

1
2 An act relating to condominium and community
3 associations; amending s. 718.111, F.S.;
4 providing immunity from liability for certain
5 information provided by associations to
6 prospective purchasers or lienholders under
7 certain circumstances; amending s. 720.303,
8 F.S.; requiring specific notice to be given to
9 association members before certain assessments
10 or rule changes may be considered at a meeting;
11 amending s. 768.1325, F.S.; providing immunity
12 from civil liability for community associations
13 that provide automated defibrillator devices
14 under certain circumstances; prohibiting
15 insurers from requiring associations to
16 purchase medical malpractice coverage as a
17 condition of issuing other coverage;
18 prohibiting insurers from excluding from
19 coverage under a general liability policy
20 damages resulting from the use of an automated
21 external defibrillator device; amending ss.
22 718.112 and 719.1055, F.S.; revising
23 notification and voting procedures with respect
24 to any vote to forego retrofitting of the
25 common areas of condominiums and cooperatives
26 with fire sprinkler systems; creating s.
27 718.5011, F.S.; creating the Office of the
28 Condominium Ombudsman within the Division of
29 Florida Land Sales, Condominiums, and Mobile
30 Homes; directing the Governor to appoint the
31 ombudsman; requiring the ombudsman to be an

1 attorney; providing for the filling of a vacant
2 ombudsman position; prohibiting the ombudsman
3 and staff from engaging in any other
4 profession, serving as a representative or
5 employee of any political party, or receiving
6 remuneration for activities on behalf of
7 political candidates; prohibiting the ombudsman
8 and staff from seeking public office unless
9 resigned from the Office of the Condominium
10 Ombudsman; providing requirements and
11 limitations for office staff; creating s.
12 718.5012, F.S.; providing for powers and duties
13 of the ombudsman; requiring the ombudsman to
14 prepare and issue reports and make
15 recommendations to specified persons; directing
16 the ombudsman to be a liaison between certain
17 parties, to monitor condominium elections, to
18 assist unit owners and boards of directors, and
19 to encourage voluntary resolutions to disputes
20 before filing the matter as a formal complaint;
21 creating s. 718.5014, F.S.; providing for the
22 principal location of the ombudsman's office in
23 Leon County; authorizing the ombudsman to
24 establish branch offices elsewhere in the state
25 under specified circumstances; amending s.
26 718.503, F.S.; requiring unit owners who are
27 not developers to provide a specific question
28 and answer disclosure document to certain
29 prospective purchasers; creating s. 718.5015,
30 F.S.; creating the Advisory Council on
31 Condominiums; providing for appointments by the

1 President of the Senate, the Speaker of the
2 House of Representatives, and the Governor;
3 providing limited compensation and other terms
4 of service; specifying functions; creating s.
5 720.401, F.S.; providing legislative intent
6 relating to the revival of governance of a
7 community; creating s. 720.402, F.S.; providing
8 eligibility to revive governance documents;
9 specifying prerequisites to reviving governance
10 documents; creating s. 720.403, F.S.; requiring
11 the formation of an organizing committee;
12 providing for membership; providing duties and
13 responsibilities of the organizing committee;
14 directing the organizing committee to prepare
15 certain documents; providing for the contents
16 of the documents; providing for a vote of the
17 eligible parcel owners; creating s. 720.404,
18 F.S.; directing the organizing committee to
19 file certain documents with the Department of
20 Community Affairs; specifies the content of the
21 submission to the department; requiring the
22 department to approve or disapprove the request
23 to revive the governance documents within a
24 specified time period; creating s. 720.405,
25 F.S.; requiring the organizing committee to
26 file and record certain documents within a
27 specified time period; directing the organizing
28 committee to give all affected parcel owners a
29 copy of the documents filed and recorded;
30 providing for judicial determination of the
31 effects of revived covenants on parcels;

1 providing for effects of such a judicial
2 determination; amending ss. 720.301 and
3 720.302, F.S.; conforming provisions to changes
4 made by the act; providing definitions;
5 redefining the term "member"; prescribing a
6 legislative purpose of providing alternative
7 dispute resolution procedures for disputes
8 involving elections and recalls; amending s.
9 720.303, F.S.; prescribing the right of an
10 association to enforce deed restrictions;
11 prescribing rights of members and parcel owners
12 to attend and address association board
13 meetings and to have items placed on an agenda;
14 prescribing additional requirements for notice
15 of meetings; providing for additional materials
16 to be maintained as records; providing
17 additional requirements and limitations with
18 respect to inspecting and copying records;
19 providing requirements with respect to
20 financial statements; providing procedures for
21 recall of directors; amending s. 720.304, F.S.;
22 prescribing owners' rights with respect to flag
23 display; prohibiting certain lawsuits against
24 parcel owners; providing penalties; allowing a
25 parcel owner to construct a ramp for a parcel
26 resident who has a medical need for a ramp;
27 providing conditions; allowing the display of a
28 security-services sign; amending s. 720.305,
29 F.S.; providing that a fine by an association
30 cannot become a lien against a parcel;
31 providing for attorney's fees in actions to

1 recover fines; creating s. 720.3055, F.S.;
2 prescribing requirements for contracts for
3 products and services; amending s. 720.306,
4 F.S.; providing for notice of and right to
5 speak at member meetings; requiring election
6 disputes between a member and an association to
7 be submitted to mandatory binding arbitration;
8 amending s. 720.311, F.S.; expanding
9 requirements and guidelines with respect to
10 alternative dispute resolution; providing
11 requirements for mediation and arbitration;
12 providing for training and education programs;
13 amending s. 718.110, F.S.; restricting the
14 application of certain amendments restricting
15 owners' rental rights; transferring,
16 renumbering, and amending s. 689.26, F.S.;
17 modifying the disclosure form that a
18 prospective purchaser must receive before a
19 contract for sale; providing that certain
20 contracts are voidable for a specified period;
21 requiring that a purchaser provide written
22 notice of cancellation; transferring and
23 renumbering s. 689.265, F.S., relating to
24 required financial reports of certain
25 residential subdivision developers; amending s.
26 498.025, F.S., relating to the disposition of
27 subdivided lands; conforming cross-references;
28 creating s. 720.602, F.S.; providing remedies
29 for publication of false and misleading
30 information; amending s. 34.01, F.S.; providing
31 jurisdiction of disputes involving homeowners'

1 associations; amending ss. 316.00825, 558.002,
2 F.S.; conforming cross-references; providing
3 for internal organization of ch. 720, F.S.;
4 amending s. 190.012, F.S.; providing for the
5 enforcement of deed restrictions in certain
6 circumstances; amending s. 190.046, F.S.;
7 providing for additional dissolution
8 procedures; amending s. 190.006, F.S.;
9 specifying procedures for selecting a chair at
10 the initial landowners' meeting; specifying
11 requirements for proxy voting; requiring notice
12 of landowners' elections; specifying the terms
13 of certain supervisors; providing for
14 nonpartisan elections; specifying the time that
15 resident supervisors assume office; authorizing
16 the supervisor of elections to designate seat
17 numbers for resident supervisors of the board;
18 providing procedures for filing qualifying
19 papers; allowing candidates the option of
20 paying a filing fee to qualify for the
21 election; specifying payment requirements;
22 specifying the number of petition signatures
23 required to qualify for the election; requiring
24 the county canvassing board to certify the
25 results of resident elections; amending s.
26 718.5012, F.S., as created by this act;
27 providing for establishment of election
28 monitors; providing for severability; providing
29 an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Paragraph (e) of subsection (12) of section
2 718.111, Florida Statutes, is amended to read:

3 718.111 The association.--

4 (12) OFFICIAL RECORDS.--

5 (e)1. The association or its authorized agent ~~is shall~~
6 not ~~be~~ required to provide a prospective purchaser or
7 lienholder with information about the condominium or the
8 association other than information or documents required by
9 this chapter to be made available or disclosed. The
10 association or its authorized agent ~~may shall be entitled to~~
11 charge a reasonable fee to the prospective purchaser,
12 lienholder, or the current unit owner for ~~its time in~~
13 providing good faith responses to requests for information by
14 or on behalf of a prospective purchaser or lienholder, other
15 than that required by law, ~~if the provided that such~~ fee ~~does~~
16 ~~shall~~ not exceed \$150 plus the reasonable cost of photocopying
17 and any attorney's fees incurred by the association in
18 connection with the ~~association's~~ response.

19 2. An association and its authorized agent are not
20 liable for providing such information in good faith pursuant
21 to a written request if the person providing the information
22 includes a written statement in substantially the following
23 form: "The responses herein are made in good faith and to the
24 best of my ability as to their accuracy."

25 Section 2. Subsection (2) of section 720.303, Florida
26 Statutes, is amended to read:

27 720.303 Association powers and duties; meetings of
28 board; official records; budgets; financial reporting.--

29 (2) BOARD MEETINGS.--A meeting of the board of
30 directors of an association occurs whenever a quorum of the
31 board gathers to conduct association business. All meetings

1 | of the board must be open to all members except for meetings
2 | between the board and its attorney with respect to proposed or
3 | pending litigation where the contents of the discussion would
4 | otherwise be governed by the attorney-client privilege.
5 | Notices of all board meetings must be posted in a conspicuous
6 | place in the community at least 48 hours in advance of a
7 | meeting, except in an emergency. In the alternative, if
8 | notice is not posted in a conspicuous place in the community,
9 | notice of each board meeting must be mailed or delivered to
10 | each member at least 7 days before the meeting, except in an
11 | emergency. Notwithstanding this general notice requirement,
12 | for communities with more than 100 members, the bylaws may
13 | provide for a reasonable alternative to posting or mailing of
14 | notice for each board meeting, including publication of
15 | notice, provision of a schedule of board meetings, or the
16 | conspicuous posting and repeated broadcasting of the notice on
17 | a closed-circuit cable television system serving the
18 | homeowners' association. However, if broadcast notice is used
19 | in lieu of a notice posted physically in the community, the
20 | notice must be broadcast at least four times every broadcast
21 | hour of each day that a posted notice is otherwise required.
22 | When broadcast notice is provided, the notice and agenda must
23 | be broadcast in a manner and for a sufficient continuous
24 | length of time so as to allow an average reader to observe the
25 | notice and read and comprehend the entire content of the
26 | notice and the agenda. The bylaws or amended bylaws may
27 | provide for giving notice by electronic transmission in a
28 | manner authorized by law for meetings of the board of
29 | directors, committee meetings requiring notice under this
30 | section, and annual and special meetings of the members;
31 | however, a member must consent in writing to receiving notice

1 | by electronic transmission. An assessment may not be levied at
2 | a board meeting unless a written ~~the~~ notice of the meeting is
3 | provided to all members at least 14 days before the meeting,
4 | which notice includes a statement that assessments will be
5 | considered at the meeting and the nature of the assessments.
6 | Rules that regulate the use of parcels in the community may
7 | not be adopted, amended, or revoked at a board meeting unless
8 | a written meeting notice is provided to all members at least
9 | 14 days before the meeting, which notice includes a statement
10 | that changes to the rules regarding the use of parcels will be
11 | considered at the meeting. Directors may not vote by proxy or
12 | by secret ballot at board meetings, except that secret ballots
13 | may be used in the election of officers. This subsection also
14 | applies to the meetings of any committee or other similar
15 | body, when a final decision will be made regarding the
16 | expenditure of association funds, and to any body vested with
17 | the power to approve or disapprove architectural decisions
18 | with respect to a specific parcel of residential property
19 | owned by a member of the community.

20 | Section 3. Subsection (3) of section 768.1325, Florida
21 | Statutes, is amended, and subsection (6) is added to that
22 | section, to read:

23 | 768.1325 Cardiac Arrest Survival Act; immunity from
24 | civil liability.--

25 | (3) Notwithstanding any other provision of law to the
26 | contrary, and except as provided in subsection (4), any person
27 | who uses or attempts to use an automated external
28 | defibrillator device on a victim of a perceived medical
29 | emergency, without objection of the victim of the perceived
30 | medical emergency, is immune from civil liability for any harm
31 | resulting from the use or attempted use of such device. In

1 addition, any person who acquired the device, including, but
2 not limited to, a community association organized under
3 chapter 617, chapter 718, chapter 719, chapter 720, chapter
4 721, or chapter 723, is immune from such liability, if the
5 harm was not due to the failure of such acquirer of the device
6 to:

7 (a) Notify the local emergency medical services
8 medical director of the most recent placement of the device
9 within a reasonable period of time after the device was
10 placed;

11 (b) Properly maintain and test the device; or

12 (c) Provide appropriate training in the use of the
13 device to an employee or agent of the acquirer when the
14 employee or agent was the person who used the device on the
15 victim, except that such requirement of training does not
16 apply if:

17 1. The employee or agent was not an employee or agent
18 who would have been reasonably expected to use the device; or

19 2. The period of time elapsing between the engagement
20 of the person as an employee or agent and the occurrence of
21 the harm, or between the acquisition of the device and the
22 occurrence of the harm in any case in which the device was
23 acquired after engagement of the employee or agent, was not a
24 reasonably sufficient period in which to provide the training.

25 (6) An insurer may not require an acquirer of an
26 automated external defibrillator device which is a community
27 association organized under chapter 617, chapter 718, chapter
28 719, chapter 720, chapter 721, or chapter 723 to purchase
29 medical malpractice liability coverage as a condition of
30 issuing any other coverage carried by the association, and an
31 insurer may not exclude damages resulting from the use of an

1 automated external defibrillator device from coverage under a
2 general liability policy issued to an association.

3 Section 4. Paragraphs (d), (f), and (l) of subsection
4 (2) of section 718.112, Florida Statutes, are amended to read:

5 718.112 Bylaws.--

6 (2) REQUIRED PROVISIONS.--The bylaws shall provide for
7 the following and, if they do not do so, shall be deemed to
8 include the following:

9 (f) Annual budget.--

10 1. The proposed annual budget of common expenses shall
11 be detailed and shall show the amounts budgeted by accounts
12 and expense classifications, including, if applicable, but not
13 limited to, those expenses listed in s. 718.504(21). A
14 multicondominium association shall adopt a separate budget of
15 common expenses for each condominium the association operates
16 and shall adopt a separate budget of common expenses for the
17 association. In addition, if the association maintains limited
18 common elements with the cost to be shared only by those
19 entitled to use the limited common elements as provided for in
20 s. 718.113(1), the budget or a schedule attached thereto shall
21 show amounts budgeted therefor. If, after turnover of control
22 of the association to the unit owners, any of the expenses
23 listed in s. 718.504(21) are not applicable, they need not be
24 listed.

25 2. In addition to annual operating expenses, the
26 budget shall include reserve accounts for capital expenditures
27 and deferred maintenance. These accounts shall include, but
28 are not limited to, roof replacement, building painting, and
29 pavement resurfacing, regardless of the amount of deferred
30 maintenance expense or replacement cost, and for any other
31 item for which the deferred maintenance expense or replacement

1 cost exceeds \$10,000. The amount to be reserved shall be
2 computed by means of a formula which is based upon estimated
3 remaining useful life and estimated replacement cost or
4 deferred maintenance expense of each reserve item. The
5 association may adjust replacement reserve assessments
6 annually to take into account any changes in estimates or
7 extension of the useful life of a reserve item caused by
8 deferred maintenance. This subsection does not apply to an
9 adopted budget in which the members of an association have
10 determined, by a majority vote at a duly called meeting of the
11 association, to provide no reserves or less reserves than
12 required by this subsection. However, prior to turnover of
13 control of an association by a developer to unit owners other
14 than a developer pursuant to s. 718.301, the developer may
15 vote to waive the reserves or reduce the funding of reserves
16 for the first 2 fiscal years of the association's operation,
17 beginning with the fiscal year in which the initial
18 declaration is recorded, after which time reserves may be
19 waived or reduced only upon the vote of a majority of all
20 nondeveloper voting interests voting in person or by limited
21 proxy at a duly called meeting of the association. If a
22 meeting of the unit owners has been called to determine
23 whether to waive or reduce the funding of reserves, and no
24 such result is achieved or a quorum is not attained, the
25 reserves as included in the budget shall go into effect. After
26 the turnover, the developer may vote its voting interest to
27 waive or reduce the funding of reserves.

