiving  
90 the highest number of votes shall be elected to serve for a 4-  
91 year period, and the remaining candidate elected shall serve for  
92 a 2-year period.

93 (3)(a)1. If the board proposes to exercise the ad valorem  
94 taxing power authorized by s. 190.021, the district board shall  
95 call an election at which the members of the board of  
96 supervisors will be elected. Such election shall be held in  
97 conjunction with a primary or general election unless the  
98 district bears the cost of a special election. Each member  
99 shall be elected by the qualified electors of the district for a  
100 term of 4 years, except that, at the first such election, three  
101 members shall be elected for a period of 4 years and two members  
102 shall be elected for a period of 2 years. All elected board  
103 members must be qualified electors of the district.

104 2.a. Regardless of whether a district has proposed to levy  
105 ad valorem taxes, commencing 6 years after the initial  
106 appointment of members or, for a district exceeding 5,000 acres  
107 in area, 10 years after the initial appointment of members, the

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108 position of each member whose term has expired shall be filled  
 109 by a qualified elector of the district, elected by the qualified  
 110 electors of the district. However, for those districts  
 111 established after June 21, 1991, and for those existing  
 112 districts established after December 31, 1983, which have less  
 113 than 50 qualified electors on June 21, 1991, sub-subparagraphs  
 114 b. and d. ~~e.~~ shall apply.

115 ~~b. For those districts to which this sub-subparagraph~~  
 116 ~~applies~~ If, in the 6th year after the initial appointment of  
 117 members, or 10 years after such initial appointment for  
 118 districts exceeding 5,000 acres in area, there are not at least  
 119 250 qualified electors in the district, or for a district  
 120 exceeding 5,000 acres, there are not at least 500 qualified  
 121 electors, members of the board shall continue to be elected by  
 122 landowners.

123 b. After the 6th or 10th year, once a district reaches 250  
 124 or 500 qualified electors, respectively, then the positions  
 125 ~~position~~ of two board members whose terms are expiring shall be  
 126 filled by qualified electors of the district, elected by the  
 127 qualified electors of the district for 4-year terms. ~~One of~~  
 128 ~~these board members shall serve a 2-year term, and the other a~~  
 129 ~~4-year term.~~ The remaining board member whose term is expiring  
 130 shall be elected for a 4-year term by the landowners and is not  
 131 required to be a qualified elector. Thereafter, as terms expire,  
 132 board members shall be qualified electors elected by qualified  
 133 electors of the district for a term of 4 years.

134 c. Once a district qualifies to have any of its board  
 135 members elected by the qualified electors of the district, the

136 initial and all subsequent elections by the qualified electors  
 137 of the district shall be held at the general election in  
 138 November. If necessary to implement this requirement, the board  
 139 shall adopt a resolution, when the board determines the number  
 140 of qualified electors as required by sub-subparagraph d., to  
 141 extend or reduce the terms of current board members.

142 ~~d.e.~~ On or before June 1 ~~July 15~~ of each year, the board  
 143 shall determine the number of qualified electors in the district  
 144 as of the immediately preceding April 15 ~~June 1~~. The board shall  
 145 use and rely upon the official records maintained by the  
 146 supervisor of elections and property appraiser or tax collector  
 147 in each county in making this determination. Such determination  
 148 shall be made at a properly noticed meeting of the board and  
 149 shall become a part of the official minutes of the district.

150 (b) Elections of board members by qualified electors held  
 151 pursuant to this subsection shall be nonpartisan and shall be  
 152 conducted in the manner prescribed by law for holding general  
 153 elections. Board members shall assume the office on the second  
 154 Tuesday following their election.

155 (c) Candidates seeking election to office by qualified  
 156 electors under this subsection shall conduct their campaigns in  
 157 accordance with the provisions of chapter 106 and shall file  
 158 qualifying papers and qualify for individual seats in accordance  
 159 with s. 99.061. Candidates shall pay a qualifying fee, which  
 160 shall consist of a filing fee and an election assessment, or, as  
 161 an alternative, shall file a petition signed by not less than 1  
 162 percent of the registered voters of the district ~~file petitions,~~  
 163 and take the oath required in s. 99.021, with the supervisor of

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164 | elections in the county affected by such candidacy. The amount  
 165 | of the filing fee is 3 percent of \$4,800; however, if the  
 166 | electors have provided for compensation pursuant to subsection  
 167 | (8), the amount of the filing fee is 3 percent of the maximum  
 168 | annual compensation so provided. The amount of the election  
 169 | assessment is 1 percent of \$4,800; however, if the electors have  
 170 | provided for compensation pursuant to subsection (8), the amount  
 171 | of the election assessment is 1 percent of the maximum annual  
 172 | compensation so provided. The filing fee and election assessment  
 173 | shall be distributed as provided in s. 105.031(3).

