The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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

BILL:	SB 1118
INTRODUCER:	Senator McClain
SUBJECT:	Land Use and Development Regulations
DATE:	March 14, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Fleming	CA	**Pre-meeting**
2.			RI	
3.			RC	

I. Summary:

SB 1118 amends various provisions of law relating to comprehensive planning, land use regulations, and homeowners' associations.

With regard to comprehensive planning, the bill:

- Provides a substantially new mechanism for the administrative approval of development on agricultural enclaves;
- Provides that all residential land use categories, residential zoning categories, and housing types are compatible with each other;
- Prohibits optional elements of the comprehensive plan from containing policies which restrict the density or intensity established in the future land use element;
- Provides that the adoption by ordinance of a comprehensive plan or plan amendment that contains more restrictive or burdensome procedures concerning development must be approved by a supermajority vote of the members of the governing body; and
- Provides for court review of comprehensive plan amendments with more favorable standards of review than the existing DOAH challenge framework.

With regard to land development regulations, the bill:

- Provides that local land development regulations must contain minimum lot sizes within certain zoning districts to accommodate the maximum density;
- Provides that applications for infill development must be administratively approved without further action under certain circumstances; and
- Provides a definition of "extraordinary circumstance" for the purposes of raising impact fees beyond the statutorily prescribed percentage.

With regard to homeowners' associations, the bill introduces to statute the concept of recreational covenants to occupy the subject of amenity fees, dues, and expenses. The bill

provides that amenity dues may only be imposed and collected as provided in a recreational covenant, specifies requirements for such a document, and provides further requirements for the creation and use of the same.

The bill takes effect July 1, 2025.

II. Present Situation:

Comprehensive Plans

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.[1] Each county and municipality must maintain a comprehensive plan to guide future development.[2]

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.[3] A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.[4]

The 10 required elements consider and address capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Other plans and programs may be added as optional elements to a comprehensive plan.[5]

Future Land Use Element

Comprehensive plans must contain an element regarding future land use that designates proposed future general distribution, location, and extent of the uses of land for a number of uses and categories of public and private uses of land.[6] Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities.[7] The proposed distribution, location, and extent of the various categories of land use must be shown on a land use map or

[1] Section 163.3167(1), F.S.
[2] Section 163.3167(2), F.S.
[3] Section 163.3194(3), F.S
[4] Section 163.3177(3) and (6), F.S.
[5] *Id.*
[6] Section 163.3177(6)(a), F.S. Applicable uses and categories of public and private uses of land include, but are not limited to, residential, commercial, industrial, agricultural, recreational, conservation, educational, and public facilities. S. 163.3177(6)(a)10., F.S.
[7] Section 163.3177(6)(a)1., F.S.

map series. Future land use plans and plan amendments are based on surveys, studies, and data regarding the area.[8]

A comprehensive plan's future land use element establishes a range of allowable uses and densities and intensities over large areas, and the specific use and intensities for specific parcels within that range are decided by a more detailed, implementing zoning map.[9]

Comprehensive Plan Amendments

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board, and subsequently by the governing board.[10]

Any affected person may challenge whether a plan or plan amendment complies with the Act by petitioning the Division of Administrative Hearings (DOAH) for a formal hearing.[11] An administrative law judge must hold a hearing in the affected local jurisdiction on whether the plan or plan amendment is in compliance.[12] In challenges filed by an affected person, the comprehensive plan or plan amendment shall be determined to be in compliance if the local government's determination of compliance is fairly debatable. If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency for a final order in its favor.[13]

A comprehensive plan amendment may be classified as a small-scale amendment if the amendment involves less than 50 acres of land, does not impact land located in an area of critical state concern, preserves the internal consistency of the overall local comprehensive plan, and does not require substantive changes to the text of the plan.[14] Any affected person may challenge a small scale plan amendment by petitioning DOAH for a hearing. An administrative law judge must hold a hearing in the affected jurisdiction.[15] Attorney fees and costs are awarded in administrative proceedings before DOAH only if the non-prevailing adverse party participated in the proceedings for an improper purpose.[16]

[8] Section 163.3177(6)(a)2., F.S.
[9] Richard Grosso, A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215, 34 J. Envtl. L. & Litig. 129, 154 (2019) citing Brevard Cty. v. Snyder, 627 So. 2d 469, 475 (Fla. 1993).
[10] Sections 163.3174(4)(a) and 163.3184, F.S.
[11] Section 163.3184(5)(a), F.S.
[12] Section 163.3184(5)(c), F.S.
[13] Section 163.3184(5)(e), F.S.
[14] Section. 163.3187(1), F.S. If the amendment involves a site within an area of rural opportunity, the proposed small scale amendment may involve up to 100 acres. Section 163.3187(3), F.S.
[15] Section 163.3187(5)(a), F.S.
[16] Section 120.595(1)(b), F.S. "Improper purpose" is defined as participating "in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity." Section 120.595(1)(e)1., F.S.