28 3. Reserve funds and any interest accruing thereon
29 shall remain in the reserve account or accounts, and shall be
30 used only for authorized reserve expenditures unless their use
31 for other purposes is approved in advance by a majority vote

1 at a duly called meeting of the association. Prior to turnover
2 of control of an association by a developer to unit owners
3 other than the developer pursuant to s. 718.301, the
4 developer-controlled association shall not vote to use
5 reserves for purposes other than that for which they were
6 intended without the approval of a majority of all
7 nondeveloper voting interests, voting in person or by limited
8 proxy at a duly called meeting of the association.

9 4. ~~In a multicondominium association,~~ The only voting
10 interests which are eligible to vote on questions that involve
11 waiving or reducing the funding of reserves, or using existing
12 reserve funds for purposes other than purposes for which the
13 reserves were intended, are the voting interests of the units
14 subject to assessment to fund the reserves in question.

15 (1) Certificate of compliance.--There shall be a
16 provision that a certificate of compliance from a licensed
17 electrical contractor or electrician may be accepted by the
18 association's board as evidence of compliance of the
19 condominium units with the applicable fire and life safety
20 code. Notwithstanding the provisions of chapter 633 or of any
21 other code, statute, ordinance, administrative rule, or
22 regulation, or any interpretation of the foregoing, an
23 association, condominium, or unit owner is not obligated to
24 retrofit the common elements or units of a residential
25 condominium with a fire sprinkler system or other engineered
26 lifesafety system in a building that has been certified for
27 occupancy by the applicable governmental entity, if the unit
28 owners have voted to forego such retrofitting and engineered
29 lifesafety system by the affirmative vote of two-thirds of all
30 voting interests in the affected condominium. However, a
31 condominium association may not vote to forego the

1 retrofitting with a fire sprinkler system of common areas in a
2 high-rise building. For purposes of this subsection, the term
3 "high-rise building" means a building that is greater than 75
4 feet in height where the building height is measured from the
5 lowest level of fire department access to the floor of the
6 highest occupiable story. For purposes of this subsection, the
7 term "common areas" means any enclosed hallway, corridor,
8 lobby, stairwell, or entryway. In no event shall the local
9 authority having jurisdiction require completion of
10 retrofitting of common areas with a sprinkler system before
11 the end of 2014.

12 1. A vote to forego retrofitting may ~~not~~ be obtained
13 by ~~general proxy or limited proxy or by a ballot, but shall be~~
14 ~~obtained by a vote~~ personally cast at a duly called membership
15 meeting, or by execution of a written consent by the member,
16 and shall be effective upon the recording of a certificate
17 attesting to such vote in the public records of the county
18 where the condominium is located. The association shall mail,
19 hand deliver, or electronically transmit to provide each unit
20 owner written notice at least 14 days prior to such membership
21 meeting in which ~~of~~ the vote to forego retrofitting of the
22 required fire sprinkler system is to take place, in at least
23 ~~16 point bold type, by certified mail, within 20 days after~~
24 ~~the association's vote. Within 30 days after the association's~~
25 opt-out vote, notice of the results of the opt-out vote shall
26 be mailed, hand delivered, or electronically transmitted to
27 all unit owners. Evidence of compliance with this 30-day
28 notice shall be made by an affidavit executed by the person
29 providing the notice and filed among the official records of
30 the association. After such notice is provided to each owner,
31 a copy of such notice shall be provided by the current owner

1 to a new owner prior to closing and shall be provided by a
2 unit owner to a renter prior to signing a lease.

3 2. As part of the information collected annually from
4 condominiums, the division shall require condominium
5 associations to report the membership vote and recording of a
6 certificate under this subsection and, if retrofitting has
7 been undertaken, the per-unit cost of such work. The division
8 shall annually report to the Division of State Fire Marshal of
9 the Department of Financial Services the number of
10 condominiums that have elected to forego retrofitting.

11 Section 5. Section 718.5015, Florida Statutes, is
12 created to read:

13 718.5015 Advisory council; membership functions.--

14 (1) There is created the Advisory Council on
15 Condominiums. The council shall consist of seven appointed
16 members. Two members shall be appointed by the President of
17 the Senate, two members shall be appointed by the Speaker of
18 the House of Representatives, and three members shall be
19 appointed by the Governor. At least one member that is
20 appointed by the Governor shall represent timeshare
21 condominiums. Members shall be appointed to 2-year terms;
22 however, one of the persons initially appointed by the
23 Governor, by the President of the Senate, and by the Speaker
24 of the House of Representatives, shall be appointed to a
25 1-year term. The director of the division shall serve as an ex
26 officio nonvoting member. The Legislature intends that the
27 persons appointed represent a cross-section of persons
28 interested in condominium issues. The council shall be located
29 within the division for administrative purposes. Members of
30 the council shall serve without compensation, but are entitled

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1 to receive per diem and travel expenses pursuant to s. 112.061
2 while on official business.

3 (2) The functions of the advisory council shall be to:

4 (a) Receive, from the public, input regarding issues
5 of concern with respect to condominiums and recommendations
6 for changes in the condominium law. The issues that the
7 council shall consider include, but are not limited to, the
8 rights and responsibilities of the unit owners in relation to
9 the rights and responsibilities of the association.

10 (b) Review, evaluate, and advise the division
11 concerning revisions and adoption of rules affecting
12 condominiums.

13 (c) Recommend improvements, if needed, in the
14 education programs offered by the division.

15 (3) The council may elect a chair and vice chair and
16 such other officers as it may deem advisable. The council
17 shall meet at the call of its chair, at the request of a
18 majority of its membership, at the request of the division, or
19 at such times as it may prescribe. A majority of the members
20 of the council shall constitute a quorum. Council action may
21 be taken by vote of a majority of the voting members who are
22 present at a meeting where there is a quorum.

23 Section 6. Section 718.5011, Florida Statutes, is
24 created to read:

25 718.5011 Ombudsman; appointment; administration.--

26 (1) There is created an Office of the Condominium
27 Ombudsman, to be located for administrative purposes, within
28 the Division of Florida Land Sales, Condominiums, and Mobile
29 Homes. The functions of the office shall be funded by the
30 Division of Florida Land Sales, Condominiums, and Mobile Homes
31 Trust Fund. The ombudsman shall be a bureau chief of the

1 division and the office shall be set within the division in
2 the same manner as any other bureau is staffed and funded.

3 (2) The Governor shall appoint the ombudsman. The
4 ombudsman must be an attorney admitted to practice before the
5 Florida Supreme Court and shall serve at the pleasure of the
6 Governor. A vacancy in the office shall be filled in the same
7 manner as the original appointment. An officer or full-time
8 employee of the ombudsman's office may not actively engage in
9 any other business or profession; serve as the representative
10 of any political party, executive committee, or other
11 governing body of a political party; serve as an executive,
12 officer, or employee of a political party; receive
13 remuneration for activities on behalf of any candidate for
14 public office; or engage in soliciting votes or other
15 activities on behalf of a candidate for public office. The
16 ombudsman or any employee of his or her office may not become
17 a candidate for election to public office unless he or she
18 first resigns from his or her office or employment.

19 Section 7. Section 718.5012, Florida Statutes, is
20 created to read:

21 718.5012 Ombudsman; powers and duties.--The ombudsman
22 shall have the powers that are necessary to carry out the
23 duties of his or her office, including the following specific
24 powers:

25 (1) To have access to and use of all files and records
26 of the division.

27 (2) To employ professional and clerical staff as
28 necessary for the efficient operation of the office.

29 (3) To prepare and issue reports and recommendations
30 to the Governor, the department, the division, the Advisory
31 Council on Condominiums, the President of the Senate, and the

1 Speaker of the House of Representatives on any matter or
2 subject within the jurisdiction of the division. The ombudsman
3 shall make recommendations he or she deems appropriate for
4 legislation relative to division procedures, rules,
5 jurisdiction, personnel, and functions.

6 (4) To act as liaison between the division, unit
7 owners, boards of directors, board members, community
8 association managers, and other affected parties. The
9 ombudsman shall develop policies and procedures to assist unit
10 owners, boards of directors, board members, community
11 association managers, and other affected parties to understand
12 their rights and responsibilities as set forth in this chapter
13 and the condominium documents governing their respective
14 association. The ombudsman shall coordinate and assist in the
15 preparation and adoption of educational and reference
16 material, and shall endeavor to coordinate with private or
17 volunteer providers of these services, so that the
18 availability of these resources is made known to the largest
19 possible audience.

20 (5) To monitor and review procedures and disputes
21 concerning condominium elections or meetings, including, but
22 not limited to, recommending that the division pursue
23 enforcement action in any manner where there is reasonable
24 cause to believe that election misconduct has occurred.

25 (6) To make recommendations to the division for
26 changes in rules and procedures for the filing, investigation,
27 and resolution of complaints filed by unit owners,
28 associations, and managers.

29 (7) To provide resources to assist members of boards
30 of directors and officers of associations to carry out their
31 powers and duties consistent with this chapter, division

1 rules, and the condominium documents governing the
2 association.

3 (8) To encourage and facilitate voluntary meetings
4 with and between unit owners, boards of directors, board
5 members, community association managers, and other affected
6 parties when the meetings may assist in resolving a dispute
7 within a community association before a person submits a
8 dispute for a formal or administrative remedy. It is the
9 intent of the Legislature that the ombudsman act as a neutral
10 resource for both the rights and responsibilities of unit
11 owners, associations, and board members.

12 Section 8. Section 718.5014, Florida Statutes, is
13 created to read:

14 718.5014 Ombudsman location.--The ombudsman shall
15 maintain his or her principal office in Leon County on the
16 premises of the division or, if suitable space cannot be
17 provided there, at another place convenient to the offices of
18 the division which will enable the ombudsman to expeditiously
19 carry out the duties and functions of his or her office. The
20 ombudsman may establish branch offices elsewhere in the state
21 upon the concurrence of the Governor.

22 Section 9. Paragraph (a) of subsection (5) of section
23 719.1055, Florida Statutes, is amended to read:

24 719.1055 Amendment of cooperative documents;
25 alteration and acquisition of property.--

26 (5) Notwithstanding the provisions of chapter 633 or
27 of any other code, statute, ordinance, administrative rule, or
28 regulation, or any interpretation of the foregoing, a
29 cooperative or unit owner is not obligated to retrofit the
30 common elements or units of a residential cooperative with a
31 fire sprinkler system or other engineered life safety system

1 in a building that has been certified for occupancy by the
2 applicable governmental entity, if the unit owners have voted
3 to forego such retrofitting and engineered life safety system
4 by the affirmative vote of two-thirds of all voting interests
5 in the affected cooperative. However, a cooperative may not
6 forego the retrofitting with a fire sprinkler system of common
7 areas in a high-rise building. For purposes of this
8 subsection, the term "high-rise building" means a building
9 that is greater than 75 feet in height where the building
10 height is measured from the lowest level of fire department
11 access to the floor of the highest occupiable story. For
12 purposes of this subsection, the term "common areas" means any
13 enclosed hallway, corridor, lobby, stairwell, or entryway. In
14 no event shall the local authority having jurisdiction require
15 completion of retrofitting of common areas with a sprinkler
16 system before the end of 2014.

17 (a) A vote to forego retrofitting may ~~not~~ be obtained
18 by ~~general proxy or limited proxy or by a ballot, but shall be~~
19 ~~obtained by a vote~~ personally cast at a duly called membership
20 meeting, or by execution of a written consent by the member,
21 and shall be effective upon the recording of a certificate
22 attesting to such vote in the public records of the county
23 where the cooperative is located. The association shall mail,
24 hand deliver, or electronically transmit to provide each unit
25 owner written notice at least 14 days prior to such membership
26 meeting in which ~~of~~ the vote to forego retrofitting of the
27 required fire sprinkler system is to take place, in at least
28 16 point bold type, by certified mail, within 20 days after
29 the association's vote. Within 30 days after the association's
30 opt-out vote, notice of the results of the opt-out vote shall
31 be mailed, hand delivered, or electronically transmitted to

1 all unit owners. Evidence of compliance with this 30-day
2 notice shall be made by an affidavit executed by the person
3 providing the notice and filed among the official records of
4 the association. After such notice is provided to each owner,
5 a copy of such notice shall be provided by the current owner
6 to a new owner prior to closing and shall be provided by a
7 unit owner to a renter prior to signing a lease.

8 Section 10. Subsection (2) of section 718.503, Florida
9 Statutes, is amended to read:

10 718.503 Developer disclosure prior to sale;
11 nondeveloper unit owner disclosure prior to sale;
12 voidability.--

13 (2) NONDEVELOPER DISCLOSURE.--

14 (a) Each unit owner who is not a developer as defined
15 by this chapter shall comply with the provisions of this
16 subsection prior to the sale of his or her unit. Each
17 prospective purchaser who has entered into a contract for the
18 purchase of a condominium unit is entitled, at the seller's
19 expense, to a current copy of the declaration of condominium,
20 articles of incorporation of the association, bylaws, and
21 rules of the association, ~~and a copy of the financial~~
22 information required by s. 718.111, and the document entitled
23 "Frequently Asked Questions and Answers" required by s.
24 718.504.

25 (b) If a person licensed under part I of chapter 475
26 provides to or otherwise obtains for a prospective purchaser
27 the documents described in this subsection, the person is not
28 liable for any error or inaccuracy contained in the documents.

29 (c) Each contract entered into after July 1, 1992, for
30 the resale of a residential unit shall contain in conspicuous
31 type either:

1 1. A clause which states: THE BUYER HEREBY
2 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF
3 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF
4 THE ASSOCIATION, BYLAWS AND~~7~~ RULES OF THE ASSOCIATION, AND A
5 COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND
6 FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT MORE THAN 3
7 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR
8 TO EXECUTION OF THIS CONTRACT; or
9 2. A clause which states: THIS AGREEMENT IS VOIDABLE
10 BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION
11 TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND
12 LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT
13 BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE
14 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS
15 AND~~7~~ RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT
16 YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS
17 AND ANSWERS DOCUMENT IF SO REQUESTED IN WRITING. ANY PURPORTED
18 WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT.
19 BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE
20 THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS,
21 AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF
22 INCORPORATION, BYLAWS~~7~~ AND RULES OF THE ASSOCIATION, AND A
23 COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND
24 FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF REQUESTED
25 IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL
26 TERMINATE AT CLOSING.
27
28 A contract that does not conform to the requirements of this
29 paragraph is voidable at the option of the purchaser prior to
30 closing.
31

1 Section 11. Section 720.401, Florida Statutes, is
2 created to read:

3 720.401 Preservation of residential communities;
4 revival of declaration of covenants.--

5 (1) Consistent with required and optional elements of
6 local comprehensive plans and other applicable provisions of
7 the Local Government Comprehensive Planning and Land
8 Development Regulation Act, homeowners are encouraged to
9 preserve existing residential communities, promote available
10 and affordable housing, protect structural and aesthetic
11 elements of their residential community, and, as applicable,
12 maintain roads and streets, easements, water and sewer
13 systems, utilities, drainage improvements, conservation and
14 open areas, recreational amenities, and other infrastructure
15 and common areas that serve and support the residential
16 community by the revival of a previous declaration of
17 covenants and other governing documents that may have ceased
18 to govern some or all parcels in the community.

