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CS/HB 971

2016 Legislature

1  
 2 An act relating to community development districts;  
 3 amending s. 190.005, F.S.; amending the acreage  
 4 threshold for the establishment, by rule or ordinance,  
 5 of a community development district; revising criteria  
 6 for requiring a petition for a proposed district to be  
 7 filed with the Florida Land and Water Adjudicatory  
 8 Commission; amending s. 190.012, F.S.; authorizing a  
 9 district to contract with a towing operator to remove  
 10 vehicles or vessels from specified facilities or  
 11 properties, subject to certain requirements; amending  
 12 s. 190.046, F.S.; revising the criteria necessary for  
 13 amending the boundaries of a district; authorizing up  
 14 to a certain number of districts to merge into one  
 15 surviving district, subject to certain requirements;  
 16 providing for membership of the surviving merged  
 17 district board; providing requirements of the merger  
 18 agreement; providing for public hearings subject to  
 19 certain requirements; prohibiting a petition to merge  
 20 from being filed within a specified timeframe;  
 21 conforming cross-references; providing an effective  
 22 date.

23  
 24 Be It Enacted by the Legislature of the State of Florida:

25  
 26 Section 1. Subsections (1) and (2) of section 190.005,

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27 Florida Statutes, are amended to read:

28 190.005 Establishment of district.—

29 (1) The exclusive and uniform method for the establishment  
30 of a community development district with a size of 2,500 ~~1,000~~  
31 acres or more shall be pursuant to a rule, adopted under chapter  
32 120 by the Florida Land and Water Adjudicatory Commission,  
33 granting a petition for the establishment of a community  
34 development district.

35 (a) A petition for the establishment of a community  
36 development district shall be filed by the petitioner with the  
37 Florida Land and Water Adjudicatory Commission. The petition  
38 shall contain:

39 1. A metes and bounds description of the external  
40 boundaries of the district. Any real property within the  
41 external boundaries of the district which is to be excluded from  
42 the district shall be specifically described, and the last known  
43 address of all owners of such real property shall be listed. The  
44 petition shall also address the impact of the proposed district  
45 on any real property within the external boundaries of the  
46 district which is to be excluded from the district.

47 2. The written consent to the establishment of the  
48 district by all landowners whose real property is to be included  
49 in the district or documentation demonstrating that the  
50 petitioner has control by deed, trust agreement, contract, or  
51 option of 100 percent of the real property to be included in the  
52 district, and when real property to be included in the district

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53 is owned by a governmental entity and subject to a ground lease  
54 as described in s. 190.003(14), the written consent by such  
55 governmental entity.

56 3. A designation of five persons to be the initial members  
57 of the board of supervisors, who shall serve in that office  
58 until replaced by elected members as provided in s. 190.006.

59 4. The proposed name of the district.

60 5. A map of the proposed district showing current major  
61 trunk water mains and sewer interceptors and outfalls if in  
62 existence.

63 6. Based upon available data, the proposed timetable for  
64 construction of the district services and the estimated cost of  
65 constructing the proposed services. These estimates shall be  
66 submitted in good faith but are not binding and may be subject  
67 to change.

68 7. A designation of the future general distribution,  
69 location, and extent of public and private uses of land proposed  
70 for the area within the district by the future land use plan  
71 element of the effective local government comprehensive plan of  
72 which all mandatory elements have been adopted by the applicable  
73 general-purpose local government in compliance with the  
74 Community Planning Act.

75 8. A statement of estimated regulatory costs in accordance  
76 with the requirements of s. 120.541.

77 (b) Prior to filing the petition, the petitioner shall:

78 1. Pay a filing fee of \$15,000 to the county, if located

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79 | within an unincorporated area, or to the municipality, if  
80 | located within an incorporated area, and to each municipality  
81 | the boundaries of which are contiguous with, or contain all or a  
82 | portion of the land within, the external boundaries of the  
83 | district.

84 |         2. Submit a copy of the petition to the county, if located  
85 | within an unincorporated area, or to the municipality, if  
86 | located within an incorporated area, and to each municipality  
87 | the boundaries of which are contiguous with, or contain all or a  
88 | portion of, the land within the external boundaries of the  
89 | district.

