

By Senator Torres

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1                   A bill to be entitled  
2       An act relating to community development districts;  
3       amending s. 190.046, F.S.; authorizing certain  
4       entities to petition a court to dissolve a community  
5       development district with outstanding financial  
6       obligations or operating or maintenance  
7       responsibilities; providing procedures to be used by a  
8       court in appointing receivers; specifying court  
9       authorities in issuing orders concerning duties of a  
10      receiver; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14       Section 1. Section 190.046, Florida Statutes, is amended to  
15      read:

16       190.046 Termination, contraction, ~~or~~ expansion, or  
17      dissolution of district.—

18       (1) A landowner or the board may petition to contract or  
19      expand the boundaries of a community development district in the  
20      following manner:

21       (a) The petition shall contain the same information  
22      required by s. 190.005(1)(a)1. and 8. In addition, if the  
23      petitioner seeks to expand the district, the petition shall  
24      describe the proposed timetable for construction of any district  
25      services to the area, the estimated cost of constructing the  
26      proposed services, and the designation of the future general  
27      distribution, location, and extent of public and private uses of  
28      land proposed for the area by the future land use plan element  
29      of the adopted local government local comprehensive plan. If the

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30 petitioner seeks to contract the district, the petition shall  
31 describe what services and facilities are currently provided by  
32 the district to the area being removed, and the designation of  
33 the future general distribution, location, and extent of public  
34 and private uses of land proposed for the area by the future  
35 land element of the adopted local government comprehensive plan.

36 (b) For those districts initially established by county  
37 ordinance, the petition for ordinance amendment shall be filed  
38 with the county commission. If the land to be included or  
39 excluded is, in whole or in part, within the boundaries of a  
40 municipality, then the county commission shall not amend the  
41 ordinance without municipal approval. A public hearing shall be  
42 held in the same manner and with the same public notice as other  
43 ordinance amendments. The county commission shall consider the  
44 record of the public hearing and the factors set forth in s.  
45 190.005(1)(e) in making its determination to grant or deny the  
46 petition for ordinance amendment.

47 (c) For those districts initially established by municipal  
48 ordinance pursuant to s. 190.005(2)(e), the municipality shall  
49 assume the duties of the county commission set forth in  
50 paragraph (b); however, if any of the land to be included or  
51 excluded, in whole or in part, is outside the boundaries of the  
52 municipality, then the municipality shall not amend its  
53 ordinance without county commission approval.

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

58 2. Prior to filing the petition, the petitioner shall pay a

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59 filing fee of \$1,500, to the county if the district or the land  
60 to be added or deleted from the district is located within an  
61 unincorporated area or to the municipality if the district or  
62 the land to be added or deleted is located within an  
63 incorporated area, and to each municipality the boundaries of  
64 which are contiguous with or contain all or a portion of the  
65 land within or to be added to or deleted from the external  
66 boundaries of the district. The petitioner shall submit a copy  
67 of the petition to the same entities entitled to receive the  
68 filing fee. In addition, if the district is not the petitioner,  
69 the petitioner shall file the petition with the district board  
70 of supervisors.

71 3. Each county and each municipality shall have the option  
72 of holding a public hearing as provided by s. 190.005(1)(c).  
73 However, the public hearing shall be limited to consideration of  
74 the contents of the petition and whether the petition for  
75 amendment should be supported by the county or municipality.

76 4. The district board of supervisors shall, in lieu of a  
77 hearing officer, hold the local public hearing provided for by  
78 s. 190.005(1)(d). This local public hearing shall be noticed in  
79 the same manner as provided in s. 190.005(1)(d). Within 45 days  
80 of the conclusion of the hearing, the district board of  
81 supervisors shall transmit to the Florida Land and Water  
82 Adjudicatory Commission the full record of the local hearing,  
83 the transcript of the hearing, any resolutions adopted by the  
84 local general-purpose governments, and its recommendation  
85 whether to grant the petition for amendment. The commission  
86 shall then proceed in accordance with s. 190.005(1)(e).

87 5. A rule amending a district boundary shall describe the

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88 land to be added or deleted.

89 (e)1. During the existence of a district initially  
90 established by administrative rule, the process to amend the  
91 boundaries of the district pursuant to paragraphs (a)-(d) shall  
92 not permit a cumulative net total greater than 50 percent of the  
93 land in the initial district, and in no event greater than 1,000  
94 acres on a cumulative net basis.