19 (2) In order to preserve a residential community and
20 the associated infrastructure and common areas for the
21 purposes described in this section, the parcel owners in a
22 community that was previously subject to a declaration of
23 covenants that has ceased to govern one or more parcels in the
24 community may revive the declaration and the homeowners'
25 association for the community upon approval by the parcel
26 owners to be governed thereby as provided in this act, and
27 upon approval of the declaration and the other governing
28 documents for the association by the Department of Community
29 Affairs in a manner consistent with this act.

30 Section 12. Section 720.402, Florida Statutes, is
31 created to read:

1 720.402 Eligible residential communities; requirements
2 for revival of declaration.--Parcel owners in a community are
3 eligible to seek approval from the Department of Community
4 Affairs to revive a declaration of covenants under this act if
5 all of the following requirements are met:

6 (1) All parcels to be governed by the revived
7 declaration must have been once governed by a previous
8 declaration that has ceased to govern some or all of the
9 parcels in the community;

10 (2) The revived declaration must be approved in the
11 manner provided in s. 720.403(6); and

12 (3) The revived declaration may not contain covenants
13 that are more restrictive on the parcel owners than the
14 covenants contained in the previous declaration, except that
15 the declaration may:

16 (a) Have an effective term of longer duration than the
17 term of the previous declaration;

18 (b) Omit restrictions contained in the previous
19 declaration;

20 (c) Govern fewer than all of the parcels governed by
21 the previous declaration;

22 (d) Provide for amendments to the declaration and
23 other governing documents; and

24 (e) Contain provisions required by this chapter for
25 new declarations that were not contained in the previous
26 declaration.

27 Section 13. Section 720.403, Florida Statutes, is
28 created to read:

29 720.403 Organizing committee; parcel owner approval.--

30 (1) The proposal to revive a declaration of covenants
31 and a homeowners' association for a community under the terms

1 of this act shall be initiated by an organizing committee
2 consisting of not less than three parcel owners located in the
3 community that is proposed to be governed by the revived
4 declaration. The name, address, and telephone number of each
5 member of the organizing committee must be included in any
6 notice or other document provided by the committee to parcel
7 owners to be affected by the proposed revived declaration.

8 (2) The organizing committee shall prepare or cause to
9 be prepared the complete text of the proposed revised
10 declaration of covenants to be submitted to the parcel owners
11 for approval. The proposed revived documents must identify
12 each parcel that is to be subject to the governing documents
13 by its legal description, and by the name of the parcel owner
14 or the person in whose name the parcel is assessed on the last
15 completed tax assessment roll of the county at the time when
16 the proposed revived declaration is submitted for approval by
17 the parcel owners.

18 (3) The organizing committee shall prepare the full
19 text of the proposed articles of incorporation and bylaws of
20 the revived homeowners' association to be submitted to the
21 parcel owners for approval, unless the association is then an
22 existing corporation, in which case the organizing committee
23 shall prepare the existing articles of incorporation and
24 bylaws to be submitted to the parcel owners.

25 (4) The proposed revived declaration and other
26 governing documents for the community shall:

27 (a) Provide that the voting interest of each parcel
28 owner shall be the same as the voting interest of the parcel
29 owner under the previous governing documents;

30 (b) Provide that the proportional-assessment
31 obligations of each parcel owner shall be the same as

1 proportional-assessment obligations of the parcel owner under
2 the previous governing documents;

3 (c) Contain the same respective amendment provisions
4 as the previous governing documents or, if there were no
5 amendment provisions in the previous governing document,
6 amendment provisions that require approval of not less than
7 two-thirds of the affected parcel owners;

8 (d) Contain no covenants that are more restrictive on
9 the affected parcel owners than the covenants contained in the
10 previous governing documents, except as permitted under s.
11 720.402(3); and

12 (e) Comply with the other requirements for a
13 declaration of covenants and other governing documents as
14 specified in this chapter.

15 (5) A copy of the complete text of the proposed
16 revised declaration of covenants, the proposed new or existing
17 articles of incorporation and bylaws of the homeowners'
18 association, and a graphic depiction of the property to be
19 governed by the revived declaration shall be presented to all
20 of the affected parcel owners by mail or hand delivery not
21 less than 14 days before the time that the consent of the
22 affected parcel owners to the proposed governing documents is
23 sought by the organizing committee.

24 (6) A majority of the affected parcel owners must
25 agree in writing to the revived declaration of covenants and
26 governing documents of the homeowners' association or approve
27 the revived declaration and governing documents by a vote at a
28 meeting of the affected parcel owners noticed and conducted in
29 the manner prescribed by s. 720.306. Proof of notice of the
30 meeting to all affected owners of the meeting and the minutes
31 of the meeting recording the votes of the property owners

1 shall be certified by a court reporter or an attorney licensed
2 to practice in the state.

3 Section 14. Section 720.404, Florida Statutes, is
4 created to read:

5 720.404 Department of Community Affairs; submission;
6 review and determination.--

7 (1) No later than 60 days after the date the proposed
8 revived declaration and other governing documents are approved
9 by the affected parcel owners, the organizing committee or its
10 designee must submit the proposed revived governing documents
11 and supporting materials to the Department of Community
12 Affairs to review and determine whether to approve or
13 disapprove of the proposal to preserve the residential
14 community. The submission to the department must include:

15 (a) The full text of the proposed revived declaration
16 of covenants and articles of incorporation and bylaws of the
17 homeowners' association;

18 (b) A verified copy of the previous declaration of
19 covenants and other previous governing documents for the
20 community, including any amendments thereto;

21 (c) The legal description of each parcel to be subject
22 to the revived declaration and other governing documents and a
23 plat or other graphic depiction of the affected properties in
24 the community;

25 (d) A verified copy of the written consents of the
26 requisite number of the affected parcel owners approving the
27 revived declaration and other governing documents or, if
28 approval was obtained by a vote at a meeting of affected
29 parcel owners, verified copies of the notice of the meeting,
30 attendance, and voting results;

31

1 (e) An affidavit by a current or former officer of the
2 association or by a member of the organizing committee
3 verifying that the requirements for the revived declaration
4 set forth in s. 720.402 have been satisfied; and

5 (f) Such other documentation that the organizing
6 committee believes is supportive of the policy of preserving
7 the residential community and operating, managing, and
8 maintaining the infrastructure, aesthetic character, and
9 common areas serving the residential community.

10 (2) No later than 60 days after receiving the
11 submission, the department must determine whether the proposed
12 revived declaration of covenants and other governing documents
13 comply with the requirements of this act.

14 (a) If the department determines that the proposed
15 revived declaration and other governing documents comply with
16 the act and have been approved by the parcel owners as
17 required by this act, the department shall notify the
18 organizing committee in writing of its approval.

19 (b) If the department determines that the proposed
20 revived declaration and other governing documents do not
21 comply with this act or have not been approved as required by
22 this act, the department shall notify the organizing committee
23 in writing that it does not approve the governing documents
24 and shall state the reasons for the disapproval.

25 Section 15. Section 720.405, Florida Statutes, is
26 created to read:

27 720.405 Recording; notice of recording; applicability
28 and effective date.--

29 (1) No later than 30 days after receiving approval
30 from the department, the organizing committee shall file the
31 articles of incorporation of the association with the Division

1 of Corporations of the Department of State if the articles
2 have not been previously filed with the division.

3 (2) No later than 30 days after receiving approval
4 from the division, the president and secretary of the
5 association shall execute the revived declaration and other
6 governing documents approved by the department in the name of
7 the association and have the documents recorded with the clerk
8 of the circuit court in the county where the affected parcels
9 are located.

10 (3) The recorded documents shall include the full text
11 of the approved declaration of covenants, the articles of
12 incorporation and bylaws of the homeowners' association, the
13 letter of approval by the department, and the legal
14 description of each affected parcel of property. For purposes
15 of chapter 712, the association is deemed to be and shall be
16 indexed as the grantee in a title transaction and the parcel
17 owners named in the revived declaration are deemed to be and
18 shall be indexed as the grantors in the title transaction.

19 (4) Immediately after recording the documents, a
20 complete copy of all of the approved recorded documents must
21 be mailed or hand delivered to the owner of each affected
22 parcel. The revived declaration and other governing documents
23 shall be effective upon recordation in the public records with
24 respect to each affected parcel subject thereto, regardless of
25 whether the particular parcel owner approved the revived
26 declaration. Upon recordation, the revived declaration shall
27 replace and supersede the previous declaration with respect to
28 all affected parcels then governed by the previous declaration
29 and shall have the same record priority as the superseded
30 previous declaration. With respect to any affected parcels
31 that had ceased to be governed by the previous declaration as

1 of the recording date, the revived declaration may not have
2 retroactive effect with respect to the parcel and shall take
3 priority with respect to the parcel as of the recording date.

4 (5) With respect to any parcel that has ceased to be
5 governed by a previous declaration of covenants as of the
6 effective date of this act, the parcel owner may commence an
7 action within one year after the effective date of this act
8 for a judicial determination that the previous declaration did
9 not govern that parcel as of the effective date of this act
10 and that any revival of such declaration as to that parcel
11 would unconstitutionally deprive the parcel owner of rights or
12 property. A revived declaration that is implemented pursuant
13 to this act shall not apply to or affect the rights of the
14 respective parcel owner recognized by any court order or
15 judgment in any such action commenced within one year after
16 the effective date of this act, and any such rights so
17 recognized may not be subsequently altered by a revived
18 declaration implemented under this act without the consent of
19 the affected property owner.

20 Section 16. Section 720.301, Florida Statutes, is
21 amended to read:

22 720.301 Definitions.--As used in this chapter ~~ss.~~
23 ~~720.301-720.312~~, the term:

24 (1) "Assessment" or "amenity fee" means a sum or sums
25 of money payable to the association, to the developer or other
26 owner of common areas, or to recreational facilities and other
27 properties serving the parcels by the owners of one or more
28 parcels as authorized in the governing documents, which if not
29 paid by the owner of a parcel, can result in a lien against
30 the parcel.
31

1 (2) "Common area" means all real property within a
2 community which is owned or leased by an association or
3 dedicated for use or maintenance by the association or its
4 members, including, regardless of whether title has been
5 conveyed to the association:
6 (a) Real property the use of which is dedicated to the
7 association or its members by a recorded plat; or
8 (b) Real property committed by a declaration of
9 covenants to be leased or conveyed to the association.
10 (3) "Community" means the real property that is or
11 will be subject to a declaration of covenants which is
12 recorded in the county where the property is located. The
13 term "community" includes all real property, including
14 undeveloped phases, that is or was the subject of a
15 development-of-regional-impact development order, together
16 with any approved modification thereto.
17 (4) "Declaration of covenants," or "declaration,"
18 means a recorded written instrument in the nature of covenants
19 running with the land which subjects the land comprising the
20 community to the jurisdiction and control of an association or
21 associations in which the owners of the parcels, or their
22 association representatives, must be members.
23 (5) "Department" means the Department of Business and
24 Professional Regulation.
25 ~~(6)~~~~(5)~~ "Developer" means a person or entity that:
26 (a) Creates the community served by the association;
27 or
28 (b) Succeeds to the rights and liabilities of the
29 person or entity that created the community served by the
30 association, provided that such is evidenced in writing.
31

1 (7) "Division" means the Division of Florida Land
2 Sales, Condominiums, and Mobile Homes in the Department of
3 Business and Professional Regulation.

4 ~~(8)(6)~~ "Governing documents" means:

5 (a) The recorded declaration of covenants for a
6 community, and all duly adopted and recorded amendments,
7 supplements, and recorded exhibits thereto; and

8 (b) The articles of incorporation and bylaws of the
9 homeowners' association, and any duly adopted amendments
10 thereto.

11 ~~(9)(7)~~ "Homeowners' association" or "association"
12 means a Florida corporation responsible for the operation of a
13 community or a mobile home subdivision in which the voting
14 membership is made up of parcel owners or their agents, or a
15 combination thereof, and in which membership is a mandatory
16 condition of parcel ownership, and which is authorized to
17 impose assessments that, if unpaid, may become a lien on the
18 parcel. The term "homeowners' association" does not include a
19 community development district or other similar special taxing
20 district created pursuant to statute.

21 ~~(10)(8)~~ "Member" means a member of an association, and
22 may include, but is not limited to, a parcel owner or an
23 association representing parcel owners or a combination
24 thereof, and includes any person or entity obligated by the
25 governing documents to pay an assessment or amenity fee.

26 ~~(11)(9)~~ "Parcel" means a platted or unplatted lot,
27 tract, unit, or other subdivision of real property within a
28 community, as described in the declaration:

29 (a) Which is capable of separate conveyance; and

30 (b) Of which the parcel owner, or an association in
31 which the parcel owner must be a member, is obligated:

1 1. By the governing documents to be a member of an
2 association that serves the community; and

3 2. To pay to the homeowners' association assessments
4 that, if not paid, may result in a lien.

5 ~~(12)~~~~(10)~~ "Parcel owner" means the record owner of
6 legal title to a parcel.

7 ~~(13)~~~~(11)~~ "Voting interest" means the voting rights
8 distributed to the members of the homeowners' association,
9 pursuant to the governing documents.

10 Section 17. Subsections (1), (2), (3), and (4) of
11 section 720.302, are amended to read:

12 720.302 Purposes, scope, and application.--

13 (1) The purposes of this chapter ~~ss. 720.301-720.312~~
14 are to give statutory recognition to corporations not for
15 profit that operate residential communities in this state, to
16 provide procedures for operating homeowners' associations, and
17 to protect the rights of association members without unduly
18 impairing the ability of such associations to perform their
19 functions.

20 (2) The Legislature recognizes that it is not in the
21 best interest of homeowners' associations or the individual
22 association members thereof to create or impose a bureau or
23 other agency of state government to regulate the affairs of
24 homeowners' associations. However, in accordance with s.
25 720.311, the Legislature finds that homeowners' associations
26 and their individual members will benefit from an expedited
27 alternative process for resolution of election and recall
28 disputes and presuit mediation of other disputes involving
29 covenant enforcement and authorizes the department to hear,
30 administer, and determine these disputes as more fully set
31 forth in this chapter. Further, the Legislature recognizes

1 that certain contract rights have been created for the benefit
2 of homeowners' associations and members thereof before the
3 effective date of this act and that ss. 720.301-720.501 ~~ss.~~
4 ~~720.301-720.312~~ are not intended to impair such contract
5 rights, including, but not limited to, the rights of the
6 developer to complete the community as initially contemplated.

7 (3) This chapter does ~~Sections 720.301-720.312 do~~ not
8 apply to:

9 (a) A community that is composed of property primarily
10 intended for commercial, industrial, or other nonresidential
11 use; or

12 (b) The commercial or industrial parcels in a
13 community that contains both residential parcels and parcels
14 intended for commercial or industrial use.

