



787026

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/3/2008	.	
	.	
	.	

1 The Committee on Environmental Preservation and Conservation
 2 (Jones) recommended the following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7 Section 1. Subsection (2) of section 190.012, Florida
 8 Statutes, is amended to read:

9 190.012 Special powers; public improvements and community
 10 facilities.--The district shall have, and the board may exercise,
 11 subject to the regulatory jurisdiction and permitting authority
 12 of all applicable governmental bodies, agencies, and special
 13 districts having authority with respect to any area included
 14 therein, any or all of the following special powers relating to
 15 public improvements and community facilities authorized by this
 16 act:

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17 (2) After the local general-purpose government within the
18 jurisdiction of which a power specified in this subsection is to
19 be exercised consents to the exercise of such power by the
20 district, the district shall have the power to plan, establish,
21 acquire, construct or reconstruct, enlarge or extend, equip,
22 operate, and maintain additional systems and facilities for:

23 (a) Parks and facilities for indoor and outdoor
24 recreational, cultural, and educational uses.

25 (b) Fire prevention and control, including fire stations,
26 water mains and plugs, fire trucks, and other vehicles and
27 equipment.

28 (c) School buildings and related structures and site
29 improvements, which may be leased, sold, or donated to the school
30 district, for use in the educational system when authorized by
31 the district school board.

32 (d) Security, including, but not limited to, guardhouses,
33 fences and gates, electronic intrusion-detection systems, and
34 patrol cars, when authorized by proper governmental agencies;
35 except that the district may not exercise any police power, but
36 may contract with the appropriate local general-purpose
37 government agencies for an increased level of such services
38 within the district boundaries. Security systems and facilities
39 constructed pursuant to this section are authorized, including
40 guardhouses, fences, and gates, which enclose or restrict access
41 to roads. A local general-purpose government may not prohibit the
42 construction, installation, or use of such security systems and
43 facilities after it has consented to the exercise of such power
44 by the district.

45 (e) Control and elimination of mosquitoes and other
46 arthropods of public health importance.



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47 (f) Waste collection and disposal.

48 Section 2. Subsection (6) is added to section 373.413,
49 Florida Statutes, to read:

50 373.413 Permits for construction or alteration.--

51 (6) (a) As a condition of any permit issued under this part
52 for a stormwater management system, the applicant shall
53 demonstrate financial responsibility for the construction of the
54 system, or independent phase thereof, and for operation and
55 maintenance of the system for 5 years after the system is
56 certified by an appropriate professional in this state and the
57 department or water management district determines that the
58 construction or alteration has been completed and substantially
59 conforms to the approved plans and specifications in the permit.

60 (b) The form and content of the financial responsibility
61 mechanism shall be approved by the department or the water
62 management district as part of permit application review. The
63 department or water management district shall release the
64 construction portion of the financial responsibility mechanism
65 after the system has been certified and the department or water
66 management district has determined that the system has been
67 constructed in substantial compliance with the terms and
68 conditions of the permit. The department or water management
69 district shall release the operation and maintenance portion of
70 the financial responsibility within 1 month after approving the
71 transfer of the permit to the operating entity specified in the
72 permit.

73 (c) This subsection does not limit the existing authority
74 of the department or governing board to otherwise require a
75 demonstration of financial responsibility for construction,

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76 alteration, or operation and maintenance of a stormwater
77 management system.

78 Section 3. Section 373.436, Florida Statutes, is amended to
79 read:

80 373.436 Remedial measures.--

81 (1) Upon completion of any inspection provided for by s.
82 373.423(3), the executive director or the department shall
83 determine what alterations or repairs are necessary and order
84 that such alterations and repairs shall be made within a time
85 certain, which shall be a reasonable time. The owner of such
86 stormwater management system, dam, impoundment, reservoir,
87 appurtenant work, or works may file a written petition for
88 hearing before the governing board or the department no later
89 than 14 days after such order is served. If, after such order
90 becomes final, the owner shall fail to make the specified
91 alterations or repairs, the governing board or the department
92 may, in its discretion, cause such alterations or repairs to be
93 made.