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.[17]

Each county and municipality must adopt and enforce land development regulations which are consistent with and implement their adopted comprehensive plan.[18] Local governments are encouraged to use innovative land development regulations[19] and may adopt measures for the purpose of increasing affordable housing using land-use mechanisms.[20] Land development regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.[21]

Agricultural Enclaves

An agricultural enclave is an unincorporated, undeveloped parcel that:

- Is owned by a single person or entity;
- Has been in continuous use for bona fide agricultural purposes for 5 years prior to the date of any comprehensive plan amendment application;
- Is surrounded on at least 75 percent of its perimeter by existing industrial, commercial, or residential development; or property designated in the local government's comprehensive plan and land development regulations for future industrial, commercial, or residential development, and 75 percent of which currently contains such development;
- Has public services, including water, wastewater, transportation, schools, and recreation facilities, available or such public services are scheduled in the capital improvement element to be provided by the local government or can be provided by an alternative provider of local government infrastructure; and
- Does not exceed 1,280 acres, or 4,480 acres if the property is surrounded by existing or authorized residential development with a density buildout of at least 1,000 residents per square mile.[22]

The owner of an agricultural enclave may apply for an amendment to the local government comprehensive plan. Such amendment is presumed not to be urban sprawl[23] if it includes land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. [24]

[17] Section 163.3164, F.S.
[18] Section 163.3202, F.S.
[19] Section 163.3202(3), F.S.
[20] Sections 125.01055 and 166.04151, F.S.
[21] *See* ss. 163.3161(6) and 163.3194(1)(a), F.S.
[22] Section 163.3164(4), F.S.
[23] "Urban sprawl" means a development pattern characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses. S. 163.3164, F.S.
[24] Section 163.3162(5), F.S.

The local government and the owner of a parcel of land that is the subject of an application for an amendment shall have 180 days following the date that the local government receives a complete application to negotiate in good faith to reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. Within 30 days after the local government's receipt of such an application, the local government and owner must agree in writing to a schedule for information submittal, public hearings, negotiations, and final action on the amendment, which schedule may thereafter be altered only with the written consent of the local government and the owner. Regardless of whether the local government and owner reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel, the amendment must be transmitted to the state land planning agency for review.[25]

The agricultural enclave provisions do not preempt or replace any protection currently existing for property located within the boundaries of the Wekiva Study Area, as described in s. 369.316, F.S., or to the Everglades Protection Area, as defined in s. 373.4592.[26]

Local Government Impact Fees

In Florida, impact fees are imposed pursuant to local legislation and are generally charged as a condition for the issuance of a project's building permit. The principle behind the imposition of impact fees is to transfer to new users of a government-owned system a fair share of the costs the new use of the system involves.[27] Impact fees have become an accepted method of paying for public improvements that must be constructed to serve new growth.[28] In order for an impact fee to be a constitutional user fee and not an unconstitutional tax, the fee must meet a dual rational nexus test, in that the local government must demonstrate the impact fee is proportional and reasonably connected to, or has a rational nexus with:

- The need for additional capital facilities and the increased impact generated by the new residential or commercial construction; and
- The expenditure of the funds collected and the benefits accruing to the new residential or nonresidential construction.[29]

Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee.

Impact Fee Increases

Section 163.31801(6), F.S., provides limitations on impact fee increases imposed by a local government, school district, or special district. An impact fee may increase only pursuant to a plan for the imposition, collection, and use of the increased impact fees as follows:

[25] *Id.*
[26] Section 163.3162(4)(d), F.S.
[27] *Contractors & Builders Ass'n of Pinellas County v. City of Dunedin*, 329 So. 2d 314, 317-318 (Fla. 1976).
[28] *St. Johns County v. Ne. Florida Builders Ass'n, Inc.*, 583 So. 2d 635, 638 (Fla. 1991); s. 163.31801(2), F.S.
[29] *See St. Johns County* at 637. Codified at s. 163.31801(3)(f) and (g), F.S.

