

The Florida Senate
HOUSE MESSAGE SUMMARY

Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/CS/CS/HB 735, Engrossed 2 (CS/SB 1046)

INTRODUCER: Judiciary Committee ; Local, Federal and Veterans Affairs Subcommittee ; Civil Justice and Claims Subcommittee ; and Rep. Edwards

SUBJECT:

DATE: May 5, 2017

I. Amendments Contained in Message:

Senate Amendment 1 — 892280 (body with title)

II. Summary of Amendments Contained in Message:

Senate Amendment 1 allows a county or municipality to amend, release, or terminate a covenant imposed as a condition of a development permit approval. The amendment also adds certain covenants and restrictions to the list of things extinguishable by MRTA. The amendment also states that the section may not be construed to alter or invalidate zoning ordinances, land development regulations, or the like that operate independently of matters recorded in the official records.

The amendment authorizes a lienholder in a real property mortgage foreclosure case to use any document filed under penalty of perjury in a bankruptcy court as an admission by the defendant, which can create a rebuttable presumption that the defendant has waived any defense to the foreclosure.

The amendment also does the following:

- Provides updated definitions and replaces the term “homeowners’ association” with “property owners’ association,” which extends statutes authorizing the preservation and revival of covenants and restrictions to a broader range of associations, notably commercial property owners’ associations;
- Updates the process for a homeowners’ association to timely renew its covenants, and lowers the vote requirement from a two-thirds vote to a majority vote for preservation of existing covenants and restrictions;
- Authorizes parcel owners who were subject to covenants and restrictions, but who do not have a homeowners’ association, to use the same mechanisms as a homeowners’ association to revitalize extinguished covenants and restrictions;
- Requires a homeowners’ association to annually consider preservation of the covenants and restrictions and requires that the association file a summary preservation every 5 years; and
- Conforms statutory and definitional cross-references.

Finally, the amendment authorizes persons to preserve certain interest or rights in property by filing a specified notice.