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2 An act relating to homeowners' associations;
3 amending s. 617.303, F.S.; prohibiting the
4 commingling of certain funds; amending s.
5 617.307, F.S.; revising language with respect
6 to the transition of homeowners' association
7 control in a community; providing a list of
8 required documents which must be provided to
9 the board by the developer; creating s.
10 617.3075, F.S.; providing for prohibited
11 clauses in homeowners' association documents;
12 amending s. 689.26, F.S.; revising language
13 with respect to disclosure to prospective
14 purchasers; providing for the cancellation of
15 certain contracts; providing for the inclusion
16 of information on certain amenities; providing
17 an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Subsection (8) of section 617.303, Florida
22 Statutes, is renumbered as subsection (9), and a new
23 subsection (8) is added to said section to read:

24 617.303 Association powers and duties; meetings of
25 board; official records; budgets; financial reporting.--

26 (8) ASSOCIATION FUNDS; COMMINGLING.--

27 (a) All association funds held by a developer shall be
28 maintained separately in the association's name. Reserve and
29 operating funds of the association shall not be commingled
30 prior to turnover except the association may jointly invest

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1 reserve funds; however, such jointly invested funds must be
2 accounted for separately.

3 (b) No developer in control of a homeowners'
4 association shall commingle any association funds with his or
5 her funds or with the funds of any other homeowners'
6 association or community association.

7 Section 2. Subsection (1) of section 617.307, Florida
8 Statutes, is amended, subsection (3) of said section is
9 renumbered as subsection (4), and a new subsection (3) is
10 added to said section, to read:

11 617.307 Transition of homeowners' association control
12 in a community.--With respect to homeowners' associations as
13 defined in s. 617.301:

14 (1) Members other than the developer are entitled to
15 elect at least a majority of the members of the board of
16 directors of the homeowners' association when the earlier of
17 the following events occurs:

18 (a) Three months after 90 percent of the parcels in
19 all phases of the community that will ultimately be operated
20 by the homeowners' association have been conveyed to members;
21 or

22 (b) Such other percentage of the parcels has been
23 conveyed to members, or such other date or event has occurred,
24 as is set forth in the governing documents in order to comply
25 with the requirements of any governmentally chartered entity
26 with regard to the mortgage financing of parcels.

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28 ~~(c)~~ For purposes of this section, the term "members other
29 than the developer" shall not include builders, contractors,
30 or others who purchase a parcel for the purpose of
31 constructing improvements thereon for resale.

1 (3) At the time the members are entitled to elect at
2 least a majority of the board of directors of the homeowners'
3 association, the developer shall, at the developer's expense,
4 within no more than 90 days deliver the following documents to
5 the board:

6 (a) All deeds to common property owned by the
7 association.

8 (b) The original of the association's declarations of
9 covenants and restrictions.

10 (c) A certified copy of the articles of incorporation
11 of the association.

12 (d) A copy of the bylaws.

13 (e) The minute books, including all minutes.

14 (f) The books and records of the association.

15 (g) Policies, rules, and regulations, if any, which
16 have been adopted.

17 (h) Resignations of directors who are required to
18 resign because the developer is required to relinquish control
19 of the association.

20 (i) The financial records of the association from the
21 date of incorporation through the date of turnover.

22 (j) All association funds and control thereof.

23 (k) All tangible property of the association.

24 (l) A copy of all contracts which may be in force with
25 the association as one of the parties.

26 (m) A list of the names and addresses and telephone
27 numbers of all contractors, subcontractors, or others in the
28 current employ of the association.

29 (n) Any and all insurance policies in effect.

30 (o) Any permits issued to the association by
31 governmental entities.

1 (p) Any and all warranties in effect.

2 (q) A roster of current homeowners and their addresses
3 and telephone numbers and section and lot numbers.

4 (r) Employment and service contracts in effect.

5 (s) All other contracts in effect to which the
6 association is a party.

7 Section 3. Section 617.3075, Florida Statutes, is
8 created to read:

9 617.3075 Prohibited clauses in homeowners' association
10 documents.--

11 (1) It is hereby declared that the public policy of
12 this state prohibits the inclusion or enforcement of certain
13 types of clauses in homeowners' association documents,
14 including declaration of covenants, articles of incorporation,
15 bylaws, or any other document of the association which binds
16 members of the association, which either have the effect of or
17 provide that:

18 (a) A developer has the unilateral ability and right
19 to make changes to the homeowners' association documents after
20 the transition of homeowners' association control in a
21 community from the developer to the nondeveloper members, as
22 set forth in s. 617.307, has occurred.

23 (b) A homeowners' association is prohibited or
24 restricted from filing a lawsuit against the developer, or the
25 homeowners' association is otherwise effectively prohibited or
26 restricted from bringing a lawsuit against the developer.

27 (c) After the transition of homeowners' association
28 control in a community from the developer to the nondeveloper
29 members, as set forth in s. 617.307, has occurred, a developer
30 is entitled to cast votes in an amount that exceeds one vote
31 per residential lot.

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2 Such clauses are hereby declared null and void as against the
3 public policy of this state.

4 (2) The public policy described in subsection (1)
5 prohibits the inclusion or enforcement of such clauses created
6 on or after the effective date of this section.

7 Section 4. Subsection (1) of section 689.26, Florida
8 Statutes, is amended to read:

9 689.26 Prospective purchasers subject to association
10 membership requirement; disclosure required.--

11 (1) A prospective parcel owner in a community must be
12 presented a disclosure summary before executing the contract
13 for sale. The disclosure summary must be in a form
14 substantially similar to the following form:

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16 DISCLOSURE SUMMARY

17 FOR

18 (NAME OF COMMUNITY)
19

20 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU
21 WILL BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

22 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE
23 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN
24 THIS COMMUNITY.

25 3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE
26 ASSOCIATION, WHICH ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

27 4. YOUR FAILURE TO PAY THESE ASSESSMENTS COULD RESULT
28 IN A LIEN ON YOUR PROPERTY.

29 5. THERE (IS) (IS NOT) AN OBLIGATION TO PAY RENT OR
30 LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED
31 FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS'

1 ASSOCIATION. (If such obligation exists, then the amount of
2 the current obligation shall be set forth.)

3 6. THE RESTRICTIVE COVENANTS (CAN) (CANNOT) BE AMENDED
4 WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP.

5 7. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM
6 ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER,
7 YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION
8 GOVERNING DOCUMENTS.

9 8. THESE DOCUMENTS ARE MATTERS OF PUBLIC RECORD AND
10 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE
11 PROPERTY IS LOCATED.

12 DATE:

PURCHASER:

13

PURCHASER:

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15 The disclosure must be supplied by the developer, or by the
16 parcel owner if the sale is by an owner that is not the
17 developer. Any contract or agreement for sale shall refer to
18 and incorporate the disclosure summary and shall include, in
19 prominent language, a statement that the potential buyer
20 should not execute the contract or agreement until they have
21 received and read the disclosure summary required by s.
22 689.26.

23 Section 5. This act shall take effect October 1 of the
24 year in which enacted.

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