95 2. During the existence of a district initially established  
96 by county or municipal ordinance, the process to amend the  
97 boundaries of the district pursuant to paragraphs (a)-(d) shall  
98 not permit a cumulative net total greater than 50 percent of the  
99 land in the initial district, and in no event greater than 1,000  
100 acres on a cumulative net basis.

101 (f) Petitions to amend the boundaries of the district that  
102 exceed the amount of land specified in paragraph (e) shall be  
103 processed in accordance with s. 190.005, and the petition shall  
104 include only the elements set forth in s. 190.005(1)(a)1. and  
105 5.-8. and the consent required by paragraph (g). However, the  
106 resulting administrative rule or ordinance may only amend the  
107 boundaries of the district and may not establish a new district  
108 or cause a new 6-year or 10-year period to begin pursuant to s.  
109 190.006(3)(a)2. The filing fee for such petitions shall be as  
110 set forth in s. 190.005(1)(b), as applicable.

111 (g) In all cases of a petition to amend the boundaries of a  
112 district, the filing of the petition by the district board of  
113 supervisors constitutes consent of the landowners within the  
114 district. In all cases, written consent of those landowners  
115 whose land is to be added to or deleted from the district as  
116 provided in s. 190.005(1)(a)2. is required.

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117 (h) For a petition to establish a new community development  
118 district of less than 2,500 acres on land located solely in one  
119 county or one municipality, sufficiently contiguous lands  
120 located within the county or municipality which the petitioner  
121 anticipates adding to the boundaries of the district within 10  
122 years after the effective date of the ordinance establishing the  
123 district may also be identified. If such sufficiently contiguous  
124 land is identified, the petition must include a legal  
125 description of each additional parcel within the sufficiently  
126 contiguous land, the current owner of the parcel, the acreage of  
127 the parcel, and the current land use designation of the parcel.  
128 At least 14 days before the hearing required under s.  
129 190.005(2)(b), the petitioner must give the current owner of  
130 each such parcel notice of filing the petition to establish the  
131 district, the date and time of the public hearing on the  
132 petition, and the name and address of the petitioner. A parcel  
133 may not be included in the district without the written consent  
134 of the owner of the parcel.

135 1. After establishment of the district, a person may  
136 petition the county or municipality to amend the boundaries of  
137 the district to include a previously identified parcel that was  
138 a proposed addition to the district before its establishment. A  
139 filing fee may not be charged for this petition. Each such  
140 petition must include:

141 a. A legal description by metes and bounds of the parcel to  
142 be added;

143 b. A new legal description by metes and bounds of the  
144 district;

145 c. Written consent of all owners of the parcel to be added;

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146 d. A map of the district including the parcel to be added;

147 e. A description of the development proposed on the  
148 additional parcel; and

149 f. A copy of the original petition identifying the parcel  
150 to be added.

151 2. Before filing with the county or municipality, the  
152 person must provide the petition to the district and to the  
153 owner of the proposed additional parcel, if the owner is not the  
154 petitioner.

155 3. Once the petition is determined sufficient and complete,  
156 the county or municipality must process the addition of the  
157 parcel to the district as an amendment to the ordinance that  
158 establishes the district. The county or municipality may process  
159 all petitions to amend the ordinance for parcels identified in  
160 the original petition, even if, by adding such parcels, the  
161 district exceeds 2,500 acres.

162 4. The petitioner shall cause to be published in a  
163 newspaper of general circulation in the proposed district a  
164 notice of the intent to amend the ordinance that establishes the  
165 district. The notice must be in addition to any notice required  
166 for adoption of the ordinance amendment. Such notice must be  
167 published at least 10 days before the scheduled hearing on the  
168 ordinance amendment and may be published in the section of the  
169 newspaper reserved for legal notices. The notice must include a  
170 general description of the land to be added to the district and  
171 the date and time of the scheduled hearing to amend the  
172 ordinance. The petitioner shall deliver, including by mail or  
173 hand delivery, the notice of the hearing on the ordinance  
174 amendment to the owner of the parcel and to the district at

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175 least 14 days before the scheduled hearing.

176 5. The amendment of a district by the addition of a parcel  
177 pursuant to this paragraph does not alter the transition from  
178 landowner voting to qualified elector voting pursuant to s.  
179 190.006, even if the total size of the district after the  
180 addition of the parcel exceeds 5,000 acres. Upon adoption of the  
181 ordinance expanding the district, the petitioner must cause to  
182 be recorded a notice of boundary amendment which reflects the  
183 new boundaries of the district.