- An impact fee increase of not more than 25 percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.
- If the increase in rate is between 25 and 50 percent of the current rate, the increase must be implemented in four equal annual installments.
- No impact fee increase may exceed 50 percent of the current impact fee rate.
- An impact fee may not be increased more than once every four years.
- An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.

A local government, school district, or special district may increase an impact fee rate beyond these phase-in limitations if a local government, school district, or special district:

- Completes, within the 12-month period before the adoption of the impact fee increase, a demonstrated-need study justifying the increase and expressly demonstrating the *extraordinary circumstances* necessitating the need to exceed the limitations;
- Holds at least two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the limitations; and
- Approves the impact fee increase ordinance by at least a two-thirds vote of the governing body.

Homeowners' Associations

Chapter 720, F.S., provides statutory recognition to corporations that operate residential communities in Florida as well as procedures for operating homeowners' associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.[30]

A "homeowners' association" is defined as a:[31]

> Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.

Unless specifically stated to the contrary in the articles of incorporation, homeowners' associations are also governed by ch. 607, F.S., relating to for-profit corporations, or by ch. 617, F.S., relating to not-for-profit corporations.[32]

Homeowners' associations are administered by a board of directors that is elected by the members of the association.[33] The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association,

[30] *See* s. 720.302(1), F.S.
[31] Section 720.301(9), F.S.
[32] Section 720.302(5), F.S.
[33] *See* ss. 720.303 and 720.307, F.S.

which include a recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to these documents.[34] The officers and members of a homeowners' association have a fiduciary relationship to the members who are served by the association.[35]

Unlike condominium associations, homeowners' associations are not regulated by a state agency. Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

> The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, [F.S.,] the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407[, F.S.], are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business the Professional Regulation has limited regulatory authority over homeowners' associations. The division's authority is limited to the arbitration of recall election disputes.[36]

The governing documents of a homeowners' association are:[37]

- The recorded declaration of covenants for a community and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto; and
- The articles of incorporation and bylaws of the homeowners' association and any duly adopted amendments thereto.

Section 720.301(3), F.S., defines a "community" as the real property that is or will be subject to a declaration of covenants which is recorded in the county where the property is located. The term "includes all real property, including undeveloped phases, that is or was the subject of a development-of-regional-impact development order, together with any approved modification thereto."

Homeowners' Association Assessments and Charges

[34] *See* ss. 720.301 and 720.303, F.S.
[35] Section 720.303(1), F.S.
[36] Section 720.306(9)(c), F.S.
[37] Section 720.301(8), F.S.

The governing documents of a homeowners' association describe the manner in which expenses are shared and each member's proportional share; assessments levied to members must be in the member's proportional share.[38] In a homeowners' association with mandatory maintenance or amenity fees, the developer or owner is required to publish[39] a complete financial report of the receipts of mandatory maintenance or amenity fees and an itemized listing of the resulting expenditures.[40]

A recent court case revolved around the question of whether such mandatory assessments for "expenses" could include funds that ultimately result in profits for a third party which operates recreational facilities in the community such as restaurants and pools.[41] The court held for the resident seeking to have those fees generating profits struck down, though some uncertainty remains due to the varied nature of these contractual relationships throughout the state in different associations.

III. Effect of Proposed Changes:

Agricultural Enclaves

Section 1 amends s. 163.3162, F.S., to provide a substantially new mechanism for agricultural enclaves. Under the bill, the owner of an agricultural enclave may apply for administrative approval of development regardless of the future land use map designation of the parcel or any conflicting comprehensive plan goals, objectives, or policies if the owner's request includes land uses and densities and intensities consistent with those approved for the industrial, commercial, or residential areas surrounding the parcel.

A proposed development authorized under this section must be administratively approved, and no further action by the governing body of the local government is required. A local government may not enact or enforce regulations or laws more burdensome for agricultural enclave development than other types of development. Development so authorized must be treated going forward as a conforming use, notwithstanding the local government's comprehensive plan and land use regulations.

Further, a local government must approve an application for development if it otherwise meets the section's requirements and proposes only single-family residential, community gathering, and recreational uses at a density not exceeding the average density of adjacent parcels. A local government must treat an agricultural enclave adjacent to an urban service district as if it were within the urban service district.[42]

The bill otherwise removes the existing process related to agricultural enclaves.