90 |         3. If land to be included within a district is located  
91 | partially within the unincorporated area of one or more counties  
92 | and partially within a municipality or within two or more  
93 | municipalities, pay a \$15,000 filing fee to each entity.  
94 | Districts established across county boundaries shall be required  
95 | to maintain records, hold meetings and hearings, and publish  
96 | notices only in the county where the majority of the acreage  
97 | within the district lies.

98 |         (c) Such county and each such municipality required by law  
99 | to receive a petition may conduct a public hearing to consider  
100 | the relationship of the petition to the factors specified in  
101 | paragraph (e). The public hearing shall be concluded within 45  
102 | days after the date the petition is filed unless an extension of  
103 | time is requested by the petitioner and granted by the county or  
104 | municipality. The county or municipality holding such public

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105 hearing may by resolution express its support of, or objection  
106 to the granting of, the petition by the Florida Land and Water  
107 Adjudicatory Commission. A resolution must base any objection to  
108 the granting of the petition upon the factors specified in  
109 paragraph (e). Such county or municipality may present its  
110 resolution of support or objection at the Florida Land and Water  
111 Adjudicatory Commission hearing and shall be afforded an  
112 opportunity to present relevant information in support of its  
113 resolution.

114 (d) A local public hearing on the petition shall be  
115 conducted by a hearing officer in conformance with the  
116 applicable requirements and procedures of the Administrative  
117 Procedure Act. The hearing shall include oral and written  
118 comments on the petition pertinent to the factors specified in  
119 paragraph (e). The hearing shall be held at an accessible  
120 location in the county in which the community development  
121 district is to be located. The petitioner shall cause a notice  
122 of the hearing to be published in a newspaper at least once a  
123 week for the 4 successive weeks immediately prior to the  
124 hearing. Such notice shall give the time and place for the  
125 hearing, a description of the area to be included in the  
126 district, which description shall include a map showing clearly  
127 the area to be covered by the district, and any other relevant  
128 information which the establishing governing bodies may require.  
129 The advertisement shall not be placed in that portion of the  
130 newspaper where legal notices and classified advertisements

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131 appear. The advertisement shall be published in a newspaper of  
 132 general paid circulation in the county and of general interest  
 133 and readership in the community, not one of limited subject  
 134 matter, pursuant to chapter 50. Whenever possible, the  
 135 advertisement shall appear in a newspaper that is published at  
 136 least 5 days a week, unless the only newspaper in the community  
 137 is published fewer than 5 days a week. In addition to being  
 138 published in the newspaper, the map referenced above must be  
 139 part of the online advertisement required pursuant to s.  
 140 50.0211. All affected units of general-purpose local government  
 141 and the general public shall be given an opportunity to appear  
 142 at the hearing and present oral or written comments on the  
 143 petition.

144 (e) The Florida Land and Water Adjudicatory Commission  
 145 shall consider the entire record of the local hearing, the  
 146 transcript of the hearing, resolutions adopted by local general-  
 147 purpose governments as provided in paragraph (c), and the  
 148 following factors and make a determination to grant or deny a  
 149 petition for the establishment of a community development  
 150 district:

151 1. Whether all statements contained within the petition  
 152 have been found to be true and correct.

153 2. Whether the establishment of the district is  
 154 inconsistent with any applicable element or portion of the state  
 155 comprehensive plan or of the effective local government  
 156 comprehensive plan.

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157           3. Whether the area of land within the proposed district  
 158 is of sufficient size, is sufficiently compact, and is  
 159 sufficiently contiguous to be developable as one functional  
 160 interrelated community.

161           4. Whether the district is the best alternative available  
 162 for delivering community development services and facilities to  
 163 the area that will be served by the district.

164           5. Whether the community development services and  
 165 facilities of the district will be incompatible with the  
 166 capacity and uses of existing local and regional community  
 167 development services and facilities.

168           6. Whether the area that will be served by the district is  
 169 amenable to separate special-district government.

170           (f) The Florida Land and Water Adjudicatory Commission  
 171 shall not adopt any rule which would expand, modify, or delete  
 172 any provision of the uniform community development district  
 173 charter as set forth in ss. 190.006-190.041, except as provided  
 174 in s. 190.012. A rule establishing a community development  
 175 district shall only contain the following:

176           1. A metes and bounds description of the external  
 177 boundaries of the district and any real property within the  
 178 external boundaries of the district which is to be excluded.

