

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill eliminates the responsibility of the Department of Business and Professional Regulation (DBPR) to provide alternate dispute resolution services regarding disputes between homeowners' associations and individual members.

Promote personal responsibility -- This bill increases personal responsibility by allowing a fine for violating the governing documents of a homeowners' association to become a lien on member's parcel under certain circumstances.

B. EFFECT OF PROPOSED CHANGES:

Background

A condominium is a "form of ownership of real property created pursuant to ch. 718, F.S., which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements".¹ A condominium is created by recording a declaration of condominium in the public records of the county in which the condominium will be located.² A declaration is like a constitution in that it:

"Strictly governs the relationships among condominium units owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community."³

A declaration may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property.⁴ A declaration of condominium may be amended as provided in the declaration. If the declaration does not provide a method for amendment, it may generally be amended as to any matter by a vote of two-thirds of the units.⁵

A homeowners' association is a Florida corporation responsible for the operation of a subdivision in which voting membership is made up of parcel ownership and in which membership is mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.⁶ Homeowners' associations are regulated under chapter 720, F.S.

Effect of Bill

Covenant Revitalization

The governing documents in some Florida homeowners' associations provide for an expiration of the community covenants after a specified number of years. The Marketable Record Title Act, s. 712.05, F.S., will cause covenants to lapse by operation of law either where the covenants are silent as to expiration, or where the Marketable Record Title Act period is shorter than the stated expiration time. Residents in these communities have the option to revive the covenants after the expiration by following the procedural steps found in ss. 720.403 - 720.407, F.S. Currently, the covenant

¹ Section 718.103(11), F.S.

² Section 718.104(2), F.S.

³ *Neuman v. Grand View at Emerald Hills*, 861 So.2d 494, 496-497 (Fla. 4th DCA 2003)

⁴ Section 718.104(5), F.S.

⁵ Section 718.110(1)(a), F.S.

⁶ Section 720.301(9), F.S.

revitalization procedures contained in ss. 720.403 - 720.407, F.S., are not available to any homeowners' association not governed by ch. 720, F.S., such as associations governing communities that are comprised of property primarily intended for commercial, industrial, or other non-residential use. Chapter 720, F.S. governs only residential homeowners' associations where membership is a mandatory condition for the owners of property upon which assessments are required and may become a lien on the parcel⁷, thus, non-mandatory associations may not revive covenants pursuant to ss. 702.403 - 702.407, F.S.

This bill creates s. 712.11, F.S., to provide that a homeowner's association that is not subject to ch. 720, F.S. may use the procedures established in ss. 720.403, F.S. - 720.407, F.S., to revive covenants that have lapsed under the terms of chapter 712, F.S. This bill would allow homeowners' associations that are not regulated by ch. 720, F.S., to utilize the covenant revitalization procedures available to mandatory homeowners' associations.

Condominium Association Powers

Section 718.114, F.S., provides for the powers of a condominium association. Among other powers, an association has the authority to enter into agreements and acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities. All leaseholds, memberships, and other possessory or use interests existing or created at the time the declaration was recorded must be stated and fully described in the declaration. Following the recording of the declaration, the association may not acquire or enter into agreements acquiring these leaseholds, memberships, or other possessory or use interests except as authorized by the declaration. If the declaration does not provide this authority, then the declaration can be amended if the amendment is approved by the owners of not less than 2/3 of the units⁸.

This bill amends s. 718.114, F.S., to provide that acquiring these leaseholds, memberships, or other possessory or use interests is a material alteration or substantial addition to association property, and the association may not acquire or enter into agreements acquiring these leaseholds, memberships, or other possessory or use interests except as authorized by the provisions in s. 718.113, F.S. Section 718.113(2), F.S., provides that there can be no material alteration or substantial additions to the common elements or to real property that is association property, except as provided in the declaration. If the declaration does not specify the procedure for approval of material alterations or substantial additions, 75% of the total voting interests of the association must approve the alterations or additions. Therefore this bill provides that acquiring leaseholds, memberships, or other use interest is a material alteration or substantial addition, and therefore, where the declaration is silent regarding the procedure for acquiring these leaseholds, memberships, or other use interest, there must be approval by 3/4 of the total voting interest of the association instead of only 2/3 as required if it were not a material alteration or substantial addition.