[38] Section 720.308, F.S.
[39] Publication may be by mailing it to each owner, by publishing it in a publication regularly distributed within the subdivision, or by posting it in prominent locations in the subdivision.
[40] Section 720.3086, F.S.
[41] *Avatar Properties, Inc., v. Gundel*, 372 So.3d 715 (Fla. 6th DCA 2023).
[42] "Urban service area" means areas identified in the comprehensive plan where public facilities and services, including, but not limited to, central water and sewer capacity and roads, are already in place or are identified in the capital improvements element. The term includes any areas identified in the comprehensive plan as urban service areas, regardless of local government limitation. S. 163.3164, F.S.

Section 2 in part amends s. 163.3164(4), F.S., the definition of "agricultural enclave." The bill expands the definition to include that an agricultural enclave may include multiple parcels. The bill also provides that, as an alternative to the requirement that an enclave be 75 percent surrounded by existing development or planned development, a parcel or set of parcels of less than 640 acres 50 percent surrounded by planned development and sharing 50 percent of its perimeter with an urban service district, area, or line satisfies the requirement to be considered an enclave.

Comprehensive Plan Elements and Amendments

Section 2 in part amends s. 163.3164(9), F.S., the definition of "compatibility" for the purposes of the Community Planning Act, to provide that all residential land use categories, residential zoning categories, and housing types are compatible with each other. Some comprehensive plans will require a development to demonstrate that development is compatible with existing land uses; this amendment provides a short cut to meeting such a requirement.

Section 3 amends s. 163.3177, F.S., to make two amendments to required and optional elements of a comprehensive plan. First, the section provides that a local government must not mandate that one particular professionally accepted methodology in data collection in support of a comprehensive plan amendment is better than another. Second, the section prohibits optional elements of the comprehensive plan from containing policies which restrict the density or intensity established in the future land use element.

Section 5 in part amends s. 163.3184(11), F.S., to provide that the adoption by ordinance of a comprehensive plan or plan amendment that contains more restrictive or burdensome procedures concerning development must be approved by a supermajority vote of the members of the governing body.

Section 5 further amends s. 163.3184(14), F.S., to provide that an owner of real property subject to a comprehensive plan amendment or an applicant for such an amendment not adopted by the local government and who is not provided the opportunity for a hearing within 180 days after filing the application, may file a civil action for declaratory, injunctive, or other relief, which must be reviewed de novo. In such a proceeding the local government has the burden of providing by a preponderance of the evidence that the application is inconsistent with the local government's comprehensive plan. The court may not use a deferential standard for the benefit of the local government, and shall independently determine whether the local government's existing comprehensive plan is in compliance. This section is put forward as an alternative to the existing amendment challenge process which routes grievances through DOAH.

Land Development Regulations

Section 6 amends s. 163.3202, F.S., to provide that local land development regulations must contain minimum lot sizes within single-family, two-family and fee-simple, single-family townhouse zoning districts to accommodate the maximum density authorized in the comprehensive plan, net of the area required for other mandatory items, and infill development standards for single-family homes, two-family homes and fee-simple townhouse dwelling units.

The section also provides that applications for infill development must be administratively approved without the need of a comprehensive plan amendment, rezoning, or variance if the proposed infill development has the same or less gross density as the existing development and is generally consistent with the development standards of existing development. The section provides that development orders issued pursuant to this provision are to be deemed consistent with all local comprehensive plans and land development regulations.

Section 1 in part defines "infill residential development" in the Community Planning Act. The term is defined as the expansion of an existing residential development on a contiguous vacant parcel of no more than 100 acres in size within a residential future land use category and a residential zoning district that is contiguous on the majority of all sides by residential development. For the purposes of this definition, "contiguous" is defined as the touching, bordering, or adjoining along a boundary including properties that would be contiguous if not separated by a roadway, railroad, canal, or other public easement.

Impact Fees – Extraordinary Circumstances

Section 4 amends s. 163.31801, F.S., to provide a definition of "extraordinary circumstance" for the purposes of raising impact fees beyond the statutorily prescribed percentage. The definition provides that an extraordinary circumstance is an event outside the control of a local government, school district, or special district that prevents the same from fulfilling the objectives intended to be funded by an impact fee. As examples, the definition provides a natural disaster, a major security or health disruption, or a significant economic deterioration.