179           2. The names of five persons designated to be the initial  
 180 members of the board of supervisors.

181           3. The name of the district.

182           (g) The Florida Land and Water Adjudicatory Commission may

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183 adopt rules setting forth its procedures for considering  
184 petitions to establish, expand, modify, or delete uniform  
185 community development districts or portions thereof consistent  
186 with the provisions of this section.

187 (2) The exclusive and uniform method for the establishment  
188 of a community development district of less than 2,500 ~~1,000~~  
189 acres in size or a community development district of up to 7,000  
190 acres in size located within a connected-city corridor  
191 established pursuant to s. 163.3246(14) shall be pursuant to an  
192 ordinance adopted by the county commission of the county having  
193 jurisdiction over the majority of land in the area in which the  
194 district is to be located granting a petition for the  
195 establishment of a community development district as follows:

196 (a) A petition for the establishment of a community  
197 development district shall be filed by the petitioner with the  
198 county commission. The petition shall contain the same  
199 information as required in paragraph (1) (a).

200 (b) A public hearing on the petition shall be conducted by  
201 the county commission in accordance with the requirements and  
202 procedures of paragraph (1) (d).

203 (c) The county commission shall consider the record of the  
204 public hearing and the factors set forth in paragraph (1) (e) in  
205 making its determination to grant or deny a petition for the  
206 establishment of a community development district.

207 (d) The county commission shall not adopt any ordinance  
208 which would expand, modify, or delete any provision of the



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209 uniform community development district charter as set forth in  
210 ss. 190.006-190.041. An ordinance establishing a community  
211 development district shall only include the matters provided for  
212 in paragraph (1)(f) unless the commission consents to any of the  
213 optional powers under s. 190.012(2) at the request of the  
214 petitioner.

215 (e) If all of the land in the area for the proposed  
216 district is within the territorial jurisdiction of a municipal  
217 corporation, then the petition requesting establishment of a  
218 community development district under this act shall be filed by  
219 the petitioner with that particular municipal corporation. In  
220 such event, the duties of the county, hereinabove described, in  
221 action upon the petition shall be the duties of the municipal  
222 corporation. If any of the land area of a proposed district is  
223 within the land area of a municipality, the county commission  
224 may not create the district without municipal approval. If all  
225 of the land in the area for the proposed district, even if less  
226 than 2,500 ~~1,000~~ acres, is within the territorial jurisdiction  
227 of two or more municipalities or two or more counties, except  
228 for proposed districts within a connected-city corridor  
229 established pursuant to s. 163.3246(14), the petition shall be  
230 filed with the Florida Land and Water Adjudicatory Commission  
231 and proceed in accordance with subsection (1).

232 (f) Notwithstanding any other provision of this  
233 subsection, within 90 days after a petition for the  
234 establishment of a community development district has been filed

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235 | pursuant to this subsection, the governing body of the county or  
 236 | municipal corporation may transfer the petition to the Florida  
 237 | Land and Water Adjudicatory Commission, which shall make the  
 238 | determination to grant or deny the petition as provided in  
 239 | subsection (1). A county or municipal corporation shall have no  
 240 | right or power to grant or deny a petition that has been  
 241 | transferred to the Florida Land and Water Adjudicatory  
 242 | Commission.

243 |       Section 2. Paragraph (d) of subsection (2) of section  
 244 | 190.012, Florida Statutes, is amended to read:

245 |       190.012 Special powers; public improvements and community  
 246 | facilities.—The district shall have, and the board may exercise,  
 247 | subject to the regulatory jurisdiction and permitting authority  
 248 | of all applicable governmental bodies, agencies, and special  
 249 | districts having authority with respect to any area included  
 250 | therein, any or all of the following special powers relating to  
 251 | public improvements and community facilities authorized by this  
 252 | act:

253 |       (2) After the local general-purpose government within the  
 254 | jurisdiction of which a power specified in this subsection is to  
 255 | be exercised consents to the exercise of such power by the  
 256 | district, the district shall have the power to plan, establish,  
 257 | acquire, construct or reconstruct, enlarge or extend, equip,  
 258 | operate, and maintain additional systems and facilities for:

259 |       (d) Security, including, but not limited to, guardhouses,  
 260 | fences and gates, electronic intrusion-detection systems, and

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261 patrol cars, when authorized by proper governmental agencies;  
 262 except that the district may not exercise any police power, but  
 263 may contract with the appropriate local general-purpose  
 264 government agencies for an increased level of such services  
 265 within the district boundaries. However, this paragraph does not  
 266 prohibit a district from contracting with a towing operator to  
 267 remove a vehicle or vessel from a district-owned facility or  
 268 property if the district follows the authorization and notice  
 269 and procedural requirements in s. 715.07 for an owner or lessee  
 270 of private property. The district's selection of a towing  
 271 operator is not subject to public bidding if the towing operator  
 272 is included in an approved list of towing operators maintained  
 273 by the local government that has jurisdiction over the  
 274 district's facility or property.

275 Section 3. Paragraph (e) of subsection (1) and subsection  
 276 (2) of section 190.046, Florida Statutes, are amended,  
 277 subsections (4) through (9) are renumbered as subsections (5)  
 278 through (10), respectively, and a new subsection (4) is added to  
 279 that section, to read:

280 190.046 Termination, contraction, or expansion of  
 281 district.—

282 (1) A landowner or the board may petition to contract or  
 283 expand the boundaries of a community development district in the  
 284 following manner:

285 (e)1. During the existence of a district initially  
 286 established by administrative rule, the process to amend the

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287 boundaries of the district pursuant to paragraphs (a)-(d) shall  
 288 not permit a cumulative net total greater than 50 ~~40~~ percent of  
 289 the land in the initial district, and in no event greater than  
 290 1,000 ~~250~~ acres on a cumulative net basis.

291 2. During the existence of a district initially  
 292 established by county or municipal ordinance, the process to  
 293 amend the boundaries of the district pursuant to paragraphs (a)-  
 294 (d) shall not permit a cumulative net total greater than 50  
 295 percent of the land in the initial district, and in no event  
 296 greater than 1,000 ~~500~~ acres on a cumulative net basis.

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

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

300 (b) All of the specific community development systems,  
 301 facilities, and services that it is authorized to perform have  
 302 been transferred to a general-purpose unit of local government  
 303 in the manner provided in subsections ~~(4)~~, (5), (6), and (7)  
 304 ~~(6)~~; or

305 (c) The district is dissolved as provided in ~~subsection~~  
 306 ~~(7)~~, subsection (8), ~~or~~ subsection (9), or subsection (10).

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

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313 merge into one surviving district through adoption of an  
 314 ordinance by the local general purpose government,  
 315 notwithstanding the acreage limitations otherwise set forth for  
 316 the establishment of a district in this chapter. The filing of a  
 317 petition by the majority of the members of each of the district  
 318 board of supervisors seeking to merge constitutes consent of the  
 319 landowners within each applicable district.

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

323 1. Require the surviving merged district board to consist  
 324 of five elected board members.

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

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

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

331 a. If two districts merge, two board members shall be  
 332 elected from each of the districts and one member shall be  
 333 elected at-large.

334 b. If three districts merge, one board member shall be  
 335 elected from each of the three districts and two board members  
 336 shall be elected at-large.

337 c. If four districts merge, one board member shall be  
 338 elected from each of the four districts and one board member

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339 shall be elected at-large.

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

342 5. Require the election of board members for the surviving  
343 merged district to be held at the next general election  
344 following the merger, at which time all terms of preexisting  
345 board members shall end and the merger shall be legally in  
346 effect.

347 (c) Before filing the merger petition with the local  
348 general-purpose government under this subsection, each district  
349 proposing to merge must hold a public hearing within its  
350 district to provide information about and take public comment on  
351 the proposed merger, merger agreement, and assignment of board  
352 seats. Notice of the hearing shall be published at least 14 days  
353 before the hearing. If, after the public hearing, a district  
354 board decides that it no longer wants to merge and cancels the  
355 proposed merger agreement, the remaining districts must each  
356 hold another public hearing on the revised merger agreement. A  
357 petition to merge may not be filed for at least 30 days after  
358 the last public hearing held by the districts proposing to  
359 merge.

360 Section 4. This act shall take effect July 1, 2016.