Purpose, Scope, and Application of Homeowners' Association Statutes

Section 720.302, F.S., pertains to the purposes, scope, and application for ch. 720, F.S. Section 720.302(3), F.S., provides that ch. 720, F.S., does not apply to the following:

- A community that is composed of property primarily intended for commercial, industrial, or other nonresidential use; or
- The commercial or industrial parcels in a community that contains both residential parcels and parcels intended for commercial or industrial use.

⁷ Section 720.301(8) and (11), F.S.

⁸ Section 718.110(1)(a), F.S.

Section 720.302(5), F.S, provides that unless expressly stated to the contrary, corporations not for profit that operate residential homeowners' associations in this state are to be governed by and subject to ch. 617, F.S. and ch. 720, F.S.

This bill amends s. 720.302(3), F.S., to provide that "except as specifically provided in ch. 720, F.S.", ch. 720, F.S, does not apply to the type of communities stated above.

This bill amends s. 720.302(5), F.S., to provide that non-profit corporations that operate homeowners' associations in Florida must be governed by and subject to ch. 617, F.S. (non-profit corporations) "or ch. 607, F.S. (corporations) if incorporated under that chapter". (See drafting comments section below).

Homeowners' Association Board Meetings

Section 720.303(2), F.S., provides requirements regarding homeowners association board meetings. Section 720.303(2)(c)2., F.S., provides that a board may not levy general or special assessments at a meeting unless the notice of the meeting includes the nature of those assessments and a statement that the assessments will be considered at the meeting.⁹ A general assessment is a share of the funds which are required for the payment of common expenses, which from time to time is assessed against the unit owner.¹⁰ A special assessment is any assessment levied against a unit owner other than the assessment required by a budget adopted annually.¹¹

This bill amends s. 720.303(2)(c)2., F.S., by changing the word "assessment" to "special assessment", and therefore, eliminates the requirement that a general assessment may not be levied at a board meeting unless notice of a board meeting states that regular assessments will be considered. This bill provides that such notice is only required when a special assessment will be considered.

Homeowners' Association Inspection and Copying of Records

Section 720.303(5), F.S., requires that a homeowners' association allow its members to inspect and copy its official records within 10 days of a written request for access. A failure to comply with such a request in a timely fashion creates a rebuttable presumption that the association failed to do so, and entitles the requesting party to actual damages, or to a minimum of \$50 per calendar day, commencing on the eleventh business day. A homeowners' association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not impose a requirement that a parcel owner demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records less than one 8-hour business day per month. The association may impose fees to cover the costs of providing copies of the official records, including without limitation, the costs of copying. The association may charge up to 50 cents per page for copies made on the associations copy machine. If the association does not have a copy machine available where the records are kept, or if the records requested to be copied exceed 25 pages, then the association may have copies made by an outside vendor and may charge the actual cost of copying.

Current law expressly exempts the following from inspection by a member or parcel owner:

- Any record protected by attorney-client or work-product privilege;
- Information obtained in association with the lease, sale or transfer of a parcel that is otherwise privileged by state or federal law; disciplinary, health, insurance and personnel records of the association's employees; or
- Medical records of parcel owners or other community residents.¹²

⁹ Section 720.303(2)(c)2, F.S.

¹⁰ Section 720.103(1), F.S.

¹¹ Section 720.103(24), F.S.

¹² Section 720.303(1), (2), (3), (4), F.S.

This bill amends s. 720.303(5), F.S., to provide that an association or its agent is not required to provide a prospective purchaser or lienholder with information about the residential subdivision or the association unless required by ch. 720, F.S., to be made available or disclosed. This bill also provides that an association or agent may charge a reasonable fee to a prospective purchaser or lienholder or the current parcel owner or member for providing good faith responses to requests for information, except for information required by law. The fee cannot exceed \$150 plus the reasonable cost of photocopying and any attorney's fees incurred by the association in connection with the response.