Homeowners' Associations and Amenities

The bill introduces to statute the concept of recreational covenants. **Section 7** amends s. 720.301, F.S., to define a recreational covenant as a recorded covenant which provides the nature and requirements of a membership in or use of privately owned commercial recreational facilities or amenities for parcel owners. It must be recorded in the public records, contain information regarding the amenity dues imposed, and require mandatory membership or mandatory payment of amenity dues. Amenity expenses, fees, and dues are defined in the section to include those amounts paid under recreational covenants, which may include being paid to a third party, may include profits, and does not include expenses of a homeowners' association.

Section 8 provides that recreational covenants are excepted from regulation by ch. 720, F.S., except as provided in ss. 720.3086 and 720.319, F.S., described below.

Section 9 amends s. 720.3086, F.S., to revise the financial reporting requirement for a homeowners' association to incorporate the new definitions and require the reporting of collections and expenditures under recreational covenants.

Section 10 creates s. 720.319, F.S., to govern recreational covenants. The section provides that amenity dues may only be imposed and collected as provided in a recreational covenant. Such a document must specify:

- The parcels subject to mandatory membership in a club or to the imposition of mandatory dues;
- The person responsible for owning, maintaining, and operating recreational facilities and amenities;
- The manner in which amenity dues are apportioned and collected;
- The amount of any amenity fees;
- The manner in which fees may be increased;
- Collection rights and remedies available for enforcement; and
- Statements on whether the collection rights are subordinate to an association's assessment rights, and whether the facilities and amenities are open to the public or may be used by nonmembers.

The section also provides a disclosure that must be included in the contract for sale of a parcel subject to a recreational covenant.

Section 11 provides that the amendments made by the bill related to homeowner associations are intended to clarify existing law and apply retroactively, without reviving or reinstating any right or interest fully adjudicated as invalid before July 1, 2025.

Effective Date

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Single Subject

The bill, entitled an act related to land use and development regulations, contains provisions relating to what might be considered a variety of subjects. Article III, s. 6 of the State Constitution requires that a bill must pertain "to one subject and matter properly connected to the" title of the bill. Courts have interpreted this to mean:

> A connection between a provision and the subject is proper (1) if the connection is natural or logical, or (2) if there is a reasonable explanation for how the provision is (a) necessary to the subject or (b) tends to make effective or promote the objects and purposes of legislation included in the subject.[43]

The single subject clause may be implicated as to whether the title embraces one subject, whether the variety of provisions stem naturally from the title, and whether those provisions have a "natural and logical" connection.

Retroactivity and Impairment of Contracts

Section 11 provides that the sections of the bill related to Homeowners Associations, which are relationships built on contracts over time, are intended to clarify existing law and apply retroactively.

Under Florida law, statutes are presumed to operate prospectively, not retroactively. In other words, statutes generally apply only to actions that occur on or after the effective date of the legislation, not before the legislation becomes effective. The Florida Supreme Court has noted that, under the rules of statutory construction, if statutes are to operate retroactively, the Legislature must clearly express that intent for the statute to be valid.[44] When statutes that are expressly retroactive have been litigated and appealed, the courts have been asked to determine whether the statute applies to cases that were pending at the time the statute went into effect. The conclusion often depends on whether the statute is procedural or substantive.

Florida's contracts clause states that "no bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed."[45] An impairment may be constitutional if it is reasonable and necessary to serve an important public purpose. However, where the impairment is severe, "[t]he severity of the impairment is said to increase the level of scrutiny to which the legislation will be subjected." There must be a "significant and legitimate public purpose behind the regulation."[46]

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[43] *See, e.g., Franklin v. State*, 887 So. 2d 1063, 1078-79 (Fla. 2004); *Envtl. Confed. of Sw. Fla. v. State*, 886 So. 2d 1013, 1018-19 (Fla. 1st DCA 2004).
[44] *Walker & LaBerge, Inc., v. Halligan*, 344 So. 2d 239 (Fla. 1977).
[45] FLA. CONST. art. I, s. 10.
[46] *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State*, 209 So. 3d 1181, 1192 (Fla. 2017) (internal citations omitted for clarity).

To the extent that the provisions related to homeowners' associations improperly apply retroactively or have the effect of impairing existing contracts, questions of constitutional validity may arise.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There may be a positive impact on the private sector to the extent that the bill's provisions simplify forthcoming development and bring clarity to certain contractual relationships.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3162, 163.3164, 163.3177, 163.31801, 163.3184, 163.3202, 720.301, 720.302, 720.3086, 212.055, 336.125, 479.01, 558.002, 617.0725, 718.116, and 720.3085.

This bill creates the following section of the Florida Statutes: 720.319.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.