

Background Information

HB55 (Local Government – Condominium and Homeowners Associations – Repair and Rehabilitation Funds)

The collapse of a condominium building in Surfside Florida a couple of years ago is a stark reminder to all of us how difficult it is for boards of directors of associations that govern common ownership communities to collect enough funds to adequately and timely maintain their infrastructure.

The problem is that developers build these communities, but too often it's those associations that have to pick up the cost of repairing their common elements. And, that cost has turned out to be huge and unaffordable.

When local governments approved development plans, too many underestimated how much of a burden they would impose on associations. The governing documents drafted by the original developers made the situation worse because there are serious restrictions on how much the associations can raise by the annual assessments. So, over the past 50 years, older communities could not collect enough money to adequately fund their reserves, and even if those restrictions are eased, the total amount of money needed is still so massive that it is impractical and unfair to extract them from today's residents.

There is also a serious inequity issue. Much of an association's infrastructure, like roads and stormwater facilities, are types of facilities that governments normally provide. But, in too many development cases, local governments agreed with developers to declare that such facilities are private and by so doing saddled the associations of the communities with the burden of repairing them. Meanwhile, in other cases, they declared that such facilities were public, and therefore local governments would be responsible for repairs. Those differing decisions have caused a serious inequity among common ownership communities. It has created an arbitrary divide of haves and have-nots, with some associations paying little or nothing to repair their infrastructure, while other associations having to pay the entire cost.

This bill is enabling legislation that allows local governments to establish a fund, if they so choose, to help resolve that inequity and place all community associations on an equal financial footing. It also removes double taxation, whereby residents of some communities not only pay assessments to their associations to restore their own infrastructure but also property taxes to local governments to pay for restoring the infrastructure of other comparable communities.

This bill allows all community associations to recoup a percentage of the property taxes that its residents pay each year to local government via a grant from the fund. The net result is preventing further deterioration of common elements that are unsafe and detract from such communities, and helping avoid depressed property values and the resulting negative impact and a drain on local government's property tax income.

Such a fund is generally similar in principle to TIF (Tax Increment Financing), where the State has authorized local governments to create a fund that developers could use to recoup a portion of their development's property taxes to pay for their development's infrastructure. Just as TIF is a beneficial resource for developers, RRF would be a justified resource for community associations.