15 (4) This chapter does ~~Sections 720.301-720.312 do~~ not
16 apply to any association that is subject to regulation under
17 chapter 718, chapter 719, or chapter 721; or to any
18 nonmandatory association formed under chapter 723.

19 Section 18. Section 720.303, Florida Statutes, is
20 amended to read:

21 720.303 Association powers and duties; meetings of
22 board; official records; budgets; financial reporting;
23 association funds; recalls.--

24 (1) POWERS AND DUTIES.--An association which operates
25 a community as defined in s. 720.301, must be operated by an
26 association that is a Florida corporation. After October 1,
27 1995, the association must be incorporated and the initial
28 governing documents must be recorded in the official records
29 of the county in which the community is located. An
30 association may operate more than one community. The officers
31 and directors of an association have a fiduciary relationship

1 to the members who are served by the association. The powers
2 and duties of an association include those set forth in this
3 chapter and, except as expressly limited or restricted in this
4 chapter, those set forth in the governing documents. After
5 control of the association is obtained by members ~~unit owners~~
6 other than the developer, the association may institute,
7 maintain, settle, or appeal actions or hearings in its name on
8 behalf of all members concerning matters of common interest to
9 the members, including, but not limited to, the common areas;
10 roof or structural components of a building, or other
11 improvements for which the association is responsible;
12 mechanical, electrical, or plumbing elements serving an
13 improvement or building for which the association is
14 responsible; representations of the developer pertaining to
15 any existing or proposed commonly used facility; and
16 protesting ad valorem taxes on commonly used facilities. The
17 association may defend actions in eminent domain or bring
18 inverse condemnation actions. Before commencing litigation
19 against any party in the name of the association involving
20 amounts in controversy in excess of \$100,000, the association
21 must obtain the affirmative approval of a majority of the
22 voting interests at a meeting of the membership at which a
23 quorum has been attained. This subsection does not limit any
24 statutory or common-law right of any individual member or
25 class of members to bring any action without participation by
26 the association. A member does not have authority to act for
27 the association by virtue of being a member. An association
28 may have more than one class of members and may issue
29 membership certificates. An association of 15 or fewer parcel
30 owners may enforce only the requirements of those deed
31

1 restrictions established prior to the purchase of each parcel
2 upon an affected parcel owner or owners.

3 (2) BOARD MEETINGS.--

4 (a) A meeting of the board of directors of an
5 association occurs whenever a quorum of the board gathers to
6 conduct association business. All meetings of the board must
7 be open to all members except for meetings between the board
8 and its attorney with respect to proposed or pending
9 litigation where the contents of the discussion would
10 otherwise be governed by the attorney-client privilege.

11 (b) Members have the right to attend all meetings of
12 the board and to speak on any matter placed on the agenda by
13 petition of the voting interests for at least 3 minutes. The
14 association may adopt written reasonable rules expanding the
15 right of members to speak and governing the frequency,
16 duration, and other manner of member statements, which rules
17 must be consistent with this paragraph and may include a
18 sign-up sheet for members wishing to speak. Notwithstanding
19 any other law, the requirement that board meetings and
20 committee meetings be open to the members is inapplicable to
21 meetings between the board or a committee and the
22 association's attorney, with respect to meetings of the board
23 held for the purpose of discussing personnel matters.

24 (c) The bylaws shall provide for giving notice to
25 parcel owners and members of all board meetings and, if they
26 do not do so, shall be deemed to provide the following:

27 1. Notices of all board meetings must be posted in a
28 conspicuous place in the community at least 48 hours in
29 advance of a meeting, except in an emergency. In the
30 alternative, if notice is not posted in a conspicuous place in
31 the community, notice of each board meeting must be mailed or

1 delivered to each member at least 7 days before the meeting,
2 except in an emergency. Notwithstanding this general notice
3 requirement, for communities with more than 100 members, the
4 bylaws may provide for a reasonable alternative to posting or
5 mailing of notice for each board meeting, including
6 publication of notice, provision of a schedule of board
7 meetings, or the conspicuous posting and repeated broadcasting
8 of the notice on a closed-circuit cable television system
9 serving the homeowners' association. However, if broadcast
10 notice is used in lieu of a notice posted physically in the
11 community, the notice must be broadcast at least four times
12 every broadcast hour of each day that a posted notice is
13 otherwise required. When broadcast notice is provided, the
14 notice and agenda must be broadcast in a manner and for a
15 sufficient continuous length of time so as to allow an average
16 reader to observe the notice and read and comprehend the
17 entire content of the notice and the agenda. The bylaws or
18 amended bylaws may provide for giving notice by electronic
19 transmission in a manner authorized by law for meetings of the
20 board of directors, committee meetings requiring notice under
21 this section, and annual and special meetings of the members;
22 however, a member must consent in writing to receiving notice
23 by electronic transmission.

24 2. An assessment may not be levied at a board meeting
25 unless the notice of the meeting includes a statement that
26 assessments will be considered and the nature of the
27 assessments. Written notice of any meeting at which special
28 assessments will be considered or at which amendments to rules
29 regarding parcel use will be considered must be mailed,
30 delivered, or electronically transmitted to the members and
31 parcel owners and posted conspicuously on the property or

1 broadcast on closed-circuit cable television not less than 14
2 days before the meeting.

3 3. Directors may not vote by proxy or by secret ballot
4 at board meetings, except that secret ballots may be used in
5 the election of officers. This subsection also applies to the
6 meetings of any committee or other similar body, when a final
7 decision will be made regarding the expenditure of association
8 funds, and to any body vested with the power to approve or
9 disapprove architectural decisions with respect to a specific
10 parcel of residential property owned by a member of the
11 community.

12 (d) If 20 percent of the total voting interests
13 petition the board to address an item of business, the board
14 shall at its next regular board meeting or at a special
15 meeting of the board, but not later than 60 days after the
16 receipt of the petition, take the petitioned item up on an
17 agenda. The board shall give all members notice of the meeting
18 at which the petitioned item shall be addressed in accordance
19 with the 14-day notice requirement pursuant to subparagraph 2.
20 Each member shall have the right to speak for at least 3
21 minutes on each matter placed on the agenda by petition,
22 provided that the member signs the sign-up sheet, if one is
23 provided, or submits a written request to speak prior to the
24 meeting. Other than addressing the petitioned item at the
25 meeting, the board is not obligated to take any other action
26 requested by the petition.

27 (3) MINUTES.--Minutes of all meetings of the members
28 of an association and of the board of directors of an
29 association must be maintained in written form or in another
30 form that can be converted into written form within a
31 reasonable time. A vote or abstention from voting on each

1 matter voted upon for each director present at a board meeting
2 must be recorded in the minutes.

3 (4) OFFICIAL RECORDS.--The association shall maintain
4 each of the following items, when applicable, which constitute
5 the official records of the association:

6 (a) Copies of any plans, specifications, permits, and
7 warranties related to improvements constructed on the common
8 areas or other property that the association is obligated to
9 maintain, repair, or replace.

10 (b) A copy of the bylaws of the association and of
11 each amendment to the bylaws.

12 (c) A copy of the articles of incorporation of the
13 association and of each amendment thereto.

14 (d) A copy of the declaration of covenants and a copy
15 of each amendment thereto.

16 (e) A copy of the current rules of the homeowners'
17 association.

18 (f) The minutes of all meetings of the board of
19 directors and of the members, which minutes must be retained
20 for at least 7 years.

21 (g) A current roster of all members and their mailing
22 addresses and parcel identifications. The association shall
23 also maintain the electronic mailing addresses and the numbers
24 designated by members for receiving notice sent by electronic
25 transmission of those members consenting to receive notice by
26 electronic transmission. The electronic mailing addresses and
27 numbers provided by unit owners to receive notice by
28 electronic transmission shall be removed from association
29 records when consent to receive notice by electronic
30 transmission is revoked. However, the association is not
31 liable for an erroneous disclosure of the electronic mail

1 address or the number for receiving electronic transmission of
2 notices.

3 (h) All of the association's insurance policies or a
4 copy thereof, which policies must be retained for at least 7
5 years.

6 (i) A current copy of all contracts to which the
7 association is a party, including, without limitation, any
8 management agreement, lease, or other contract under which the
9 association has any obligation or responsibility. Bids
10 received by the association for work to be performed must also
11 be considered official records and must be kept for a period
12 of 1 year.

13 (j) The financial and accounting records of the
14 association, kept according to good accounting practices. All
15 financial and accounting records must be maintained for a
16 period of at least 7 years. The financial and accounting
17 records must include:

18 1. Accurate, itemized, and detailed records of all
19 receipts and expenditures.

20 2. A current account and a periodic statement of the
21 account for each member, designating the name and current
22 address of each member who is obligated to pay assessments,
23 the due date and amount of each assessment or other charge
24 against the member, the date and amount of each payment on the
25 account, and the balance due.

26 3. All tax returns, financial statements, and
27 financial reports of the association.

28 4. Any other records that identify, measure, record,
29 or communicate financial information.

30 (k) A copy of the disclosure summary described in s.
31 720.601.

1 (1) All other written records of the association not
2 specifically included in the foregoing which are related to
3 the operation of the association.

4 (5) INSPECTION AND COPYING OF RECORDS.--The official
5 records shall be maintained within the state and must be open
6 to inspection and available for photocopying by members or
7 their authorized agents at reasonable times and places within
8 10 business days after receipt of a written request for
9 access. This subsection may be complied with by having a copy
10 of the official records available for inspection or copying in
11 the community. If the association has a photocopy machine
12 available where the records are maintained, it must provide
13 parcel owners with copies on request during the inspection if
14 the entire request is limited to no more than 25 pages.

15 (a) The failure of an association to provide access to
16 the records within 10 business days after receipt of a written
17 request creates a rebuttable presumption that the association
18 willfully failed to comply with this subsection.

19 (b) A member who is denied access to official records
20 is entitled to the actual damages or minimum damages for the
21 association's willful failure to comply with this subsection.
22 The minimum damages are to be \$50 per calendar day up to 10
23 days, the calculation to begin on the 11th business day after
24 receipt of the written request.

25 (c) The association may adopt reasonable written rules
26 governing the frequency, time, location, notice, records to be
27 inspected, and manner of inspections, but may not impose a
28 requirement that a parcel owner demonstrate any proper purpose
29 for the inspection, state any reason for the inspection, or
30 limit a parcel owner's right to inspect records to less than
31 one 8-hour business day per month. The association ~~and~~ may

1 impose fees to cover the costs of providing copies of the
2 official records, including, without limitation, the costs of
3 copying. The association may charge up to 50 cents per page
4 for copies made on the association's photocopier. If the
5 association does not have a photocopy machine available where
6 the records are kept, or if the records requested to be copied
7 exceed 25 pages in length, the association may have copies
8 made by an outside vendor and may charge the actual cost of
9 copying. The association shall maintain an adequate number of
10 copies of the recorded governing documents, to ensure their
11 availability to members and prospective members, ~~and may~~
12 ~~charge only its actual costs for reproducing and furnishing~~
13 ~~these documents to those persons who are entitled to receive~~
14 ~~them.~~ Notwithstanding the provisions of this paragraph, the
15 following records shall not be accessible to members or parcel
16 owners:

17 1. Any record protected by the lawyer-client privilege
18 as described in s. 90.502 and any record protected by the
19 work-product privilege, including, but not limited to, any
20 record prepared by an association attorney or prepared at the
21 attorney's express direction which reflects a mental
22 impression, conclusion, litigation strategy, or legal theory
23 of the attorney or the association and was prepared
24 exclusively for civil or criminal litigation or for
25 adversarial administrative proceedings or which was prepared
26 in anticipation of imminent civil or criminal litigation or
27 imminent adversarial administrative proceedings until the
28 conclusion of the litigation or adversarial administrative
29 proceedings.

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31

1 2. Information obtained by an association in
2 connection with the approval of the lease, sale, or other
3 transfer of a parcel.

4 3. Disciplinary, health, insurance, and personnel
5 records of the association's employees.

6 4. Medical records of parcel owners or community
7 residents.

8 (6) BUDGETS.--The association shall prepare an annual
9 budget. The budget must reflect the estimated revenues and
10 expenses for that year and the estimated surplus or deficit as
11 of the end of the current year. The budget must set out
12 separately all fees or charges for recreational amenities,
13 whether owned by the association, the developer, or another
14 person. The association shall provide each member with a copy
15 of the annual budget or a written notice that a copy of the
16 budget is available upon request at no charge to the member.
17 The copy must be provided to the member within the time limits
18 set forth in subsection (5).

19 (7) FINANCIAL REPORTING.--The association shall
20 prepare an annual financial report within 60 days after the
21 close of the fiscal year. The association shall, within the
22 time limits set forth in subsection (5), provide each member
23 with a copy of the annual financial report or a written notice
24 that a copy of the financial report is available upon request
25 at no charge to the member. Financial reports shall be
26 prepared as follows ~~The financial report must consist of~~
27 ~~either:~~

28 (a) An association that meets the criteria of this
29 paragraph shall prepare or cause to be prepared a complete set
30 of financial statements in accordance with generally accepted
31

1 accounting principles. The financial statements shall be based
2 upon the association's total annual revenues, as follows:
3 1. An association with total annual revenues of
4 \$100,000 or more, but less than \$200,000, shall prepare
5 compiled financial statements.
6 2. An association with total annual revenues of at
7 least \$200,000, but less than \$400,000, shall prepare reviewed
8 financial statements.
9 3. An association with total annual revenues of
10 \$400,000 or more shall prepare audited financial statements.
11 ~~Financial statements presented in conformity with generally~~
12 ~~accepted accounting principles; or~~
13 ~~(b) A financial report of actual receipts and~~
14 ~~expenditures, cash basis, which report must show:~~
15 1. An association with total annual revenues of less
16 than \$100,000 shall prepare a report of cash receipts and
17 expenditures. The amount of receipts and expenditures by
18 classification; and
19 2. An association in a community of fewer than 50
20 parcels, regardless of the association's annual revenues, may
21 prepare a report of cash receipts and expenditures in lieu of
22 financial statements required by paragraph (a) unless the
23 governing documents provide otherwise. The beginning and
24 ending cash balances of the association.
25 3. A report of cash receipts and disbursement must
26 disclose the amount of receipts by accounts and receipt
27 classifications and the amount of expenses by accounts and
28 expense classifications, including, but not limited to, the
29 following, as applicable: costs for security, professional,
30 and management fees and expenses; taxes; costs for recreation
31 facilities; expenses for refuse collection and utility

1 services; expenses for lawn care; costs for building
2 maintenance and repair; insurance costs; administration and
3 salary expenses; and reserves if maintained by the
4 association.

5 (c) If 20 percent of the parcel owners petition the
6 board for a level of financial reporting higher than that
7 required by this section, the association shall duly notice
8 and hold a meeting of members within 30 days of receipt of the
9 petition for the purpose of voting on raising the level of
10 reporting for that fiscal year. Upon approval of a majority of
11 the total voting interests of the parcel owners, the
12 association shall prepare or cause to be prepared, shall amend
13 the budget or adopt a special assessment to pay for the
14 financial report regardless of any provision to the contrary
15 in the governing documents, and shall provide within 90 days
16 of the meeting or the end of the fiscal year, whichever occurs
17 later:

18 1. Compiled, reviewed, or audited financial
19 statements, if the association is otherwise required to
20 prepare a report of cash receipts and expenditures;

21 2. Reviewed or audited financial statements, if the
22 association is otherwise required to prepare compiled
23 financial statements; or

24 3. Audited financial statements if the association is
25 otherwise required to prepare reviewed financial statements.

