

By Senator Brown-Waite

10-401-00

1                                   A bill to be entitled  
2           An act implementing recommendations of the  
3           Constitutional Transition Task Force appointed  
4           by the Secretary of State with respect to  
5           governmental reorganization; amending s. 20.03,  
6           F.S.; redefining the term "cabinet" as used in  
7           provisions relating to the structure of the  
8           executive branch to conform to changes made to  
9           the State Constitution; amending s. 20.10,  
10          F.S.; providing for the structure of the  
11          Department of State and providing for the  
12          appointment, term of office, and duties of the  
13          head of the department; amending ss. 112.3144,  
14          112.3145, F.S.; transferring certain functions  
15          relating to the disclosure of financial  
16          interests by public officers and employees from  
17          the Department of State to the Florida  
18          Commission on Ethics; amending ss. 117.01,  
19          117.05, F.S.; transferring certain functions  
20          relating to the regulation of notaries public  
21          from the Governor to the Department of State;  
22          amending s. 257.36, F.S.; requiring district  
23          officers and agencies to comply with certain  
24          laws relating to the management of records and  
25          revising provisions governing the destruction  
26          or disposition of agency records; amending s.  
27          267.072, F.S.; revising programs administered  
28          by the Division of Historical Resources of the  
29          Department of State; amending s. 288.8175,  
30          F.S.; transferring from the Department of  
31          Education to the Department of State certain

1 functions relating to linkage institutes  
2 between certain educational institutions and  
3 foreign countries; amending s. 403.7145, F.S.;  
4 conforming provisions relating to the recycling  
5 programs for the capitol to changes made in the  
6 structure of the executive branch by the State  
7 Constitution; transferring, renumbering, and  
8 amending ss. 617.301-617.312, F.S., relating to  
9 homeowners' associations, to clarify that such  
10 provisions are not administered by the Division  
11 of Corporations of the Department of State;  
12 amending ss. 617.0601, 617.0701, 617.0721,  
13 617.0831, 712.01, 723.0751, 849.085, 849.0931,  
14 F.S.; conforming cross-references; amending s.  
15 849.094, F.S.; transferring from the Division  
16 of Licensing of the Department of State to the  
17 Department of Agriculture and Consumer Services  
18 certain functions relating to the regulation of  
19 game promotions; providing effective dates.  
20

21 Be It Enacted by the Legislature of the State of Florida:  
22

23 Section 1. Effective January 7, 2003, subsection (1)  
24 of section 20.03, Florida Statutes, is amended to read:

25 20.03 Definitions.--To provide uniform nomenclature  
26 throughout the structure of the executive branch, the  
27 following definitions apply:

28 (1) "Cabinet" means collectively the ~~Secretary of~~  
29 State, Attorney General, the Chief Financial Officer, and the  
30 ~~Comptroller, Treasurer, Commissioner of Agriculture, and~~  
31

1 ~~Commissioner of Education~~, as specified in s. 4, Art. IV of  
2 the State Constitution.

3 Section 2. Effective January 7, 2003, section 20.10,  
4 Florida Statutes, is amended to read:

5 20.10 Department of State.--There is created a  
6 Department of State.

7 (1) The head of the Department of State is the  
8 Secretary of State. The Secretary of State shall be appointed  
9 by the Governor, subject to confirmation by the Senate, and  
10 shall serve at the pleasure of the Governor. The Secretary of  
11 State shall perform the functions conferred by the State  
12 Constitution upon the custodian of state records.

13 (2) The following divisions of the Department of State  
14 are established:

- 15 (a) Division of Elections.
- 16 (b) Division of Historical Resources.
- 17 (c) Division of Corporations.
- 18 (d) Division of Library and Information Services.
- 19 (e) Division of Licensing.
- 20 (f) Division of Cultural Affairs.
- 21 (g) Division of Administration.

22 Section 3. Section 112.3144, Florida Statutes, is  
23 amended to read:

24 112.3144 Full and public disclosure of financial  
25 interests.--

26 (1) An officer who is required by s. 8, Art. II of the  
27 State Constitution to file a full and public disclosure of his  
28 or her financial interests for any calendar or fiscal year  
29 shall file that disclosure with the Florida Commission on  
30 Ethics.

31

1           (2)~~(1)~~ No person who is required, pursuant to s. 8,  
2 Art. II of the State Constitution, to file a full and public  
3 disclosure of financial interests and who has filed a full and  
4 public disclosure of financial interests for any calendar or  
5 fiscal year shall be required to file a statement of financial  
6 interests pursuant to s. 112.3145(2) and (3) for the same year  
7 or for any part thereof notwithstanding any requirement of  
8 this part, except that a candidate for office shall file a  
9 copy of his or her disclosure with the officer before whom he  
10 or she qualifies.