This bill provides that an association and its agent are not liable for providing information in good faith if the person providing the information includes a written statement in the following form: "The responses herein are made in good faith and to the best of my ability as to their accuracy."

Homeowners' Association Financial Reporting

Section 720.303(7), F.S., requires homeowners' associations to prepare an annual financial report within 60 days after the close of the fiscal year. The association must provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member.

This bill amends s. 720.303(7), F.S., to increase from 60 to 90 days the time that an association has to prepare and complete an annual financial report after the close of the fiscal year. Within 21 days after the final financial report is completed by the association, but no later than 120 days after the end of the fiscal year, the association must provide each member with a copy of the annual financial report. Homeowners' associations and condominium associations are generally operated and managed in a similar manner. The changes made by this bill will make financial reporting for homeowners associations the same as financial reporting for condominium associations. See s. 718.111(13), F.S.

Homeowners' Association Levy of Fines and Suspension of Use Rights

Section 720.305(2), F.S., provides that an association may suspend, for a reasonable period of time, the rights of a member or a member's tenants, guests, or invitees, or both to use common areas and facilities for failing or refusing to comply with the governing documents of the community. An association can also levy reasonable fines, not to exceed \$100 per violation, against any member or tenant, guest, or invitee for failing or refusing to comply with the governing documents of the association. The fine can be levied each day that the violation continues, however, no fine can exceed \$1,000 unless it is allowed in the governing documents. A fine cannot become a lien against a parcel.

This bill amends s. 720.305(2), F.S., to provide an exception to the provision that a fine cannot become a lien against a parcel. This bill provides that a fine may become a lien against a parcel if it is levied for a violation of the governing documents which have been recorded in the public records of the county where the property is located. The fine cannot exceed \$1,000.

Mergers

Section 720.306(1)(c), F.S., provides that an amendment may not materially and adversely alter the proportionate voting interest attached to a parcel or increase the proportion or percentage by which a parcel shares in the common expenses of the association, unless all owners and lienholders join in the execution of the amendment.

This bill amends s. 720.306(1)(c), F.S., to provide that the merger or consolidation of associations under ch. 607, F.S. (regulating corporations) or ch. 617, F.S. (regulating non-profit corporations), is not considered a material or adverse alteration of the proportionate voting interest appurtenant to a parcel.

Member Participation in Meetings

Section 720.306(6), F.S., provides that members and parcel owners have the right to attend all membership meetings and to speak at any meeting. A member and a parcel owner have the right to speak for at least 3 minutes on any agenda item, if the member or parcel owner submits a written request to speak prior to the meeting.

This bill amends s. 720.306(6), F.S., to limit members of an association, who wish to speak at a membership meeting, to speaking only to items on the agenda.

Publication of False and Misleading Information

Section 720.402, F.S., creates a cause of action to rescind the contract for sale or for damages against a developer for false or misleading material statements. After closing, the purchaser has a cause of action against the developer for one year after the date upon which the last of the following events takes place:

- The closing of the transaction;
- The issuance of a certificate of occupancy or other evidence to allow lawful occupancy of the residence;
- The date of lawful occupancy in counties or municipalities in which certificates of occupancy or other evidence of lawful occupancy are not customarily issued;
- The completion by the developer of the common areas and recreational facilities, whether or not they are common areas, which the developer is obligated to complete or provide under the terms of the written contract;
- The completion by the developer of the common areas and such recreational facilities, whether or not they are common areas, that the developer is obligated to complete under any rule of law if there is no written contract.

Section 720.402, F.S., also limits any cause of action brought under this provision to five years after the closing of the transaction, provides that the prevailing party may recover reasonable attorney's fees, and prohibits the developer from using association funds to defend a suit brought under this section.

This bill amends s. 720.402, F.S., to provide that this section does not limit any rights provided by common law. This section as currently written does not limit the right to sue under other legal theories. It is unclear what effect, if any, this change makes.