26 (d) If approved by a majority of the voting interests
27 present at a properly called meeting of the association, an
28 association may prepare or cause to be prepared:

29 1. A report of cash receipts and expenditures in lieu
30 of a compiled, reviewed, or audited financial statement;

31

1 2. A report of cash receipts and expenditures or a
2 compiled financial statement in lieu of a reviewed or audited
3 financial statement; or

4 3. A report of cash receipts and expenditures, a
5 compiled financial statement, or a reviewed financial
6 statement in lieu of an audited financial statement.

7 (8) ASSOCIATION FUNDS; COMMINGLING.--

8 (a) All association funds held by a developer shall be
9 maintained separately in the association's name. Reserve and
10 operating funds of the association shall not be commingled
11 prior to turnover except the association may jointly invest
12 reserve funds; however, such jointly invested funds must be
13 accounted for separately.

14 (b) No developer in control of a homeowners'
15 association shall commingle any association funds with his or
16 her funds or with the funds of any other homeowners'
17 association or community association.

18 (c) Association funds may not be used by a developer
19 to defend a civil or criminal action, administrative
20 proceeding, or arbitration proceeding that has been filed
21 against the developer or directors appointed to the
22 association board by the developer, even when the subject of
23 the action or proceeding concerns the operation of the
24 developer-controlled association.

25 (9) APPLICABILITY.--Sections 617.1601-617.1604 do not
26 apply to a homeowners' association in which the members have
27 the inspection and copying rights set forth in this section.

28 (10) RECALL OF DIRECTORS.--

29 (a)1. Regardless of any provision to the contrary
30 contained in the governing documents, subject to the
31 provisions of s. 720.307 regarding transition of association

1 control, any member of the board or directors may be recalled
2 and removed from office with or without cause by a majority of
3 the total voting interests.

4 2. When the governing documents, including the
5 declaration, articles of incorporation, or bylaws, provide
6 that only a specific class of members is entitled to elect a
7 board director or directors, only that class of members may
8 vote to recall those board directors so elected.

9 (b)1. Board directors may be recalled by an agreement
10 in writing or by written ballot without a membership meeting.
11 The agreement in writing or the written ballots, or a copy
12 thereof, shall be served on the association by certified mail
13 or by personal service in the manner authorized by chapter 48
14 and the Florida Rules of Civil Procedure.

15 2. The board shall duly notice and hold a meeting of
16 the board within 5 full business days after receipt of the
17 agreement in writing or written ballots. At the meeting, the
18 board shall either certify the written ballots or written
19 agreement to recall a director or directors of the board, in
20 which case such director or directors shall be recalled
21 effective immediately and shall turn over to the board within
22 5 full business days any and all records and property of the
23 association in their possession, or proceed as described in
24 paragraph (d).

25 3. When it is determined by the department pursuant to
26 binding arbitration proceedings that an initial recall effort
27 was defective, written recall agreements or written ballots
28 used in the first recall effort and not found to be defective
29 may be reused in one subsequent recall effort. However, in no
30 event is a written agreement or written ballot valid for more
31 than 120 days after it has been signed by the member.

1 4. Any rescission or revocation of a member's written
2 recall ballot or agreement must be in writing and, in order to
3 be effective, must be delivered to the association before the
4 association is served with the written recall agreements or
5 ballots.

6 5. The agreement in writing or ballot shall list at
7 least as many possible replacement directors as there are
8 directors subject to the recall, when at least a majority of
9 the board is sought to be recalled; the person executing the
10 recall instrument may vote for as many replacement candidates
11 as there are directors subject to the recall.

12 (c)1. If the declaration, articles of incorporation,
13 or bylaws specifically provide, the members may also recall
14 and remove a board director or directors by a vote taken at a
15 meeting. If so provided in the governing documents, a special
16 meeting of the members to recall a director or directors of
17 the board of administration may be called by 10 percent of the
18 voting interests giving notice of the meeting as required for
19 a meeting of members, and the notice shall state the purpose
20 of the meeting. Electronic transmission may not be used as a
21 method of giving notice of a meeting called in whole or in
22 part for this purpose.

23 2. The board shall duly notice and hold a board
24 meeting within 5 full business days after the adjournment of
25 the member meeting to recall one or more directors. At the
26 meeting, the board shall certify the recall, in which case
27 such member or members shall be recalled effective immediately
28 and shall turn over to the board within 5 full business days
29 any and all records and property of the association in their
30 possession, or shall proceed as set forth in subparagraph (d).

31

1 (d) If the board determines not to certify the written
2 agreement or written ballots to recall a director or directors
3 of the board or does not certify the recall by a vote at a
4 meeting, the board shall, within 5 full business days after
5 the meeting, file with the department a petition for binding
6 arbitration pursuant to the applicable procedures in ss.
7 718.1255 and 718.112(2)(j) and the rules adopted thereunder.
8 For the purposes of this section, the members who voted at the
9 meeting or who executed the agreement in writing shall
10 constitute one party under the petition for arbitration. If
11 the arbitrator certifies the recall as to any director or
12 directors of the board, the recall will be effective upon
13 mailing of the final order of arbitration to the association.
14 The director or directors so recalled shall deliver to the
15 board any and all records of the association in their
16 possession within 5 full business days after the effective
17 date of the recall.

18 (e) If a vacancy occurs on the board as a result of a
19 recall and less than a majority of the board directors are
20 removed, the vacancy may be filled by the affirmative vote of
21 a majority of the remaining directors, notwithstanding any
22 provision to the contrary contained in this subsection or in
23 the association documents. If vacancies occur on the board as
24 a result of a recall and a majority or more of the board
25 directors are removed, the vacancies shall be filled by
26 members voting in favor of the recall; if removal is at a
27 meeting, any vacancies shall be filled by the members at the
28 meeting. If the recall occurred by agreement in writing or by
29 written ballot, members may vote for replacement directors in
30 the same instrument in accordance with procedural rules

31

1 adopted by the division, which rules need not be consistent
2 with this subsection.

3 (f) If the board fails to duly notice and hold a board
4 meeting within 5 full business days after service of an
5 agreement in writing or within 5 full business days after the
6 adjournment of the member recall meeting, the recall shall be
7 deemed effective and the board directors so recalled shall
8 immediately turn over to the board all records and property of
9 the association.

10 (g) If a director who is removed fails to relinquish
11 his or her office or turn over records as required under this
12 section, the circuit court in the county where the association
13 maintains its principal office may, upon the petition of the
14 association, summarily order the director to relinquish his or
15 her office and turn over all association records upon
16 application of the association.

17 (h) The minutes of the board meeting at which the
18 board decides whether to certify the recall are an official
19 association record. The minutes must record the date and time
20 of the meeting, the decision of the board, and the vote count
21 taken on each board member subject to the recall. In addition,
22 when the board decides not to certify the recall, as to each
23 vote rejected, the minutes must identify the parcel number and
24 the specific reason for each such rejection.

25 (i) When the recall of more than one board director is
26 sought, the written agreement, ballot, or vote at a meeting
27 shall provide for a separate vote for each board director
28 sought to be recalled.

29 Section 19. Section 720.304, Florida Statutes, is
30 amended to read:

31

1 720.304 Right of owners to peaceably assemble; display
2 of flag; SLAPP suits prohibited.--

3 (1) All common areas and recreational facilities
4 serving any homeowners' association shall be available to
5 parcel owners in the homeowners' association served thereby
6 and their invited guests for the use intended for such common
7 areas and recreational facilities. The entity or entities
8 responsible for the operation of the common areas and
9 recreational facilities may adopt reasonable rules and
10 regulations pertaining to the use of such common areas and
11 recreational facilities. No entity or entities shall
12 unreasonably restrict any parcel owner's right to peaceably
13 assemble or right to invite public officers or candidates for
14 public office to appear and speak in common areas and
15 recreational facilities.

16 (2) Any homeowner may display one portable, removable
17 United States flag or official flag of the State of Florida in
18 a respectful manner, and on Armed Forces Day, Memorial Day,
19 Flag Day, Independence Day, and Veterans Day may display in a
20 respectful manner portable, removable official flags, not
21 larger than 4 1/2 feet by 6 feet, which represents the United
22 States Army, Navy, Air Force, Marine Corps, or Coast Guard,
23 regardless of any declaration rules or requirements dealing
24 with flags or decorations.

25 (3) Any owner prevented from exercising rights
26 guaranteed by subsection (1) or subsection (2) may bring an
27 action in the appropriate court of the county in which the
28 alleged infringement occurred, and, upon favorable
29 adjudication, the court shall enjoin the enforcement of any
30 provision contained in any homeowners' association document or
31 rule that operates to deprive the owner of such rights.

1 (4) It is the intent of the Legislature to protect the
2 right of parcel owners to exercise their rights to instruct
3 their representatives and petition for redress of grievances
4 before the various governmental entities of this state as
5 protected by the First Amendment to the United States
6 Constitution and s. 5, Art. I of the State Constitution. The
7 Legislature recognizes that "Strategic Lawsuits Against Public
8 Participation" or "SLAPP" suits, as they are typically called,
9 have occurred when members are sued by individuals, business
10 entities, or governmental entities arising out of a parcel
11 owner's appearance and presentation before a governmental
12 entity on matters related to the homeowners' association.
13 However, it is the public policy of this state that government
14 entities, business organizations, and individuals not engage
15 in SLAPP suits because such actions are inconsistent with the
16 right of parcel owners to participate in the state's
17 institutions of government. Therefore, the Legislature finds
18 and declares that prohibiting such lawsuits by governmental
19 entities, business entities, and individuals against parcel
20 owners who address matters concerning their homeowners'
21 association will preserve this fundamental state policy,
22 preserve the constitutional rights of parcel owners, and
23 assure the continuation of representative government in this
24 state. It is the intent of the Legislature that such lawsuits
25 be expeditiously disposed of by the courts.

26 (a) As used in this subsection, the term "governmental
27 entity" means the state, including the executive, legislative,
28 and judicial branches of government, the independent
29 establishments of the state, counties, municipalities,
30 districts, authorities, boards, or commissions, or any
31 agencies of these branches which are subject to chapter 286.

1 (b) A governmental entity, business organization, or
2 individual in this state may not file or cause to be filed
3 through its employees or agents any lawsuit, cause of action,
4 claim, cross-claim, or counterclaim against a parcel owner
5 without merit and solely because such parcel owner has
6 exercised the right to instruct his or her representatives or
7 the right to petition for redress of grievances before the
8 various governmental entities of this state, as protected by
9 the First Amendment to the United States Constitution and s.
10 5, Art. I of the State Constitution.

11 (c) A parcel owner sued by a governmental entity,
12 business organization, or individual in violation of this
13 section has a right to an expeditious resolution of a claim
14 that the suit is in violation of this section. A parcel owner
15 may petition the court for an order dismissing the action or
16 granting final judgment in favor of that parcel owner. The
17 petitioner may file a motion for summary judgment, together
18 with supplemental affidavits, seeking a determination that the
19 governmental entity's, business organization's, or
20 individual's lawsuit has been brought in violation of this
21 section. The governmental entity, business organization, or
22 individual shall thereafter file its response and any
23 supplemental affidavits. As soon as practicable, the court
24 shall set a hearing on the petitioner's motion, which shall be
25 held at the earliest possible time after the filing of the
26 governmental entity's, business organization's or individual's
27 response. The court may award the parcel owner sued by the
28 governmental entity, business organization, or individual
29 actual damages arising from the governmental entity's,
30 individual's, or business organization's violation of this
31 section. A court may treble the damages awarded to a

1 prevailing parcel owner and shall state the basis for the
2 treble damages award in its judgment. The court shall award
3 the prevailing party reasonable attorney's fees and costs
4 incurred in connection with a claim that an action was filed
5 in violation of this section.

6 (d) Homeowners' associations may not expend
7 association funds in prosecuting a SLAPP suit against a parcel
8 owner.

9 (5)(a) Any parcel owner may construct an access ramp
10 if a resident or occupant of the parcel has a medical
11 necessity or disability that requires a ramp for egress and
12 ingress under the following conditions:

13 1. The ramp must be as unobtrusive as possible, be
14 designed to blend in aesthetically as practicable, and be
15 reasonably sized to fit the intended use.

16 2. Plans for the ramp must be submitted in advance to
17 the homeowners' association. The association may make
18 reasonable requests to modify the design to achieve
19 architectural consistency with surrounding structures and
20 surfaces.

21 (b) The parcel owner must submit to the association an
22 affidavit from a physician attesting to the medical necessity
23 or disability of the resident or occupant of the parcel
24 requiring the access ramp. Certification used for s. 320.0848
25 shall be sufficient to meet the affidavit requirement.

26 (6) Any parcel owner may display a sign of reasonable
27 size provided by a contractor for security services within 10
28 feet of any entrance to the home.

29 Section 20. Subsection (2) of section 720.305, Florida
30 Statutes, is amended to read:
31

1 720.305 Obligations of members; remedies at law or in
2 equity; levy of fines and suspension of use rights; failure to
3 fill sufficient number of vacancies on board of directors to
4 constitute a quorum; appointment of receiver upon petition of
5 any member.--

6 (2) If the governing documents so provide, an
7 association may suspend, for a reasonable period of time, the
8 rights of a member or a member's tenants, guests, or invitees,
9 or both, to use common areas and facilities and may levy
10 reasonable fines, not to exceed \$100 per violation, against
11 any member or any tenant, guest, or invitee. A fine may be
12 levied on the basis of each day of a continuing violation,
13 with a single notice and opportunity for hearing, except that
14 no such fine shall exceed \$1,000 in the aggregate unless
15 otherwise provided in the governing documents. A fine shall
16 not become a lien against a parcel. In any action to recover a
17 fine, the prevailing party is entitled to collect its
18 reasonable attorney's fees and costs from the nonprevailing
19 party as determined by the court.

20 (a) A fine or suspension may not be imposed without
21 notice of at least 14 days to the person sought to be fined or
22 suspended and an opportunity for a hearing before a committee
23 of at least three members appointed by the board who are not
24 officers, directors, or employees of the association, or the
25 spouse, parent, child, brother, or sister of an officer,
26 director, or employee. If the committee, by majority vote,
27 does not approve a proposed fine or suspension, it may not be
28 imposed.

29 (b) The requirements of this subsection do not apply
30 to the imposition of suspensions or fines upon any member
31 because of the failure of the member to pay assessments or

1 other charges when due if such action is authorized by the
2 governing documents.

3 (c) Suspension of common-area-use rights shall not
4 impair the right of an owner or tenant of a parcel to have
5 vehicular and pedestrian ingress to and egress from the
6 parcel, including, but not limited to, the right to park.

7 Section 21. Section 720.3055, Florida Statutes, is
8 created to read:

9 720.3055 Contracts for products and services; in
10 writing; bids; exceptions.--

11 (1) All contracts as further described in this section
12 or any contract that is not to be fully performed within 1
13 year after the making thereof for the purchase, lease, or
14 renting of materials or equipment to be used by the
15 association in accomplishing its purposes under this chapter
16 or the governing documents, and all contracts for the
17 provision of services, shall be in writing. If a contract for
18 the purchase, lease, or renting of materials or equipment, or
19 for the provision of services, requires payment by the
20 association that exceeds 10 percent of the total annual budget
21 of the association, including reserves, the association must
22 obtain competitive bids for the materials, equipment, or
23 services. Nothing contained in this section shall be construed
24 to require the association to accept the lowest bid.