11           (3)~~(2)~~ For purposes of full and public disclosure  
12 under s. 8(a), Art. II of the State Constitution, the  
13 following items, if not held for investment purposes and if  
14 valued at over \$1,000 in the aggregate, may be reported in a  
15 lump sum and identified as "household goods and personal  
16 effects":

- 17           (a) Jewelry;
- 18           (b) Collections of stamps, guns, and numismatic  
19 properties;
- 20           (c) Art objects;
- 21           (d) Household equipment and furnishings;
- 22           (e) Clothing;
- 23           (f) Other household items; and
- 24           (g) Vehicles for personal use.

25           (4)~~(3)~~ Forms for compliance with the full and public  
26 disclosure requirements of s. 8, Art. II of the State  
27 Constitution, ~~and a current list of persons required to file~~  
28 ~~full and public disclosure by s. 8, Art. II of the State~~  
29 ~~Constitution, or other state law, shall be created provided by~~  
30 the Commission on Ethics. The commission ~~to the Secretary of~~  
31

1 ~~State, who~~ shall give notice of disclosure deadlines and  
2 delinquencies and distribute forms in the following manner:

3 (a) Not later than May 1 of each year, the commission  
4 ~~on Ethics~~ shall prepare a current list of the names and  
5 addresses of and the offices held by every person required to  
6 file full and public disclosure annually by s. 8, Art. II of  
7 the State Constitution, or other state law, ~~and shall provide~~  
8 ~~the Secretary of State with the mailing list.~~ In compiling the  
9 list, the commission shall be assisted by each unit of  
10 government in providing at the request of the commission the  
11 name, address, and name of the office held by each public  
12 official within the respective unit of government.

13 (b) Not later than 30 days before July 1 of each year,  
14 the commission ~~Secretary of State~~ shall mail a copy of the  
15 form prescribed for compliance with full and public disclosure  
16 and a notice of the filing deadline to each person on the  
17 mailing list.

18 (c) Not later than 30 days after July 1 of each year,  
19 the commission ~~Secretary of State~~ shall determine which  
20 persons on the mailing list have failed to file full and  
21 public disclosure and shall send delinquency notices by  
22 certified mail to such persons. Each notice shall state that a  
23 grace period is in effect until September 1 of the current  
24 year ~~and that, if the statement is not filed by September 1 of~~  
25 ~~the current year, the Secretary of State is required by law to~~  
26 ~~notify the Commission on Ethics of the delinquency.~~

27 ~~(d) Not later than 30 days following September 1 of~~  
28 ~~each year, the Secretary of State shall certify to the~~  
29 ~~Commission on Ethics a list of the names and addresses of and~~  
30 ~~the offices held by all persons on the mailing list who have~~  
31 ~~failed to timely file full and public disclosure. The~~

1 ~~certification shall be on a form prescribed by the commission~~  
2 ~~and shall indicate whether the Secretary of State has provided~~  
3 ~~the disclosure forms and notice as required by this section to~~  
4 ~~all persons named on the delinquency list.~~

5 (d)~~(e)~~ Any person subject to the annual filing of full  
6 and public disclosure under s. 8, Art. II of the State  
7 Constitution, or other state law, whose name is not on the  
8 commission's mailing list of persons required to file full and  
9 public disclosure ~~provided to the Secretary of State~~ shall not  
10 be deemed delinquent for failure to file full and public  
11 disclosure in any year in which the omission occurred.

12 (e)~~(f)~~ The notification requirements of this  
13 subsection do not apply to candidates or to the first filing  
14 required of any person appointed to elective constitutional  
15 office. The appointing official shall notify such newly  
16 appointed person of the obligation to file full and public  
17 disclosure by July 1.

18 Section 4. Paragraph (c) of subsection (2) and  
19 subsections (4) and (6) of section 112.3145, Florida Statutes,  
20 are amended to read:

21 112.3145 Disclosure of financial interests and clients  
22 represented before agencies.--

23 (2)

24 (c) State officers, ~~persons qualifying for a state~~  
25 ~~office~~, and specified state employees shall file their  
26 statements of financial interests with the Commission on  
27 Ethics ~~Secretary of State~~. Local officers shall file their  
28 statements of financial interests with the supervisor of  
29 elections of the county in which they permanently reside.  
30 Local officers who do not permanently reside in any county in  
31 the state shall file their statements of financial interests

1 with the supervisor of elections of the county in which their  
2 agency maintains its headquarters. Persons seeking to qualify  
3 as candidates for local public office shall file their  
4 statements of financial interests with the officer before whom  
5 they qualify.