184 6. This paragraph is intended to facilitate the orderly  
185 addition of lands to a district under certain circumstances and  
186 does not preclude the addition of lands to any district using  
187 the procedures in the other provisions of this section.

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

189 (a) The district is merged with another district as  
190 provided in subsection (3) or subsection (4);

191 (b) All of the specific community development systems,  
192 facilities, and services that it is authorized to perform have  
193 been transferred to a general-purpose unit of local government  
194 in the manner provided in subsections (5), (6), and (7); or

195 (c) The district is dissolved as provided in subsection  
196 (8), subsection (9), ~~or~~ subsection (10), or subsection (11).

197 (3) The district may merge with other community development  
198 districts upon filing a petition for merger, which petition  
199 shall include the elements set forth in s. 190.005(1) and which  
200 shall be evaluated using the criteria set forth in s.  
201 190.005(1)(e). The filing fee shall be as set forth in s.  
202 190.005(1)(b). In addition, the petition shall state whether a  
203 new district is to be established or whether one district shall

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204 be the surviving district. A community development district may  
205 also merge with another type of special district created by  
206 special act pursuant to the terms of that special act or by  
207 filing a petition for establishment of a new district pursuant  
208 to s. 190.005. The government formed by a merger involving a  
209 community development district pursuant to this section shall  
210 assume all indebtedness of, and receive title to, all property  
211 owned by the preexisting special districts, and the rights of  
212 creditors and liens upon property are not impaired by such  
213 merger. Any claim existing or action or proceeding pending by or  
214 against any district that is a party to the merger may be  
215 continued as if the merger had not occurred, or the surviving  
216 district may be substituted in the proceeding for the district  
217 that ceased to exist. Prior to filing a petition, the districts  
218 desiring to merge shall enter into a merger agreement and shall  
219 provide for the proper allocation of the indebtedness so assumed  
220 and the manner in which such debt shall be retired. The approval  
221 of the merger agreement and the petition by the board of  
222 supervisors of the district shall constitute consent of the  
223 landowners within the district. A community development district  
224 merging with another type of district may also enter into a  
225 merger agreement to address issues of transition, including the  
226 allocation of indebtedness and retirement of debt.

227 (4) (a) To achieve economies of scale, reduce costs to  
228 affected district residents and businesses in areas with  
229 multiple existing districts, and encourage the merger of  
230 multiple districts, up to five districts that were established  
231 by the same local general-purpose government and whose board  
232 memberships are composed entirely of qualified electors may



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233 merge into one surviving district through adoption of an  
234 ordinance by the local general-purpose government,  
235 notwithstanding the acreage limitations otherwise set forth for  
236 the establishment of a district in this chapter. The filing of a  
237 petition by the majority of the members of each district board  
238 of supervisors seeking to merge constitutes consent of the  
239 landowners within each applicable district.

240 (b) In addition to meeting the requirements of subsection  
241 (3), a merger agreement entered into between the district boards  
242 subject to this subsection must also:

243 1. Require the surviving merged district board to consist  
244 of five elected board members.

245 2. Require each at-large board seat to represent the entire  
246 geographic area of the surviving merged district.

247 3. Ensure that each district to be merged is entitled to  
248 elect at least one board member from its former boundary.

249 4. Ensure a fair allocation of board membership to  
250 represent the districts being merged. To that end:

251 a. If two districts merge, two board members shall be  
252 elected from each of the districts and one member shall be  
253 elected at-large.

254 b. If three districts merge, one board member shall be  
255 elected from each of the three districts and two board members  
256 shall be elected at-large.

257 c. If four districts merge, one board member shall be  
258 elected from each of the four districts and one board member  
259 shall be elected at-large.

260 d. If five districts merge, one board member shall be  
261 elected from each of the five districts.

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262           5. Require the election of board members for the surviving  
263 merged district to be held at the next general election  
264 following the merger, at which time all terms of preexisting  
265 board members shall end and the merger shall be legally in  
266 effect.

267           (c) Before filing the merger petition with the local  
268 general-purpose government under this subsection, each district  
269 proposing to merge must hold a public hearing within its  
270 district to provide information about and take public comment on  
271 the proposed merger, merger agreement, and assignment of board  
272 seats. Notice of the hearing shall be published at least 14 days  
273 before the hearing. If, after the public hearing, a district  
274 board decides that it no longer wants to merge and cancels the  
275 proposed merger agreement, the remaining districts must each  
276 hold another public hearing on the revised merger agreement. A  
277 petition to merge may not be filed for at least 30 days after  
278 the last public hearing held by the districts proposing to  
279 merge.