25 (2)(a)1. Notwithstanding the foregoing, contracts with
26 employees of the association, and contracts for attorney,
27 accountant, architect, community association manager,
28 engineering, and landscape architect services are not subject
29 to the provisions of this section.

30 2. A contract executed before October 1, 2004, and any
31 renewal thereof, is not subject to the competitive bid

1 requirements of this section. If a contract was awarded under
2 the competitive bid procedures of this section, any renewal of
3 that contract is not subject to such competitive bid
4 requirements if the contract contains a provision that allows
5 the board to cancel the contract on 30 days' notice.
6 Materials, equipment, or services provided to an association
7 under a local government franchise agreement by a franchise
8 holder are not subject to the competitive bid requirements of
9 this section. A contract with a manager, if made by a
10 competitive bid, may be made for up to 3 years. An association
11 whose declaration or bylaws provide for competitive bidding
12 for services may operate under the provisions of that
13 declaration or bylaws in lieu of this section if those
14 provisions are not less stringent than the requirements of
15 this section.

16 (b) Nothing contained in this section is intended to
17 limit the ability of an association to obtain needed products
18 and services in an emergency.

19 (c) This section does not apply if the business entity
20 with which the association desires to enter into a contract is
21 the only source of supply within the county serving the
22 association.

23 (d) Nothing contained in this section shall excuse a
24 party contracting to provide maintenance or management
25 services from compliance with s. 720.309.

26 Section 22. Present subsections (5) through (8) of
27 section 720.306, Florida Statutes, are renumbered as
28 subsections (7) through (10), respectively, present subsection
29 (7) is amended, and new subsections (5) and (6) are added to
30 that section to read:

31

1 720.306 Meetings of members; voting and election
2 procedures; amendments.--

3 (5) NOTICE OF MEETINGS.--The bylaws shall provide for
4 giving notice to members of all member meetings, and if they
5 do not do so shall be deemed to provide the following: The
6 association shall give all parcel owners and members actual
7 notice of all membership meetings, which shall be mailed,
8 delivered, or electronically transmitted to the members not
9 less than 14 days prior to the meeting. Evidence of compliance
10 with this 14-day notice shall be made by an affidavit executed
11 by the person providing the notice and filed upon execution
12 among the official records of the association. In addition to
13 mailing, delivering, or electronically transmitting the notice
14 of any meeting, the association may, by reasonable rule, adopt
15 a procedure for conspicuously posting and repeatedly
16 broadcasting the notice and the agenda on a closed-circuit
17 cable television system serving the association. When
18 broadcast notice is provided, the notice and agenda must be
19 broadcast in a manner and for a sufficient continuous length
20 of time so as to allow an average reader to observe the notice
21 and read and comprehend the entire content of the notice and
22 the agenda.

23 (6) RIGHT TO SPEAK.--Members and parcel owners have
24 the right to attend all membership meetings and to speak at
25 any meeting with reference to all items opened for discussion
26 or included on the agenda. Notwithstanding any provision to
27 the contrary in the governing documents or any rules adopted
28 by the board or by the membership, a member and a parcel owner
29 have the right to speak for at least 3 minutes on any item,
30 provided that the member or parcel owner submits a written
31 request to speak prior to the meeting. The association may

1 adopt written reasonable rules governing the frequency,
2 duration, and other manner of member and parcel owner
3 statements, which rules must be consistent with this
4 paragraph.

5 ~~(9)(7)~~ ELECTIONS.--Elections of directors must be
6 conducted in accordance with the procedures set forth in the
7 governing documents of the association. All members of the
8 association shall be eligible to serve on the board of
9 directors, and a member may nominate himself or herself as a
10 candidate for the board at a meeting where the election is to
11 be held. Except as otherwise provided in the governing
12 documents, boards of directors must be elected by a plurality
13 of the votes cast by eligible voters. Any election dispute
14 between a member and an association must be submitted to
15 mandatory binding arbitration with the division. Such
16 proceedings shall be conducted in the manner provided by s.
17 718.1255 and the procedural rules adopted by the division.

18 Section 23. Section 720.311, Florida Statutes, is
19 amended to read:

20 720.311 Dispute resolution.--

21 (1) The Legislature finds that alternative dispute
22 resolution has made progress in reducing court dockets and
23 trials and in offering a more efficient, cost-effective option
24 to litigation. The filing of any petition for mediation or
25 arbitration provided for in this section shall toll the
26 applicable statute of limitations. Any recall dispute filed
27 with the department pursuant to s. 720.303(10) shall be
28 conducted by the department in accordance with the provisions
29 of ss. 718.1255 and 718.112(2)(j) and the rules adopted by the
30 division. In addition, the department shall conduct mandatory
31 binding arbitration of election disputes between a member and

1 an association pursuant to s. 718.1255 and rules adopted by
2 the division. Neither election disputes nor recall disputes
3 are eligible for mediation; these disputes shall be arbitrated
4 by the department. At the conclusion of the proceeding, the
5 department shall charge the parties a fee in an amount
6 adequate to cover all costs and expenses incurred by the
7 department in conducting the proceeding. Initially, the
8 petitioner shall remit a filing fee of at least \$200 to the
9 department. The fees paid to the department shall become a
10 recoverable cost in the arbitration proceeding and the
11 prevailing party in an arbitration proceeding shall recover
12 its reasonable costs and attorney's fees in an amount found
13 reasonable by the arbitrator. The department shall adopt rules
14 to effectuate the purposes of this section.

15 (2)(a) Disputes between an association and a parcel
16 owner regarding use of or changes to the parcel or the common
17 areas and other covenant enforcement disputes, disputes
18 regarding amendments to the association documents, disputes
19 regarding meetings of the board and committees appointed by
20 the board, membership meetings not including election
21 meetings, and access to the official records of the
22 association shall be filed with the department for mandatory
23 mediation before the dispute is filed in court. Mediation
24 proceedings must be conducted in accordance with the
25 applicable Florida Rules of Civil Procedure, and these
26 proceedings are privileged and confidential to the same extent
27 as court-ordered mediation. An arbitrator or judge may not
28 consider any information or evidence arising from the
29 mediation proceeding except in a proceeding to impose
30 sanctions for failure to attend a mediation session. Persons
31 who are not parties to the dispute may not attend the

1 mediation conference without the consent of all parties,
2 except for counsel for the parties and a corporate
3 representative designated by the association. When mediation
4 is attended by a quorum of the board, such mediation is not a
5 board meeting for purposes of notice and participation set
6 forth in s. 720.303. The department shall conduct the
7 proceedings through the use of department mediators or refer
8 the disputes to private mediators who have been duly certified
9 by the department as provided in paragraph (c). The parties
10 shall share the costs of mediation equally, including the fee
11 charged by the mediator, if any, unless the parties agree
12 otherwise. If a department mediator is used, the department
13 may charge such fee as is necessary to pay expenses of the
14 mediation, including, but not limited to, the salary and
15 benefits of the mediator and any travel expenses incurred. The
16 petitioner shall initially file with the department upon
17 filing the disputes, a filing fee of \$200, which shall be used
18 to defray the costs of the mediation. At the conclusion of the
19 mediation, the department shall charge to the parties, to be
20 shared equally unless otherwise agreed by the parties, such
21 further fees as are necessary to fully reimburse the
22 department for all expenses incurred in the mediation.

23 (b) If mediation as described in paragraph (a) is not
24 successful in resolving all issues between the parties, the
25 parties may file the unresolved dispute in a court of
26 competent jurisdiction or elect to enter into binding or
27 nonbinding arbitration pursuant to the procedures set forth in
28 s. 718.1255 and rules adopted by the division, with the
29 arbitration proceeding to be conducted by a department
30 arbitrator or by a private arbitrator certified by the
31 department. If all parties do not agree to arbitration

1 proceedings following an unsuccessful mediation, any party may
2 file the dispute in court. A final order resulting from
3 nonbinding arbitration is final and enforceable in the courts
4 if a complaint for trial de novo is not filed in a court of
5 competent jurisdiction within 30 days after entry of the
6 order.

7 (c) The department shall develop a certification and
8 training program for private mediators and private arbitrators
9 which shall emphasize experience and expertise in the area of
10 the operation of community associations. A mediator or
11 arbitrator shall be certified by the department only if he or
12 she has attended at least 20 hours of training in mediation or
13 arbitration, as appropriate, and only if the applicant has
14 mediated or arbitrated at least 10 disputes involving
15 community associations within 5 years prior to the date of the
16 application, or has mediated or arbitrated 10 disputes in any
17 area within 5 years prior to the date of application and has
18 completed 20 hours of training in community association
19 disputes. In order to be certified by the department, any
20 mediator must also be certified by the Florida Supreme Court.
21 The department may conduct the training and certification
22 program within the department or may contract with an outside
23 vendor to perform the training or certification. The expenses
24 of operating the training and certification and training
25 program shall be paid by the moneys and filing fees generated
26 by the arbitration of recall and election disputes and by the
27 mediation of those disputes referred to in this subsection and
28 by the training fees.

29 (d) The mediation procedures provided by this
30 subsection may be used by a Florida corporation responsible
31 for the operation of a community in which the voting members

1 are parcel owners or their representatives, in which
2 membership in the corporation is not a mandatory condition of
3 parcel ownership, or which is not authorized to impose an
4 assessment that may become a lien on the parcel.

5 (3) The department shall develop an education program
6 to assist homeowners, associations, board members, and
7 managers in understanding and increasing awareness of the
8 operation of homeowners' associations pursuant to chapter 720
9 and in understanding the use of alternative dispute resolution
10 techniques in resolving disputes between parcel owners and
11 associations or between owners. Such education program may
12 include the development of pamphlets and other written
13 instructional guides, the holding of classes and meetings by
14 department employees or outside vendors, as the department
15 determines, and the creation and maintenance of a website
16 containing instructional materials. The expenses of operating
17 the education program shall be initially paid by the moneys
18 and filing fees generated by the arbitration of recall and
19 election disputes and by the mediation of those disputes
20 referred to in this subsection. ~~At any time after the filing~~
21 ~~in a court of competent jurisdiction of a complaint relating~~
22 ~~to a dispute under ss. 720.301-720.312, the court may order~~
23 ~~that the parties enter mediation or arbitration procedures.~~

24 Section 24. Subsection (13) is added to section
25 718.110, Florida Statutes, to read:

26 718.110 Amendment of declaration; correction of error
27 or omission in declaration by circuit court.--

28 (13) Any amendment restricting unit owners' rights
29 relating to the rental of units applies only to unit owners
30 who consent to the amendment and unit owners who purchase
31 their units after the effective date of that amendment.

1 Section 25. Section 689.26, Florida Statutes, is
2 transferred, renumbered as section 720.601, Florida Statutes,
3 and amended to read:

4 720.601 ~~689.26~~ Prospective purchasers subject to
5 association membership requirement; disclosure required;
6 covenants; assessments; contract cancellation ~~voidability~~.--

7 (1)(a) A prospective parcel owner in a community must
8 be presented a disclosure summary before executing the
9 contract for sale. The disclosure summary must be in a form
10 substantially similar to the following form:

11
12 DISCLOSURE SUMMARY
13 FOR
14 (NAME OF COMMUNITY)
15

16 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU
17 ~~WILL (WILL) (WILL NOT)~~ BE OBLIGATED TO BE A MEMBER OF A
18 HOMEOWNERS' ASSOCIATION.

19 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE
20 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN
21 THIS COMMUNITY.

22 3. YOU ~~WILL (WILL) (WILL NOT)~~ BE OBLIGATED TO PAY
23 ASSESSMENTS TO THE ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO
24 PERIODIC CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS \$
25 PER . YOU WILL ALSO BE OBLIGATED TO PAY ANY SPECIAL
26 ASSESSMENTS IMPOSED BY THE ASSOCIATION. SUCH SPECIAL
27 ASSESSMENTS MAY BE SUBJECT TO CHANGE. IF APPLICABLE, THE
28 CURRENT AMOUNT IS \$ PER .

29 4. YOU ~~MAY (WILL) (WILL NOT)~~ BE OBLIGATED TO PAY
30 SPECIAL ASSESSMENTS TO THE RESPECTIVE MUNICIPALITY, COUNTY, OR
31

1 SPECIAL DISTRICT. ALL ASSESSMENTS ARE SUBJECT TO PERIODIC
2 CHANGE.

3 ~~5.4.~~ YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR
4 ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION
5 COULD RESULT IN A LIEN ON YOUR PROPERTY.

6 ~~6.5.~~ THERE MAY BE ~~(IS)~~ ~~(IS NOT)~~ AN OBLIGATION TO PAY
7 RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED
8 FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS'
9 ASSOCIATION. IF APPLICABLE, THE CURRENT AMOUNT IS \$ _____ PER
10 ~~_____.~~ ~~(If such obligation exists, then the amount of the~~
11 ~~current obligation shall be set forth.)~~

12 ~~7.6.~~ THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE
13 RESTRICTIVE COVENANTS ~~(CAN)~~ ~~(CANNOT)~~ ~~BE AMENDED~~ WITHOUT THE
14 APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE
15 ~~IF NO MANDATORY ASSOCIATION EXISTS,~~ PARCEL OWNERS.

16 ~~8.7.~~ THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM
17 ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER,
18 YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION
19 GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

20 ~~9.8.~~ THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC
21 RECORD AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE
22 COUNTY WHERE THE PROPERTY IS LOCATED, OR ARE NOT RECORDED AND
23 CAN BE OBTAINED FROM THE DEVELOPER.

24 DATE: PURCHASER:
25 PURCHASER:
26

27 The disclosure must be supplied by the developer, or by the
28 parcel owner if the sale is by an owner that is not the
29 developer. Any contract or agreement for sale shall refer to
30 and incorporate the disclosure summary and shall include, in
31 prominent language, a statement that the potential buyer

1 should not execute the contract or agreement until they have
2 received and read the disclosure summary required by this
3 section.

4 (b) Each contract entered into for the sale of
5 property governed by covenants subject to disclosure required
6 by this section must contain in conspicuous type a clause that
7 states:

8
9 IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION
10 720.601 ~~689.26~~, FLORIDA STATUTES, HAS NOT BEEN
11 PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE
12 EXECUTING THIS CONTRACT FOR SALE, THIS CONTRACT
13 IS VOIDABLE BY BUYER BY DELIVERING TO SELLER OR
14 SELLER'S AGENT OR REPRESENTATIVE WRITTEN NOTICE
15 OF THE BUYER'S INTENTION TO CANCEL WITHIN 3
16 DAYS AFTER RECEIPT OF THE DISCLOSURE SUMMARY OR
17 PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY
18 PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS
19 NO EFFECT. BUYER'S RIGHT TO VOID THIS CONTRACT
20 SHALL TERMINATE AT CLOSING.

21
22 (c) If the disclosure summary is not provided to a
23 prospective purchaser before the purchaser executes a contract
24 for the sale of property governed by covenants that are
25 subject to disclosure pursuant to this section, the purchaser
26 may void the contract by delivering to the seller or the
27 seller's agent or representative written notice canceling the
28 contract within 3 days after receipt of the disclosure summary
29 or prior to closing, whichever occurs first. This right may
30 not be waived by the purchaser but terminates at closing. A
31 ~~contract that does not conform to the requirements of this~~

1 ~~subsection is voidable at the option of the purchaser prior to~~
2 ~~closing.~~

3 (2) This section does not apply to any association
4 regulated under chapter 718, chapter 719, chapter 721, or
5 chapter 723 or to a subdivider registered under chapter 498;
6 and also does not apply if disclosure regarding the
7 association is otherwise made in connection with the
8 requirements of chapter 718, chapter 719, chapter 721, or
9 chapter 723.