94 (2) Any cost to the district or the department of
95 alterations or repairs made by it under the provisions of
96 subsection (1) shall be a lien against the property of the
97 landowner on whose lands the alterations or repairs are made
98 until the governing board or department is reimbursed, with
99 reasonable interest and attorney's fees, for its costs. If the
100 permitted stormwater management system, dam, impoundment,
101 reservoir, appurtenant, or work was designed to serve the
102 property of multiple landowners, the district or department shall
103 have a lien against each of those landowners in a proportional
104 amount to reimburse the permitting agency for its costs.



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105 Section 4. Subsection (2) of section 720.303, Florida
106 Statutes, is amended to read:

107 720.303 Association powers and duties; meetings of board;
108 official records; budgets; financial reporting; association
109 funds; recalls.--

110 (2) BOARD MEETINGS.--

111 (a) A meeting of the board of directors of an association
112 occurs whenever a quorum of the board gathers to conduct
113 association business. All meetings of the board must be open to
114 all members except for meetings between the board and its
115 attorney with respect to proposed or pending litigation where the
116 contents of the discussion would otherwise be governed by the
117 attorney-client privilege. The provisions of this subsection
118 shall also apply to the meetings of any committee or other
119 similar body when a final decision will be made regarding the
120 expenditure of association funds and to meetings of any body
121 vested with the power to approve or disapprove architectural
122 decisions with respect to a specific parcel of residential
123 property owned by a member of the community.

124 (b) Members have the right to attend all meetings of the
125 board and to speak on any matter placed on the agenda by petition
126 of the voting interests for at least 3 minutes. The association
127 may adopt written reasonable rules expanding the right of members
128 to speak and governing the frequency, duration, and other manner
129 of member statements, which rules must be consistent with this
130 paragraph and may include a sign-up sheet for members wishing to
131 speak. Notwithstanding any other law, the requirement that board
132 meetings and committee meetings be open to the members is
133 inapplicable to meetings between the board or a committee and the



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134 association's attorney, with respect to meetings of the board
135 held for the purpose of discussing personnel matters.

136 (c) The bylaws shall provide for giving notice to parcel
137 owners and members of all board meetings and, if they do not do
138 so, shall be deemed to provide the following:

139 1. Notices of all board meetings must be posted in a
140 conspicuous place in the community at least 48 hours in advance
141 of a meeting, except in an emergency. In the alternative, if
142 notice is not posted in a conspicuous place in the community,
143 notice of each board meeting must be mailed or delivered to each
144 member at least 7 days before the meeting, except in an
145 emergency. Notwithstanding this general notice requirement, for
146 communities with more than 100 members, the bylaws may provide
147 for a reasonable alternative to posting or mailing of notice for
148 each board meeting, including publication of notice, provision of
149 a schedule of board meetings, or the conspicuous posting and
150 repeated broadcasting of the notice on a closed-circuit cable
151 television system serving the homeowners' association. However,
152 if broadcast notice is used in lieu of a notice posted physically
153 in the community, the notice must be broadcast at least four
154 times every broadcast hour of each day that a posted notice is
155 otherwise required. When broadcast notice is provided, the notice
156 and agenda must be broadcast in a manner and for a sufficient
157 continuous length of time so as to allow an average reader to
158 observe the notice and read and comprehend the entire content of
159 the notice and the agenda. The bylaws or amended bylaws may
160 provide for giving notice by electronic transmission in a manner
161 authorized by law for meetings of the board of directors,
162 committee meetings requiring notice under this section, and
163 annual and special meetings of the members; however, a member



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164 must consent in writing to receiving notice by electronic
165 transmission.

166 2. An assessment may not be levied at a board meeting
167 unless the notice of the meeting includes a statement that
168 assessments will be considered and the nature of the assessments.
169 Written notice of any meeting at which special assessments will
170 be considered or at which amendments to rules regarding parcel
171 use will be considered must be mailed, delivered, or
172 electronically transmitted to the members and parcel owners and
173 posted conspicuously on the property or broadcast on closed-
174 circuit cable television not less than 14 days before the
175 meeting.

176 3. Directors may not vote by proxy or by secret ballot at
177 board meetings, except that secret ballots may be used in the
178 election of officers. This subsection also applies to the
179 meetings of any committee or other similar body, when a final
180 decision will be made regarding the expenditure of association
181 funds, and to any body vested with the power to approve or
182 disapprove architectural decisions with respect to a specific
183 parcel of residential property owned by a member of the
184 community.

