

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1491 Lake County
SPONSOR(S): Gibson
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 2850

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>9 Y, 0 N</u>	<u>Smith-Boggis</u>	<u>Highsmith-Smith</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>12 Y, 0 N</u>	<u>Smith-Boggis</u>	<u>Highsmith-Smith</u>
3) <u>Judiciary</u>	<u> </u>	<u> </u>	<u> </u>
4) <u> </u>	<u> </u>	<u> </u>	<u> </u>
5) <u> </u>	<u> </u>	<u> </u>	<u> </u>

SUMMARY ANALYSIS

This local bill changes the law for mobile home cooperatives in Lake County, with 1,100 or more units, to allow certain mobile home owners' association to materially alter, convert, lease, or modify the common areas of the residential mobile home cooperative if the action is approved by an affirmative vote of no less than a majority of total voting interests present at a duly noticed meeting of the unit owners, or voting by absentee ballot.

Negligible fiscal impacts are anticipated according to the Economic Impact Statement.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill. (See section I.B. "EFFECT OF PROPOSED CHANGES".)

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

This local bill changes the law for mobile home cooperatives in Lake County, with 1,100 or more units, to allow certain mobile home owners' association to materially alter, convert, lease, or modify the common areas of the residential mobile home cooperative if the action is approved by an affirmative vote of no less than a majority of total voting interests present at a duly noticed meeting of the unit owners, or voting by absentee ballot.

This local bill would bring Hawthorne Residents Cooperative Association, Inc., (created in 1982) in line with the law that applies to newer mobile home cooperatives. Voters who abstain from voting still affect the vote in the same manner as those casting a "no" vote. However, the threshold for passing the amendment has been lowered from 2/3 to a majority of the total voting interests.

Current law does not provide for absentee voting for elections conducted by cooperative associations.

Present Situation

Currently, section 719.1055, F.S., provides that a cooperative association may materially alter, convert, lease, or modify the common areas of the mobile home cooperative if the action is approved by 2/3rds of the total voting interests. However, cooperative documents in cooperatives created after July 1, 1994, may not require less than a majority of the total voting interests for amendments under this section. Cooperatives created after 1994 may change their documents by majority voting of the total voting interests. In both cases, a "no" vote has the same effect as someone who abstains from voting.

Chapter 719, Florida Statutes

Section 719.1055, F.S., relating to the amendment of cooperative documents, alteration and acquisition of property.

- (1) Unless otherwise provided in the original cooperative documents, no amendment thereto may change the configuration or size of any cooperative unit in any material fashion, materially alter or modify the appurtenances of the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus, unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment and unless the record owners of all other units approve the amendment. Cooperative documents in cooperatives created after July 1, 1994, may not require less than a majority of total voting interests for amendments under this section, unless required by any governmental entity.

(2) Unless a lower number is provided in the cooperative documents or unless such action is expressly prohibited by the articles of incorporation or bylaws of the cooperative, the acquisition of real property by the association, and material alterations or substantial additions to such property by the association shall not be deemed to constitute a material alteration or modification of the appurtenances to the unit if such action is approved by two-thirds of the total voting interests of the cooperative.

(3)(a) Unless other procedures are provided in the cooperative documents or such action is expressly prohibited by the articles of incorporation or bylaws of the cooperative, the association may materially alter, convert, lease, or modify the common areas of the mobile home cooperative if the action is approved by two-thirds of the total voting interests of the cooperative.

(b) The association may change the configuration or size of a unit only if the action is approved by the affected unit owners and by two-thirds of the total voting interests of the cooperative.

(4)(a) If the cooperative documents fail to provide a method of amendment, the documents may be amended as to all matters except those described in subsection (1) if the amendment is approved by the owners of not less than two-thirds of the units.

(b) No provision of the cooperative documents shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of the cooperative documents shall contain the full text of the provision to be amended, new words shall be inserted in the text and underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of document. See provision for present text."

(c) Nonmaterial errors or omissions in the amendment process will not invalidate an otherwise properly promulgated amendment.

C. SECTION DIRECTORY:

Section 1. Notwithstanding any other law, this act governs residential mobile home cooperatives having more than 1,100 units and located within Lake County; provides that unless other procedures are provided in the documents of the mobile home cooperative or such action is expressly prohibited by the articles of incorporation or bylaws of the mobile home cooperative, the mobile home owners' association may materially alter, convert, lease, or modify the common areas of the residential mobile home cooperative if the action is approved by an affirmative vote of not less than a majority of total voting interests present at a duly noticed meeting of the unit owners, or voting by absentee ballot; provides that at least 30 days prior to the date of the scheduled unit owner's meeting, the association shall deliver to each individual unit owner, by hand delivery or by first-class United States mail, written notice of the date, time, and purpose of the meeting; provides the notice must clearly state and describe, with sufficient particularity so as to be easily discernible by unit owners, the issue that the unit owners are being asked to decide; provides the notice must be delivered to the address last furnished to the association by the unit owner; provides an absentee ballot enabling the unit owner to cast his or her vote must be included with the notice and must include a return envelope containing a first-class stamp.

Section 2. Provides this act shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 25, 2003

WHERE? The Daily Commercial, Leesburg, Lake County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES: Not Applicable.

B. RULE-MAKING AUTHORITY: Not Applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

The public hearing was held in the Senate Office Building in Tallahassee, Florida on February 17, 2003.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

Not Applicable.