280           (5) The local general-purpose government within the  
281 geographical boundaries of which the district lies may adopt a  
282 nonemergency ordinance providing for a plan for the transfer of  
283 a specific community development service from a district to the  
284 local general-purpose government. The plan must provide for the  
285 assumption and guarantee of the district debt that is related to  
286 the service by the local general-purpose government and must  
287 demonstrate the ability of the local general-purpose government  
288 to provide such service:

289           (a) As efficiently as the district.

290           (b) At a level of quality equal to or higher than the level

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291 of quality actually delivered by the district to the users of  
292 the service.

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

295 (6) No later than 30 days following the adoption of a  
296 transfer plan ordinance, the board of supervisors may file, in  
297 the circuit court for the county in which the local general-  
298 purpose government that adopted the ordinance is located, a  
299 petition seeking review by certiorari of the factual and legal  
300 basis for the adoption of the transfer plan ordinance.

301 (7) Upon the transfer of all of the community development  
302 services of the district to a general-purpose unit of local  
303 government, the district shall be terminated in accordance with  
304 a plan of termination which shall be adopted by the board of  
305 supervisors and filed with the clerk of the circuit court.

306 (8) If, within 5 years after the effective date of the rule  
307 or ordinance establishing the district, a landowner has not  
308 received a development permit, as defined in chapter 380, on  
309 some part or all of the area covered by the district, then the  
310 district will be automatically dissolved and a judge of the  
311 circuit court shall cause a statement to that effect to be filed  
312 in the public records.

313 (9) In the event the district has become inactive pursuant  
314 to s. 189.062, the respective board of county commissioners or  
315 city commission shall be informed and it shall take appropriate  
316 action.

317 (10) If a district has no outstanding financial obligations  
318 and no operating or maintenance responsibilities, upon the  
319 petition of the district, the district may be dissolved by a

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320 nonemergency ordinance of the general-purpose local governmental  
321 entity that established the district or, if the district was  
322 established by rule of the Florida Land and Water Adjudicatory  
323 Commission, the district may be dissolved by repeal of such rule  
324 of the commission.

325 (11) (a) A district that has outstanding financial  
326 obligations or operating or maintenance responsibilities,  
327 regardless of whether it has been declared inactive pursuant to  
328 s. 189.062, may be dissolved by the general-purpose local  
329 government that established the district, after a majority vote  
330 to petition the court to dissolve the district by receivership.

331 (b) A majority of real property owners in a district that  
332 was established by rule of the Florida Land and Water  
333 Adjudicatory Commission may petition the commission to initiate  
334 the process to dissolve the district by receivership if the  
335 district, regardless of whether it has been declared inactive  
336 pursuant to s. 189.062, has outstanding financial obligations or  
337 operating or maintenance responsibilities. Any petition received  
338 by the commission must be addressed at a regularly scheduled  
339 commission meeting. If the commission votes to dissolve the  
340 district, it shall petition a court of competent jurisdiction to  
341 dissolve the district by receivership.

342 (12) (a) The court in a proceeding to dissolve a community  
343 development district shall hold a hearing, after notifying all  
344 parties to the proceeding and any interested persons designated  
345 by the court, before appointing one or more receivers to wind up  
346 and liquidate the business and affairs of the district. The  
347 court appointing a receiver has exclusive jurisdiction over the  
348 district and all of its property wherever located.

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349       (b) The court may appoint an individual or a corporation as  
350 a receiver. The corporation may be a domestic corporation or a  
351 foreign corporation authorized to transact business in this  
352 state. The court may require the receiver to post bond, with or  
353 without sureties, in an amount directed by the court.

354       (c) The court shall issue an appointing order to describe  
355 the powers and duties of the receiver. The order, which may be  
356 amended, may authorize the receiver to dispose of any part of  
357 the assets of the district wherever located, at a public or  
358 private sale. In addition to the duties assigned by the court, a  
359 receiver may sue and defend in his or her own name as receiver  
360 of the district in all courts of this state.

361       (d) During the receivership, the court may order that the  
362 receiver and his or her counsel receive compensation, expense  
363 disbursements, or other reimbursements from the assets of the  
364 district or proceeds from the sale of the assets.

365       Section 2. This act shall take effect July 1, 2020.