185 (d) If 20 percent of the total voting interests petition
186 the board to address an item of business, the board shall at its
187 next regular board meeting or at a special meeting of the board,
188 but not later than 60 days after the receipt of the petition,
189 take the petitioned item up on an agenda. The board shall give
190 all members notice of the meeting at which the petitioned item
191 shall be addressed in accordance with the 14-day notice
192 requirement pursuant to subparagraph (c)2. Each member shall have
193 the right to speak for at least 3 minutes on each matter placed



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194 on the agenda by petition, provided that the member signs the
195 sign-up sheet, if one is provided, or submits a written request
196 to speak prior to the meeting. Other than addressing the
197 petitioned item at the meeting, the board is not obligated to
198 take any other action requested by the petition.

199 (e) A board member who violates the provisions of this
200 subsection commits a noncriminal infraction punishable by a fine
201 not exceeding \$500. A board member who violates the provisions of
202 this subsection a second or subsequent time commits a noncriminal
203 infraction punishable by a fine not to exceed \$1,000. A board
204 member who knowingly violates the provisions of this subsection a
205 third or subsequent time commits a misdemeanor of the first
206 degree, punishable as provided in s. 775.082 or s. 775.083.

207 Section 5. Subsection (7) is added to section 720.304,
208 Florida Statutes, to read:

209 720.304 Right of owners to peaceably assemble; display of
210 flag; SLAPP suits prohibited.--

211 (7) Any parcel owner may display a sign of reasonable size
212 advertising the sale of the parcel within the boundaries of the
213 parcel.

214 Section 6. Subsection (4) of section 720.307, Florida
215 Statutes, is renumbered as subsection (5), and a new subsection
216 (4) is added to that section, to read:

217 720.307 Transition of association control in a
218 community.--With respect to homeowners' associations:

219 (4) Prior to relinquishing control of the homeowners'
220 association, the developer shall ensure that any stormwater
221 management system, dam, impoundment, reservoir, appurtenant, or
222 works meets the requirements of s. 373.413(6).



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223 Section 7. Section 861.01, Florida Statutes, is amended to
224 read:

225 861.01 Obstructing highway.--Whoever obstructs any public
226 road or established highway by fencing across or into the same or
227 by willfully causing any other obstruction in or to such road or
228 highway, or any part thereof, shall be guilty of a misdemeanor of
229 the first degree, punishable as provided in s. 775.082 or s.
230 775.083, and the judgment of the court shall also be that the
231 obstruction be removed. This section does not apply to a security
232 system or facility constructed pursuant to s. 190.012.

233 Section 8. This act shall take effect July 1, 2008.

234
235 ===== T I T L E A M E N D M E N T =====

236 And the title is amended as follows:

237 Delete everything before the enacting clause
238 and insert:

239 A bill to be entitled
240 An act relating to homeowners' associations; amending s.
241 190.012, F.S.; authorizing the use of certain security
242 systems by community development districts; amending s.
243 373.413, F.S.; requiring applicants for permits to
244 construct stormwater management systems to demonstrate
245 financial responsibility for the construction and
246 operation of the systems; amending s. 373.436, F.S.;
247 providing that a lien is created against all property
248 served by certain stormwater management systems if certain
249 costs incurred by a water management district or the
250 Department of Environmental Protection are not reimbursed
251 by such landowners; amending s. 720.303, F.S.; providing
252 penalties for homeowners' association board members who

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253 | violate certain provisions relating to the conduct of
254 | board meetings; amending s. 720.304, F.S.; allowing
255 | property owners who are members of a homeowners'
256 | association to display a "for sale" sign on their
257 | property; amending s. 720.307, F.S.; requiring developers
258 | to comply with certain permitting requirements relating to
259 | financial responsibility for the construction or
260 | alteration on stormwater management systems before
261 | relinquishing control of homeowners' associations;
262 | amending s. 861.01, F.S.; exempting certain fencing
263 | systems from a prohibition against obstructing public
264 | roads and highways; providing an effective date.