10 Section 26. Section 689.265, Florida Statutes, is
11 transferred and renumbered as section 720.3086, Florida
12 Statutes, to read:

13 720.3086 ~~689.265~~ Financial report.--In a residential
14 subdivision in which the owners of lots or parcels must pay
15 mandatory maintenance or amenity fees to the subdivision
16 developer or to the owners of the common areas, recreational
17 facilities, and other properties serving the lots or parcels,
18 the developer or owner of such areas, facilities, or
19 properties shall make public, within 60 days following the end
20 of each fiscal year, a complete financial report of the
21 actual, total receipts of mandatory maintenance or amenity
22 fees received by it, and an itemized listing of the
23 expenditures made by it from such fees, for that year. Such
24 report shall be made public by mailing it to each lot or
25 parcel owner in the subdivision, by publishing it in a
26 publication regularly distributed within the subdivision, or
27 by posting it in prominent locations in the subdivision. This
28 section does not apply to amounts paid to homeowner
29 associations pursuant to chapter 617, chapter 718, chapter
30 719, chapter 721, or chapter 723, or to amounts paid to local
31 governmental entities, including special districts.

1 Section 27. Paragraphs (g) and (h) of subsection (2)
2 of section 498.025, Florida Statutes, are amended to read:

3 498.025 Exemptions.--

4 (2) Except as provided in s. 498.022, the provisions
5 of this chapter do not apply to offers or dispositions of
6 interests in lots, parcels, or units contained in a recorded
7 subdivision plat, or resulting from the subdivision of land in
8 accordance with applicable local land development laws and
9 regulations pursuant to part II of chapter 163, including
10 lots, parcels, units, or interest vested under such part, if
11 all of the following conditions exist:

12 (g) The contract for purchase or lease contains, and
13 the subdivider complies with, the following provisions:

14 1. The purchaser must inspect the subdivided land
15 prior to the execution of the contract or lease.

16 2. The purchaser shall have an absolute right to
17 cancel the contract or lease for any reason whatsoever for a
18 period of 7 business days following the date on which the
19 contract or lease was executed by the purchaser.

20 3. In the event the purchaser elects to cancel within
21 the period provided, all funds or other property paid by the
22 purchaser shall be refunded without penalty or obligation
23 within 20 days of the receipt of the notice of cancellation by
24 the developer.

25 4. All funds or property paid by the purchaser shall
26 be put in escrow until closing has occurred and the lease or
27 deed has been recorded.

28 5. Unless otherwise timely canceled, closing shall
29 occur within 180 days of the date of execution of the contract
30 by the purchaser.

31

1 6. When title is conveyed, said title shall be
2 conveyed by statutory warranty deed unencumbered by any lien
3 or mortgage except for any first purchase money mortgage given
4 by the purchaser and restrictions, covenants, or easements of
5 record.

6 7. The subdivider presents to the purchaser the
7 disclosure required by s. 720.601 ~~s. 689.26~~ prior to the
8 execution of the contract or lease.

9 (h) The agreement for deed contains, and the
10 subdivider complies with, the following provisions:

11 1. The purchaser must inspect the subdivided land
12 prior to the execution of the agreement for deed.

13 2. The purchaser shall have an absolute right to
14 cancel the agreement for deed for any reason whatsoever for a
15 period of 7 business days following the date on which the
16 agreement for deed was executed by the purchaser.

17 3. If the purchaser elects to cancel within the period
18 provided, all funds or other property paid by the purchaser
19 shall be refunded without penalty or obligation within 20 days
20 after the receipt of the notice of cancellation by the
21 developer.

22 4. All funds or ~~for~~ property paid by the purchaser
23 shall be put in escrow until the agreement for deed has been
24 recorded in the county in which the subdivision is located.

25 5. Unless otherwise timely canceled, the agreement for
26 deed shall be recorded within 180 days after its execution by
27 the purchaser.

28 6. Sale of lots in the subdivision shall be restricted
29 solely to residents of the state.

30
31

1 7. The underlying mortgage or other ancillary
2 documents shall contain release provisions for the individual
3 lot purchased.

4 8. The subdivider presents to the purchaser the
5 disclosure required by s. 720.601 ~~s. 689.26~~ prior to the
6 execution of the agreement for deed.

7 Section 28. Section 720.602, Florida Statutes, is
8 created to read:

9 720.602 Publication of false and misleading
10 information.--

11 (1) Any person who, in reasonable reliance upon any
12 material statement or information that is false or misleading
13 and published by or under authority from the developer in
14 advertising and promotional materials, including, but not
15 limited to, a contract of purchaser, the declaration of
16 covenants, exhibits to a declaration of covenants, brochures,
17 and newspaper advertising, pays anything of value toward the
18 purchase of a parcel in a community located in this state has
19 a cause of action to rescind the contract or collect damages
20 from the developer for his or her loss before the closing of
21 the transaction. After the closing of the transaction, the
22 purchaser has a cause of action against the developer for
23 damages under this section from the time of closing until 1
24 year after the date upon which the last of the events
25 described in paragraphs (a) through (d) occur:

26 (a) The closing of the transaction;

27 (b) The issuance by the applicable governmental
28 authority of a certificate of occupancy or other evidence of
29 sufficient completion of construction of the purchaser's
30 residence to allow lawful occupancy of the residence by the
31 purchaser. In counties or municipalities in which certificates

1 of occupancy or other evidences of completion sufficient to
2 allow lawful occupancy are not customarily issued, for the
3 purpose of this section, evidence of lawful occupancy shall be
4 deemed to be given or issued upon the date that such lawful
5 occupancy of the residence may be allowed under prevailing
6 applicable laws, ordinances, or statutes;

7 (c) The completion by the developer of the common
8 areas and such recreational facilities, whether or not the
9 same are common areas, which the developer is obligated to
10 complete or provide under the terms of the written contract,
11 governing documents, or written agreement for purchase or
12 lease of the parcel; or

13 (d) In the event there is not a written contract or
14 agreement for sale or lease of the parcel, then the completion
15 by the developer of the common areas and such recreational
16 facilities, whether or not they are common areas, which the
17 developer would be obligated to complete under any rule of law
18 applicable to the developer's obligation.

19
20 Under no circumstances may a cause of action created or
21 recognized under this section survive for a period of more
22 than 5 years after the closing of the transaction.

23 (2) In any action for relief under this section, the
24 prevailing party may recover reasonable attorney's fees. A
25 developer may not expend association funds in the defense of
26 any suit under this section.

27 Section 29. Subsection (1) of section 34.01, Florida
28 Statutes, is amended to read:

29 34.01 Jurisdiction of county court.--

30 (1) County courts shall have original jurisdiction:

31

1 (a) In all misdemeanor cases not cognizable by the
2 circuit courts;

3 (b) Of all violations of municipal and county
4 ordinances; ~~and~~

5 (c) Of all actions at law in which the matter in
6 controversy does not exceed the sum of \$15,000, exclusive of
7 interest, costs, and attorney's fees, except those within the
8 exclusive jurisdiction of the circuit courts. The party
9 instituting any civil action, suit, or proceeding pursuant to
10 this paragraph where the amount in controversy is in excess of
11 \$5,000 shall pay to the clerk of the county court the filing
12 fees and service charges in the same amounts and in the same
13 manner as provided in s. 28.241; ~~and-~~

14 (d) Of disputes occurring in the homeowners'
15 associations as described in s. 720.311(2)(a), which shall be
16 concurrent with jurisdiction of the circuit courts.

17 Section 30. Paragraph (a) of subsection (1) of section
18 316.00825, Florida Statutes, is amended to read:

19 316.00825 Closing and abandonment of roads; optional
20 conveyance to homeowners' association; traffic control
21 jurisdiction.--

22 (1)(a) In addition to the authority provided in s.
23 336.12, the governing body of the county may abandon the roads
24 and rights-of-way dedicated in a recorded residential
25 subdivision plat and simultaneously convey the county's
26 interest in such roads, rights-of-way, and appurtenant
27 drainage facilities to a homeowners' association for the
28 subdivision, if the following conditions have been met:

29 1. The homeowners' association has requested the
30 abandonment and conveyance in writing for the purpose of
31

1 converting the subdivision to a gated neighborhood with
2 restricted public access.

3 2. No fewer than four-fifths of the owners of record
4 of property located in the subdivision have consented in
5 writing to the abandonment and simultaneous conveyance to the
6 homeowners' association.

7 3. The homeowners' association is both a corporation
8 not for profit organized and in good standing under chapter
9 617, and a "homeowners' association" as defined in s.
10 720.301(9) ~~s. 720.301(7)~~ with the power to levy and collect
11 assessments for routine and periodic major maintenance and
12 operation of street lighting, drainage, sidewalks, and
13 pavement in the subdivision.

14 4. The homeowners' association has entered into and
15 executed such agreements, covenants, warranties, and other
16 instruments; has provided, or has provided assurance of, such
17 funds, reserve funds, and funding sources; and has satisfied
18 such other requirements and conditions as may be established
19 or imposed by the county with respect to the ongoing
20 operation, maintenance, and repair and the periodic
21 reconstruction or replacement of the roads, drainage, street
22 lighting, and sidewalks in the subdivision after the
23 abandonment by the county.

24 Section 31. Subsection (2) of section 558.002, Florida
25 Statutes, is amended to read:

26 558.002 Definitions.--As used in this act, the term:
27 (2) "Association" has the same meaning as in s.
28 718.103(2), s. 719.103(2), s. 720.301(9) ~~s. 720.301(7)~~, or s.
29 723.025.

30 Section 32. The Division of Statutory Revision is
31 requested to designate sections 720.301-720.312, Florida

1 Statutes, as part I of chapter 720, Florida Statutes; to
2 designate sections 720.401-720.405, Florida Statutes, as part
3 II of chapter 720, Florida Statutes, and entitle that part as
4 "Covenant Revitalization;" to designate sections 720.601 and
5 720.602, Florida Statutes, as part IV of chapter 720, Florida
6 Statutes, and entitle that part "DISCLOSURE PRIOR TO SALE OF
7 RESIDENTIAL PARCELS"; and to designate section 720.501,
8 Florida Statutes, as part III of chapter 720, Florida
9 Statutes, and entitle that part "RIGHTS AND OBLIGATIONS OF
10 DEVELOPERS."

11 Section 33. Subsection (4) is added to section
12 190.012, Florida Statutes, to read:

13 190.012 Special powers; public improvements and
14 community facilities.--The district shall have, and the board
15 may exercise, subject to the regulatory jurisdiction and
16 permitting authority of all applicable governmental bodies,
17 agencies, and special districts having authority with respect
18 to any area included therein, any or all of the following
19 special powers relating to public improvements and community
20 facilities authorized by this act:

21 (4)(a) To adopt rules necessary for the district to
22 enforce certain deed restrictions pertaining to the use and
23 operation of real property within the district. For the
24 purpose of this subsection, "deed restrictions" are those
25 covenants, conditions, and restrictions contained in any
26 applicable declarations of covenants and restrictions that
27 govern the use and operation of real property within the
28 district and, for which covenants, conditions, and
29 restrictions, there is no homeowners' association or property
30 owner's association having respective enforcement powers. The
31

1 district may adopt by rule all or certain portions of the deed
2 restrictions that:
3 1. Relate to limitations or prohibitions that apply
4 only to external structures and are deemed by the district to
5 be generally beneficial for the district's landowners and for
6 which enforcement by the district is appropriate, as
7 determined by the district's board of supervisors; or
8 2. Are consistent with the requirements of a
9 development order or regulatory agency permit.
10 (b) The board may vote to adopt such rules only when
11 all of the following conditions exist:
12 1. The district's geographic area contains no
13 homeowners' associations as defined in s. 720.301(9);
14 2. The district was in existence on the effective date
15 of this subsection, or is located within a development that
16 consists of multiple developments of regional impact and a
17 Florida Quality Development;
18 3. The majority of the board has been elected by
19 qualified electors pursuant to the provisions of s. 190.006;
20 and
21 4. The declarant in any applicable declarations of
22 covenants and restrictions has provided the board with a
23 written agreement that such rules may be adopted. A memorandum
24 of the agreement shall be recorded in the public records.
25 (c) Within 60 days after such rules taking effect, the
26 district shall record a notice of rule adoption stating
27 generally what rules were adopted and where a copy of the
28 rules may be obtained. Districts may impose fines for
29 violations of such rules and enforce such rules and fines in
30 circuit court through injunctive relief.
31

1 Section 34. Section 190.046, Florida Statutes, is
2 amended to read:

3 190.046 Termination, contraction, or expansion of
4 district.--

5 (1) The board may petition to contract or expand the
6 boundaries of a community development district in the
7 following manner:

8 (a) The petition shall contain the same information
9 required by s. 190.005(1)(a)1. and 8. In addition, if the
10 petitioner seeks to expand the district, the petition shall
11 describe the proposed timetable for construction of any
12 district services to the area, the estimated cost of
13 constructing the proposed services, and the designation of the
14 future general distribution, location, and extent of public
15 and private uses of land proposed for the area by the future
16 land use plan element of the adopted local government local
17 comprehensive plan. If the petitioner seeks to contract the
18 district, the petition shall describe what services and
19 facilities are currently provided by the district to the area
20 being removed, and the designation of the future general
21 distribution, location, and extent of public and private uses
22 of land proposed for the area by the future land element of
23 the adopted local government comprehensive plan.

24 (b) For those districts initially established by
25 county ordinance, the petition for ordinance amendment shall
26 be filed with the county commission. If the land to be
27 included or excluded is, in whole or in part, within the
28 boundaries of a municipality, then the county commission shall
29 not amend the ordinance without municipal approval. A public
30 hearing shall be held in the same manner and with the same
31 public notice as other ordinance amendments. The county

1 commission shall consider the record of the public hearing and
2 the factors set forth in s. 190.005(1)(e) in making its
3 determination to grant or deny the petition for ordinance
4 amendment.

5 (c) For those districts initially established by
6 municipal ordinance pursuant to s. 190.005(2)(e), the
7 municipality shall assume the duties of the county commission
8 set forth in paragraph (b); however, if any of the land to be
9 included or excluded, in whole or in part, is outside the
10 boundaries of the municipality, then the municipality shall
11 not amend its ordinance without county commission approval.

12 (d)1. For those districts initially established by
13 administrative rule pursuant to s. 190.005(1), the petition
14 shall be filed with the Florida Land and Water Adjudicatory
15 Commission.

16 2. Prior to filing the petition, the petitioner shall
17 pay a filing fee of \$1,500 to the county and to each
18 municipality the boundaries of which are contiguous with or
19 contain all or a portion of the land within the district or
20 the proposed amendment, and submit a copy of the petition to
21 the county and to each such municipality. In addition, if the
22 district is not the petitioner, the petitioner shall file the
23 petition with the district board of supervisors.

24 3. The county and each municipality shall have the
25 option of holding a public hearing as provided by s.
26 190.005(1)(c). However, such public hearing shall be limited
27 to consideration of the contents of the petition and whether
28 the petition for amendment should be supported by the county
29 or municipality.