Proposed Revived Declaration

The governing documents in some Florida homeowners' associations provide for an expiration of the community covenants after a specified number of years. Residents in these communities have the option to revive the governing documents after the expiration date by following the procedural steps found in ch. 720, F.S. The proposal to revive the community documents must be initiated by an organizing committee of at least 3 parcel owners in the community. Section 720.405, F.S., provides certain procedures and requirements that the organizing committee must follow when seeking to revive a declaration and other governing documents.

Section 720.405(4), F.S., provides that the proposed revived declaration and governing documents must:

- Provide that the voting interest of each parcel owner is the same as the voting interest of the parcel owner under the previous governing documents;
- Provide that the proportional-assessment obligation of each parcel owner is the same as proportional-assessment obligation of the parcel owner under the previous governing documents;

- Contain the same respective amendment provisions as the previous governing documents or, if there were no amendment provisions in the previous governing document, amendment provisions that require approval of not less than two-thirds of the affected parcel owners;
- Contain no covenants that are more restrictive on the affected parcel owners than the covenants contained in the previous governing documents, except as allowed under s. 720.404(3), F.S.; and
- Comply with the other requirements for a declaration of covenants and other governing documents as specified in ch. 720, F.S.

This bill amends section 720.405(4), F.S., by removing the requirement that a proposed revived declaration and other governing documents of the community must contain no covenants that are more restrictive on the affected parcel owners than the covenants contained in the previous governing documents, except as permitted under s. 720.404(3), F.S. This requirement already exists in s. 720.404(3), F.S., which provides that "the revived declaration may not contain covenants that are more restrictive on the parcel owners than the covenants contained in the previous declaration".

Dispute Resolution

This bill repeals s. 720.311, F.S., pertaining to dispute resolution for disputes between homeowners and the homeowners' association, and therefore removes the requirement that the Department of Business and Professional Regulation implement and carry out the provisions of s. 720.311, F.S. The intent language at s. 720.302(2), F.S., is amended to reflect this change.

Jurisdiction of County Courts

County courts have jurisdiction over disputes specifically provided in the statute.

Section 34.01, F.S., provides that county courts have original jurisdiction¹³ in the following cases:

- In all misdemeanor cases not cognizable by the circuit courts;
- Of all violations of municipal and county ordinances;
- Of all actions at law in which the matter in controversy does not exceed the sum of \$15,000, exclusive of interest, costs, and attorney's fees, except those within the exclusive jurisdiction of the circuit courts; and
- Of disputes occurring in the homeowners' associations as described in s. 720.311(2)(a), which shall be concurrent with jurisdiction of the circuit courts.

Section 720.311(2)(a), F.S. provides for all of the different disputes occurring in homeowners' associations that must go through mandatory mediation. Section 34.01, F.S., provides that the county courts will have original jurisdiction over these same disputes. This bill repeals s. 720.311, F.S., which would remove from s. 34.01, F.S., the specific disputes that the county courts would have jurisdiction over. This change would make it unclear whether homeowners' association disputes should be brought in the circuit court or county court.

This bill amends s. 34.01, F.S., to change the reference to s. 720.311(2)(a) in s. 34.01(1)(d) to s. 720.311(2)(a), "Florida Statutes 2005", so that the county courts will still be able to base their jurisdiction over the specific homeowners' association disputes provided in s. 720.311(2)(a), F.S.

¹³ The original jurisdiction of a court refers to matters on which the court rules in the first instance, as opposed to matters in which it reviews the decision of another court.

C. SECTION DIRECTORY:

Section 1 creates s. 712.11, F.S., to provide that homeowners' associations may use procedures established in ss. 720.403, F.S. - 720.407, F.S., to revive covenants that have lapsed under the terms of Chapter 712, F.S.

Section 2 amends s. 718.114, F.S., to revise condominium association powers pertaining to agreements acquiring possessory or use interests after recording the declaration.

Section 3 amends s. 720.302, F.S., to revise the purpose, scope, and application of ch. 720, F.S. and to remove the reference to s. 720.311, F.S.