174 |         (d) The supervisor of elections shall appoint the  
 175 | inspectors and clerks of elections, prepare and furnish the  
 176 | ballots, designate polling places, and canvass the returns of  
 177 | the election of board members by qualified electors. The county  
 178 | canvassing board ~~of county commissioners~~ shall declare and  
 179 | certify the results of the election.

180 |         Section 2. Subsection (4) is added to section 190.012,  
 181 | Florida Statutes, to read:

182 |         190.012 Special powers; public improvements and community  
 183 | facilities.--The district shall have, and the board may  
 184 | exercise, subject to the regulatory jurisdiction and permitting  
 185 | authority of all applicable governmental bodies, agencies, and  
 186 | special districts having authority with respect to any area  
 187 | included therein, any or all of the following special powers  
 188 | relating to public improvements and community facilities  
 189 | authorized by this act:

190 |         (4)(a) To adopt rules necessary for the district to  
 191 | enforce certain deed restrictions pertaining to the use and

192 operation of real property within the district. For the purpose  
 193 of this subsection, the term "deed restrictions" means those  
 194 covenants, conditions, and restrictions contained in any  
 195 applicable declarations of covenants and restrictions that  
 196 govern the use and operation of real property within the  
 197 district and for which covenants, conditions, and restrictions  
 198 there is no homeowners' association having enforcement powers.  
 199 The district may adopt by rule all or certain portions of the  
 200 deed restrictions that:

201 1. Relate to limitations or prohibitions that only apply  
 202 external to structures and are deemed by the district to be  
 203 generally beneficial for the district's landowners and for which  
 204 enforcement by the district is appropriate, as determined by the  
 205 district's board of supervisors from time to time; or

206 2. Are consistent with the requirements of development  
 207 order conditions or regulatory agency permit conditions.

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

210 1. The district's geographic area contains no homeowners'  
 211 associations as defined in s. 720.301(7).

212 2. The district was in existence on the effective date of  
 213 this subsection or is located within a development that consists  
 214 of multiple developments of regional impact and a Florida  
 215 Quality Development.

216 3. The majority of the board has been elected by qualified  
 217 electors pursuant to the provisions of s. 190.006.



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218           4. The declarant in any applicable declarations of  
 219 covenants and restrictions has provided the board with a written  
 220 agreement that such rules may be adopted.

221           (c) Within 60 days after such rules take effect, the  
 222 district shall record a notice of rule adoption stating  
 223 generally what rules were adopted and where a copy of the rules  
 224 may be obtained. Districts may impose fines for violations of  
 225 such rules and to enforce such rules and fines in circuit court  
 226 through injunctive relief.

227           Section 3. Paragraphs (b) and (c) of subsection (2) and  
 228 subsections (7) and (8) of section 190.046, Florida Statutes,  
 229 are amended, and subsection (9) is added to said section, to  
 230 read:

231           190.046 Termination, contraction, or expansion of  
 232 district.--

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

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

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

240           (7) If, within 5 years after the effective date of the  
 241 rule or ordinance establishing ~~creating~~ the district, a  
 242 landowner has not received a development permit, as defined in  
 243 chapter 380, on some part or all of the area covered by the  
 244 district, then the district will be automatically dissolved and

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245 a judge of the circuit court shall cause a statement to that  
246 effect to be filed in the public records.

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

251 (9) If a district has no outstanding financial obligations  
252 and no operating or maintenance responsibilities, upon the  
253 petition of the district, the district may be dissolved by a  
254 nonemergency ordinance of the general-purpose local governmental  
255 entity that established the district or, if the district was  
256 established by rule of the Florida Land and Water Adjudicatory  
257 Commission, the district may be dissolved by repeal of such rule  
258 of the commission.

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