

By Senator Baker

20-01557A-09

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1                   A bill to be entitled  
2           An act relating to community development districts;  
3           amending s. 190.012, F.S.; revising the rulemaking  
4           authority of boards of directors of community  
5           development districts with respect to enforcement of  
6           deed restrictions; authorizing district boards to  
7           enforce rule violations in circuit court; providing an  
8           effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

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12           Section 1. Subsection (4) of section 190.012, Florida  
13 Statutes, is amended to read:

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

22           (4) (a) To adopt rules necessary for the district to enforce  
23 certain deed restrictions pertaining to the use and operation of  
24 real property within the district and outside the district ~~if~~  
25 pursuant to an interlocal agreement under chapter 163 if within  
26 another district or, if not within another district, with the  
27 consent of the county or municipality in which the deed  
28 restriction enforcement is proposed to occur. For the purpose of  
29 this subsection, the term "deed restrictions" means ~~are~~ those

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30 covenants, conditions, ~~and~~ restrictions, compliance mechanisms,  
31 and enforcement remedies contained in any applicable  
32 declarations of covenants and restrictions that govern the use  
33 and operation of real property ~~within the district~~ and, for  
34 which covenants, conditions, and restrictions, there is no  
35 homeowners' association or property owner's association having  
36 respective enforcement powers unless, with respect to a  
37 homeowners' association whose board is under member control, the  
38 association and the district agree in writing to enforcement by  
39 the district. The district may adopt by rule all or certain  
40 portions of the deed restrictions that:

41 1. Relate to limitations, ~~or~~ prohibitions, compliance  
42 mechanisms, or enforcement remedies that apply only to external  
43 appearances or uses ~~structures~~ and are deemed by the district to  
44 be generally beneficial for the district's landowners and for  
45 which enforcement by the district is appropriate, as determined  
46 by the district's board of supervisors; or

47 2. Are consistent with the requirements of a development  
48 order or regulatory agency permit.

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

51 ~~1. The district's geographic area contains no homeowners'~~  
52 ~~associations as defined in s. 720.301(9);~~

53 ~~1.2.~~ The district was in existence on the effective date of  
54 this subsection, or is located within a development that  
55 consists of multiple developments of regional impact and a  
56 Florida Quality Development;

57 ~~2.3.~~ For residential districts, the majority of the board  
58 has been elected by qualified electors pursuant to the

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59 provisions of s. 190.006; and

60 ~~3.4.~~ The declarant in any applicable declarations of  
61 covenants and restrictions has provided the board with a written  
62 agreement that such rules may be adopted. A memorandum of the  
63 agreement shall be recorded in the public records.

64 (c) Within 60 days after such rules take effect, the  
65 district shall record a notice of rule adoption stating  
66 generally what rules were adopted and where a copy of the rules  
67 may be obtained. Districts may impose fines for violations of  
68 such rules and enforce such rules and fines in circuit court  
69 through injunctive relief.

70 (d) In addition to using the compliance mechanisms and  
71 enforcement remedies adopted pursuant to subparagraph (a)1., a  
72 district may enforce such rules in circuit court through  
73 injunctive relief as provided in s. 190.041.

74 Section 2. This act shall take effect July 1, 2009.