Section 4 amends s. 720.303, F.S., to revise the provisions for homeowners' association board meetings. This section also amends 720.303(5), F.S., relating to the copying and inspection of homeowners' association records. This section amends 720.303(7), F.S., revising the time period for when an association must prepare and complete a financial report for the preceding fiscal year.

Section 5 amends s. 720.305, F.S., to revise provisions related to the levy of fines and suspension of use rights.

Section 6 amends s. 720.306, F.S., revising provisions pertaining to meetings of members and amendments providing that merger or consolidation of associations is not considered a material or adverse alteration of the proportionate voting interest appurtenant to a parcel, and providing that members and parcel owners have the right to speak at any meeting in reference to all agenda items.

Section 7 amends s. 720.402, F.S., to add a provision that the section does not limit any rights provided by common law.

Section 8 amends s. 720.405, F.S., to remove language provided elsewhere in ch. 720, F.S.

Section 9 repeals s. 720.311, F.S., pertaining to alternative dispute resolution

Section 10 amends s. 34.01, F.S., to revise provisions related to the jurisdiction of county courts to conform to other changes made in the bill.

Section 11 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT¹⁴

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

REVENUE			
	FY 2006-07	FY 2007-08	FY 2008-09
License Fees:	0	0	0
Taxes:	0	0	0
Other (identify): Mediation Fees	(264,000)	(264,000)	(264,000)
TOTAL:	(264,000)	(264,000)	(264,000)

¹⁴ Fiscal analysis provided by the Department of Business and Professional Regulation on March 9, 2006.

2. Expenditures:

EXPENDITURES – FUNDING SOURCE (TRUST FUND)			
Recurring Effects	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>
Salaries/Benefits # of FTE's	0	0	0
Expenses	0	0	0
Other (identify)	0	0	0
Subtotal	0	0	0

Non-Operating Expenditures	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>
Service Charges (to General Revenue)	(19,272)	(19,272)	(19,272)
Other Indirect Costs	0	0	0
Subtotal	(19,272)	(19,272)	(19,272)

EXPENDITURES – FUNDING SOURCE (TRUST FUND)			
Non-Recurring Effects	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>
Operating Capital Outlay	0	0	0
Other Personal Services	0	0	0
Other (identify)	0	0	0
Subtotal	0	0	0

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By repealing s. 720.311, F.S., this bill will allow members and homeowners' associations in a dispute from paying the \$200 fee to the Department of Business and Professional Regulation. The costs of going straight to court and not resolving disputes through alternative dispute resolution are indeterminate.

D. FISCAL COMMENTS:

Comments from the Department of Business and Professional Regulation

The bill will eliminate the department's homeowners' association mandatory mediation and arbitration programs contained in Chapter 720, Florida Statutes, and the corresponding homeowners' association fees collected by the department. There were no positions or funding provided to administer the homeowners' association program when it began in FY 2004-05. Currently, the department utilizes two condominium mediators to hear homeowner mediation cases and one condominium arbitrator to hear homeowner association disputes, in addition to their condominium case workloads. Elimination of the programs would end the \$200 per case filing fee currently collected for these cases.

From the homeowners' association arbitration and mediation programs' effective date on October 1, 2004 up to November 22, 2005, the division received 11 petitions for arbitration, 1,007 petitions for mediation, and approximately \$203,600 in related filing fees. Approximately 63 mediations were assigned to division mediators and the remaining petitions were referred to private mediators. Departmental arbitrators performed all arbitrations. Approximately \$49,348.45 was assessed to parties

for reimbursement of division expenses involved in these proceedings. The department projects homeowners' association mediation and arbitration filing fees in FY 2006-07 of \$264,000. The bill will reduce fees collected by the division since the homeowners' association mediation and arbitration programs are funded based on user fees.