30 4. The district board of supervisors shall, in lieu of
31 a hearing officer, hold the local public hearing provided for

1 | by s. 190.005(1)(d). This local public hearing shall be
2 | noticed in the same manner as provided in s. 190.005(1)(d).
3 | Within 45 days of the conclusion of the hearing, the district
4 | board of supervisors shall transmit to the Florida Land and
5 | Water Adjudicatory Commission the full record of the local
6 | hearing, the transcript of the hearing, any resolutions
7 | adopted by the local general-purpose governments, and its
8 | recommendation whether to grant the petition for amendment.
9 | The commission shall then proceed in accordance with s.
10 | 190.005(1)(e).

11 | 5. A rule amending a district boundary shall describe
12 | the land to be added or deleted.

13 | (e) In all cases, written consent of all the
14 | landowners whose land is to be added to or deleted from the
15 | district shall be required. The filing of the petition for
16 | expansion or contraction by the district board of supervisors
17 | shall constitute consent of the landowners within the district
18 | other than of landowners whose land is proposed to be added to
19 | or removed from the district.

20 | (f)1. During the existence of a district initially
21 | established by administrative rule, petitions to amend the
22 | boundaries of the district pursuant to paragraphs (a)-(e)
23 | shall be limited to a cumulative total of no more than 10
24 | percent of the land in the initial district, and in no event
25 | shall all such petitions to amend the boundaries ever
26 | encompass more than a total of 250 acres.

27 | 2. For districts initially established by county or
28 | municipal ordinance, the limitation provided by this paragraph
29 | shall be a cumulative total of no more than 50 percent of the
30 | land in the initial district, and in no event shall all such
31 |

1 petitions to amend the boundaries ever encompass more than a
2 total of 500 acres.

3 3. Boundary expansions for districts initially
4 established by county or municipal ordinance shall follow the
5 procedure set forth in paragraph (b) or paragraph (c).

6 (g) Petitions to amend the boundaries of the district
7 which exceed the amount of land specified in paragraph (f)
8 shall be considered petitions to establish a new district and
9 shall follow all of the procedures specified in s. 190.005.

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

11 (a) The district is merged with another district as
12 provided in subsection (3);

13 (b) All of the specific community development systems,
14 facilities, and services that it is authorized to perform have
15 been transferred to a general-purpose unit of local government
16 in the manner provided in subsections (4), (5), and (6); or

17 (c) The district is dissolved as provided in
18 subsection (7), ~~or~~ subsection (8), or subsection (9).

19 (3) The district may merge with other community
20 development districts upon filing a petition for establishment
21 of a community development district pursuant to s. 190.005 or
22 may merge with any other special districts upon filing a
23 petition for establishment of a community development district
24 pursuant to s. 190.005. The government formed by a merger
25 involving a community development district pursuant to this
26 section shall assume all indebtedness of, and receive title
27 to, all property owned by the preexisting special districts.
28 Prior to filing said petition, the districts desiring to merge
29 shall enter into a merger agreement and shall provide for the
30 proper allocation of the indebtedness so assumed and the
31 manner in which said debt shall be retired. The approval of

1 the merger agreement by the board of supervisors elected by
2 the electors of the district shall constitute consent of the
3 landowners within the district.

4 (4) The local general-purpose government within the
5 geographical boundaries of which the district lies may adopt a
6 nonemergency ordinance providing for a plan for the transfer
7 of a specific community development service from a district to
8 the local general-purpose government. The plan must provide
9 for the assumption and guarantee of the district debt that is
10 related to the service by the local general-purpose government
11 and must demonstrate the ability of the local general-purpose
12 government to provide such service:

13 (a) As efficiently as the district.

14 (b) At a level of quality equal to or higher than the
15 level of quality actually delivered by the district to the
16 users of the service.

17 (c) At a charge equal to or lower than the actual
18 charge by the district to the users of the service.

19 (5) No later than 30 days following the adoption of a
20 transfer plan ordinance, the board of supervisors may file, in
21 the circuit court for the county in which the local
22 general-purpose government that adopted the ordinance is
23 located, a petition seeking review by certiorari of the
24 factual and legal basis for the adoption of the transfer plan
25 ordinance.

26 (6) Upon the transfer of all of the community
27 development services of the district to a general-purpose unit
28 of local government, the district shall be terminated in
29 accordance with a plan of termination which shall be adopted
30 by the board of supervisors and filed with the clerk of the
31 circuit court.

1 (7) If, within 5 years after the effective date of the
2 rule or ordinance establishing ~~creating~~ the district, a
3 landowner has not received a development permit, as defined in
4 chapter 380, on some part or all of the area covered by the
5 district, then the district will be automatically dissolved
6 and a judge of the circuit court shall cause a statement to
7 that effect to be filed in the public records.

8 (8) In the event the district has become inactive
9 pursuant to s. 189.4044, the respective board of county
10 commissioners or city commission shall be informed and it
11 shall take appropriate action.

12 (9) If a district has no outstanding financial
13 obligations and no operating or maintenance responsibilities,
14 upon the petition of the district, the district may be
15 dissolved by a nonemergency ordinance of the general-purpose
16 local governmental entity that established the district or, if
17 the district was established by rule of the Florida Land and
18 Water Adjudicatory Commission, the district may be dissolved
19 by repeal of such rule of the commission.

20 Section 35. Section 190.006, Florida Statutes, is
21 amended to read:

22 190.006 Board of supervisors; members and meetings.--

23 (1) The board of the district shall exercise the
24 powers granted to the district pursuant to this act. The board
25 shall consist of five members; except as otherwise provided
26 herein, each member shall hold office for a term of 2 years or
27 4 years, as provided in this section, and until a successor is
28 chosen and qualifies. The members of the board must be
29 residents of the state and citizens of the United States.

30 (2)(a) Within 90 days following the effective date of
31 the rule or ordinance establishing the district, there shall

1 be held a meeting of the landowners of the district for the
2 purpose of electing five supervisors for the district. Notice
3 of the landowners' meeting shall be published once a week for
4 2 consecutive weeks in a newspaper which is in general
5 circulation in the area of the district, the last day of such
6 publication to be not fewer than 14 days or more than 28 days
7 before the date of the election. The landowners, when
8 assembled at such meeting, shall organize by electing a chair
9 who shall conduct the meeting. The chair may be any person
10 present at the meeting. If the chair is a landowner or proxy
11 holder of a landowner, he or she may nominate candidates and
12 make and second motions.

13 (b) At such meeting, each landowner shall be entitled
14 to cast one vote per acre of land owned by him or her and
15 located within the district for each person to be elected. A
16 landowner may vote in person or by proxy in writing. Each
17 proxy must be signed by one of the legal owners of the
18 property for which the vote is cast and must contain the typed
19 or printed name of the individual who signed the proxy; the
20 street address, legal description of the property, or tax
21 parcel identification number; and the number of authorized
22 votes. If the proxy authorizes more than one vote, each
23 property must be listed and the number of acres of each
24 property must be included. The signature on a proxy need not
25 be notarized. A fraction of an acre shall be treated as 1
26 acre, entitling the landowner to one vote with respect
27 thereto. The two candidates receiving the highest number of
28 votes shall be elected for a period of 4 years, and the three
29 candidates receiving the next largest number of votes shall be
30 elected for a period of 2 years, with the term of office for
31 each successful candidate commencing upon election. The

1 members of the first board elected by landowners shall serve
2 their respective 4-year or 2-year terms; however, the next
3 election by landowners shall be held on the first Tuesday in
4 November. Thereafter, there shall be an election of
5 supervisors for the district every 2 years in November on a
6 date established by the board and noticed pursuant to
7 paragraph (a). The second and subsequent landowners' election
8 shall be announced at a public meeting of the board at least
9 90 days prior to the date of the landowners' meeting and shall
10 also be noticed pursuant to paragraph (a). Instructions on how
11 all landowners may participate in the election, along with
12 sample proxies, shall be provided during the board meeting
13 that announces the landowners' meeting. The two candidates
14 receiving the highest number of votes shall be elected to
15 serve for a 4-year period, and the remaining candidate elected
16 shall serve for a 2-year period.

17 (3)(a)1. If the board proposes to exercise the ad
18 valorem taxing power authorized by s. 190.021, the district
19 board shall call an election at which the members of the board
20 of supervisors will be elected. Such election shall be held
21 in conjunction with a primary or general election unless the
22 district bears the cost of a special election. Each member
23 shall be elected by the qualified electors of the district for
24 a term of 4 years, except that, at the first such election,
25 three members shall be elected for a period of 4 years and two
26 members shall be elected for a period of 2 years. All elected
27 board members must be qualified electors of the district.

28 2.a. Regardless of whether a district has proposed to
29 levy ad valorem taxes, commencing 6 years after the initial
30 appointment of members or, for a district exceeding 5,000
31 acres in area, 10 years after the initial appointment of

1 members, the position of each member whose term has expired
2 shall be filled by a qualified elector of the district,
3 elected by the qualified electors of the district. However,
4 for those districts established after June 21, 1991, and for
5 those existing districts established after December 31, 1983,
6 which have less than 50 qualified electors on June 21, 1991,
7 sub-subparagraphs b. and d. ~~e.~~ shall apply.

8 ~~b. For those districts to which this sub-subparagraph~~
9 ~~applies~~ If, in the 6th year after the initial appointment of
10 members, or 10 years after such initial appointment for
11 districts exceeding 5,000 acres in area, there are not at
12 least 250 qualified electors in the district, or for a
13 district exceeding 5,000 acres, there are not at least 500
14 qualified electors, members of the board shall continue to be
15 elected by landowners.

16 b. After the 6th or 10th year, once a district reaches
17 250 or 500 qualified electors, respectively, then the
18 positions ~~position~~ of two board members whose terms are
19 expiring shall be filled by qualified electors of the
20 district, elected by the qualified electors of the district
21 for 4-year terms. ~~One of these board members shall serve a~~
22 ~~2-year term, and the other a 4-year term.~~ The remaining board
23 member whose term is expiring shall be elected for a 4-year
24 term by the landowners and is not required to be a qualified
25 elector. Thereafter, as terms expire, board members shall be
26 qualified electors elected by qualified electors of the
27 district for a term of 4 years.

28 c. Once a district qualifies to have any of its board
29 members elected by the qualified electors of the district, the
30 initial and all subsequent elections by the qualified electors
31 of the district shall be held at the general election in

1 November. The board shall adopt a resolution if necessary to
2 implement this requirement when the board determines the
3 number of qualified electors as required by sub-subparagraph
4 d., to extend or reduce the terms of current board members.

5 ~~d.e.~~ On or before June 1 ~~July 15~~ of each year, the
6 board shall determine the number of qualified electors in the
7 district as of the immediately preceding April 15 ~~June 1~~. The
8 board shall use and rely upon the official records maintained
9 by the supervisor of elections and property appraiser or tax
10 collector in each county in making this determination. Such
11 determination shall be made at a properly noticed meeting of
12 the board and shall become a part of the official minutes of
13 the district.

14 (b) Elections of board members by qualified electors
15 held pursuant to this subsection shall be nonpartisan and
16 shall be conducted in the manner prescribed by law for holding
17 general elections. Board members shall assume the office on
18 the second Tuesday following their election.

19 (c) Candidates seeking election to office by qualified
20 electors under this subsection shall conduct their campaigns
21 in accordance with the provisions of chapter 106 and shall
22 file qualifying papers and qualify for individual seats in
23 accordance with s. 99.061. Candidates shall pay a qualifying
24 fee, which shall consist of a filing fee and an election
25 assessment or, as an alternative, shall file a petition signed
26 by not less than 1 percent of the registered voters of the
27 district, ~~Candidates shall file petitions,~~ and take the oath
28 required in s. 99.021, with the supervisor of elections in the
29 county affected by such candidacy. The amount of the filing
30 fee is 3 percent of \$4,800; however, if the electors have
31 provided for compensation pursuant to subsection (8), the

1 amount of the filing fee is 3 percent of the maximum annual
2 compensation so provided. The amount of the election
3 assessment is 1 percent of \$4,800; however, if the electors
4 have provided for compensation pursuant to subsection (8), the
5 amount of the election assessment is 1 percent of the maximum
6 annual compensation so provided. The filing fee and election
7 assessment shall be distributed as provided in s. 105.031(3).

8 (d) The supervisor of elections shall appoint the
9 inspectors and clerks of elections, prepare and furnish the
10 ballots, designate polling places, and canvass the returns of
11 the election of board members by qualified electors. The
12 county canvassing board of ~~county commissioners~~ shall declare
13 and certify the results of the election.

14 (4) Members of the board shall be known as supervisors
15 and, upon entering into office, shall take and subscribe to
16 the oath of office as prescribed by s. 876.05. They shall
17 hold office for the terms for which they were elected or
18 appointed and until their successors are chosen and qualified.
19 If, during the term of office, a vacancy occurs, the remaining
20 members of the board shall fill the vacancy by an appointment
21 for the remainder of the unexpired term.

22 (5) A majority of the members of the board constitutes
23 a quorum for the purposes of conducting its business and
24 exercising its powers and for all other purposes. Action
25 taken by the district shall be upon a vote of a majority of
26 the members present unless general law or a rule of the
27 district requires a greater number.

28 (6) As soon as practicable after each election or
29 appointment, the board shall organize by electing one of its
30 members as chair and by electing a secretary, who need not be
31

1 a member of the board, and such other officers as the board
2 may deem necessary.

3 (7) The board shall keep a permanent record book
4 entitled "Record of Proceedings of ...(name of district)...
5 Community Development District," in which shall be recorded
6 minutes of all meetings, resolutions, proceedings,
7 certificates, bonds given by all employees, and any and all
8 corporate acts. The record book shall at reasonable times be
9 opened to inspection in the same manner as state, county, and
10 municipal records pursuant to chapter 119. The record book
11 shall be kept at the office or other regular place of business
12 maintained by the board in the county or municipality in which
13 the district is located or within the boundaries of a
14 development of regional impact or Florida Quality Development,
15 or combination of a development of regional impact and Florida
16 Quality Development, which includes the district.

17 (8) Each supervisor shall be entitled to receive for
18 his or her services an amount not to exceed \$200 per meeting
19 of the board of supervisors, not to exceed \$4,800 per year per
20 supervisor, or an amount established by the electors at
21 referendum. In addition, each supervisor shall receive travel
22 and per diem expenses as set forth in s. 112.061.

23 (9) All meetings of the board shall be open to the
24 public and governed by the provisions of chapter 286.

25 Section 36. Subsection (9) is added to section
26 718.5012, Florida Statutes, as created by this act, to read:

27 718.5012 Ombudsman; powers and duties.--The ombudsman
28 shall have the powers that are necessary to carry out the
29 duties of his or her office, including the following specific
30 powers:

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1 (9) Fifteen percent of the total voting interests in a
2 condominium association, or six unit owners, whichever is
3 greater, may petition the ombudsman to appoint an election
4 monitor to attend the annual meeting of the unit owners and
5 conduct the election of directors. The ombudsman shall appoint
6 a division employee, a person or persons specializing in
7 condominium election monitoring, or an attorney licensed to
8 practice in this state as the election monitor. All costs
9 associated with the election monitoring process shall be paid
10 by the association. The division shall adopt a rule
11 establishing procedures for the appointment of election
12 monitors and the scope and extent of the monitor's role in the
13 election process.

14 Section 37. If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 invalidity does not affect other provisions or applications of
17 this act which can be given effect without the invalid
18 provision or application, and to this end the provisions of
19 this act are declared severable.

20 Section 38. This act shall take effect October 1,
21 2004.

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