Comments by the Civil Justice Committee

The fiscal analysis prepared by DBPR does not appear to have adequately addressed the reduction in responsibility, and corresponding reduction in expenses, that would result from this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

This bill provides that a fine cannot become a lien against a parcel "unless it is levied for a violation of governing documents that have been recorded in the public records of the county where the property is located." This exception could possibly be a violation of the Contract Clause of the Florida Constitution. Article I, Section 10 of the Florida Constitution provides: "[n]o bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed."¹⁵ "A statute contravenes the constitutional prohibition against impairment of contracts when it has the effect of rewriting antecedent contracts, that is, of changing the substantive rights of the parties to existing contracts."^{16 17}

The Supreme Court of Florida in *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1979) held that laws impairing contracts can be unconstitutional if they unreasonably and unnecessarily impair the contractual rights of citizens.¹⁸ The *Pomponio* Court indicated that the "well-accepted" principle in this state is that virtually no degree of contract impairment is tolerable in this state." *Pomponio*, 378 So. 2d at 780. When seeking to determine what level of impairment is constitutionally permissible, a court "must weigh the degree to which a party's contract rights are statutorily impaired against both the source of authority under which the state purports to alter the contractual relationship and the evil which it seeks to remedy." *Id.*

In other words, "[t]his method requires a balancing of a person's interest not to have his contracts impaired with the state's interest in exercising its legitimate police power." *U.S. Fidelity and Guar. Co. v. Department of Ins.*, 453 So. 2d 1355, 1360-61 (1984). What should be reviewed when considering this balancing test?

[T]he United States Supreme Court recently outlined the main factors to be considered in applying this balancing test. The threshold inquiry is whether the state law has, in fact, operated as a substantial impairment of a contractual relationship. The severity of the impairment is said to increase the level of

¹⁵ Article 1, Section 10(1) of the U.S. Constitution provides: "No State shall . . . pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts"

¹⁶ 10a Fla. Jur. s. 414, Constitutional Law.

¹⁷ The term impair is defined as "to make worse; to diminish in quantity, value, excellence, or strength; or to lessen in power or weaken." 10a Fla. Jur. s. 414, Constitutional Law.

¹⁸ The Florida Supreme Court has adopted the method of analysis from the United States Supreme Court in cases involving the contract clause. *Pomponio*, 378 So. 2d at 780.

scrutiny to which the legislation will be subjected. Total destruction of contractual expectations is not necessary for a finding of substantial impairment. On the other hand, state regulation that restricts a party to gains it reasonably expected from the contract does not necessarily constitute a substantial impairment. In determining the extent of the impairment, we are to consider whether the industry the complaining party has entered has been regulated in the past. The Court long ago observed: One whose rights, such as they are, are subject to state restriction, cannot remove them from the power of the State by making a contract about them. If the state regulation constitutes a substantial impairment, the State, in justification, must have a significant and legitimate public purpose behind the regulation such as the remedying of a broad and general social or economic problem. Furthermore, since *Blaisdell*, the Court has indicated that the public purpose need not be addressed to an emergency or temporary situation. One legitimate state interest is the elimination of unforeseen windfall profits. The requirement of a legitimate public purpose guarantees that the State is exercising its police power, rather than providing a benefit to special interests. Once a legitimate public purpose has been identified, the next inquiry is whether the adjustment of the rights and responsibilities of contracting parties [is based] upon reasonable conditions and [is] of a character appropriate to the public purpose justifying [the legislation's] adoption. Unless the State itself is a contracting party, as is customary in reviewing economic and social regulation, courts properly defer to legislative judgment as to the necessity and reasonableness of a particular measure.

U.S. Fidelity and Guar. Co., 453 So.2d at 1360-61 (Fla. 1984) (internal citations and quotations omitted).

B. RULE-MAKING AUTHORITY:

The bill will require the repeal of Ch. 61B-80, F.A.C., containing the arbitration procedural rules regarding election and recall disputes; Ch. 61B-81, F.A.C., the substantive rules for recalls in homeowners' associations; Ch. 61B-82, F.A.C., containing the mediation rules of procedure, and Ch. 61B-83 governing the certification of community association mediators and arbitrators.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill provides that not for profit corporations that operate homeowners' associations are governed by ch. 720, F.S. (homeowners' association), ch. 617, F.S. (not for profit corporations), and ch. 607 (for profit corporations). It is unclear why this section references for profit corporations when the section is only pertaining to not for profit corporations.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A