6 (4) Each elected constitutional officer, state  
7 officer, local officer, and specified state employee shall  
8 file a quarterly report of the names of clients represented  
9 for a fee or commission, except for appearances in ministerial  
10 matters, before agencies at his or her level of government.  
11 For the purposes of this part, agencies of government shall be  
12 classified as state-level agencies or agencies below state  
13 level. Each local officer shall file such report with the  
14 supervisor of elections of the county in which the officer is  
15 principally employed or is a resident. Each state officer,  
16 elected constitutional officer, and specified state employee  
17 shall file such report with the commission ~~Secretary of State~~.  
18 The report shall be filed only when a reportable  
19 representation is made during the calendar quarter and shall  
20 be filed no later than 15 days after the last day of the  
21 quarter. Representation before any agency shall be deemed to  
22 include representation by such officer or specified state  
23 employee or by any partner or associate of the professional  
24 firm of which he or she is a member and of which he or she has  
25 actual knowledge. For the purposes of this subsection, the  
26 term "representation before any agency" does not include  
27 appearances before any court or Chief Judges of Compensation  
28 Claims or judges of compensation claims or representations on  
29 behalf of one's agency in one's official capacity. Such term  
30 does not include the preparation and filing of forms and  
31 applications merely for the purpose of obtaining or

1 transferring a license based on a quota or a franchise of such  
2 agency or a license or operation permit to engage in a  
3 profession, business, or occupation, so long as the issuance  
4 or granting of such license, permit, or transfer does not  
5 require substantial discretion, a variance, a special  
6 consideration, or a certificate of public convenience and  
7 necessity.

8 (6) Forms for compliance with the disclosure  
9 requirements of this section and a current list of persons  
10 subject to disclosure shall be provided by the Commission on  
11 Ethics to the Secretary of State and to each supervisor of  
12 elections, who shall give notice of disclosure deadlines and  
13 delinquencies and distribute forms in the following manner:

14 (a)1. Not later than May 1 of each year, the  
15 Commission on Ethics shall prepare a current list of the names  
16 and addresses of, and the offices or positions held by, every  
17 state officer, local officer, and specified employee. In  
18 compiling the list, the commission shall be assisted by each  
19 unit of government in providing, at the request of the  
20 commission, the name, address, and name of agency of, and the  
21 office or position held by, each state officer, local officer,  
22 or specified state employee within the respective unit of  
23 government.

24 2. Not later than May 15 of each year, the commission  
25 shall provide ~~the Secretary of State with a current mailing~~  
26 ~~list of all state officers and specified employees and shall~~  
27 provide each supervisor of elections with a current mailing  
28 list of all local officers required to file with such  
29 supervisor of elections.

30 (b) Not later than 30 days before July 1 of each year,  
31 the commission ~~Secretary of State~~ and each supervisor of



1 elections, as appropriate, shall mail a copy of the form  
2 prescribed for compliance with subsection (3) and a notice of  
3 all applicable disclosure forms and filing deadlines to each  
4 person required to file a statement of financial interests.

5 (c) Not later than 30 days after July 1 of each year,  
6 the commission ~~Secretary of State~~ and each supervisor of  
7 elections shall determine which persons required to file a  
8 statement of financial interests in their respective offices  
9 have failed to do so and shall send delinquency notices by  
10 certified mail to such persons. Each notice shall state that  
11 a grace period is in effect until September 1 of the current  
12 year; that no investigative or disciplinary action based upon  
13 the delinquency will be taken by the agency head or Commission  
14 on Ethics if the statement is filed by September 1 of the  
15 current year; that, if the statement is not filed by September  
16 1 of the current year, he or she is required by law to notify  
17 the Commission on Ethics of the delinquency; and that, if upon  
18 the filing of a sworn complaint the commission finds that the  
19 person has failed to timely file the statement by September 1  
20 of the current year, such person shall be subject to the  
21 penalties provided in s. 112.317.

22 (d) Not later than 30 days following September 1 of  
23 each year, ~~the Secretary of State and~~ the supervisor of  
24 elections in each county shall certify to the Commission on  
25 Ethics a list of the names and addresses of, and the offices  
26 or positions held by, all persons who have failed to timely  
27 file the required statements of financial interests. The  
28 certification shall be on a form prescribed by the commission  
29 and shall indicate whether the respective certifying official  
30 has provided the disclosure forms and notice as required by  
31 this subsection to all persons named on the delinquency list.

1           (e) Any state officer, local officer, or specified  
2 employee whose name is not on the mailing list of persons  
3 required to file statements of financial interests ~~provided to~~  
4 ~~the Secretary of State or supervisor of elections~~ is not  
5 subject to the penalties provided in s. 112.317 for failure to  
6 timely file a statement of financial interests in any year in  
7 which the omission occurred.

8           (f) The requirements of this subsection do not apply  
9 to candidates or to the first filing required of any state  
10 officer, specified employee, or local officer.

11           Section 5. Subsections (1), (2), (5), and (8) of  
12 section 117.01, Florida Statutes, are amended to read:

13           117.01 Appointment, application, suspension,  
14 revocation, application fee, bond, and oath.--

15           (1) The Secretary of State ~~Governor~~ may appoint as  
16 many notaries public as he or she deems necessary, each of  
17 whom shall be at least 18 years of age and a legal resident of  
18 the state. A permanent resident alien may apply and be  
19 appointed and shall file with his or her application a  
20 recorded Declaration of Domicile. The residence required for  
21 appointment must be maintained throughout the term of  
22 appointment. Notaries public shall be appointed for 4 years  
23 and shall use and exercise the office of notary public within  
24 the boundaries of this state. An applicant must be able to  
25 read, write, and understand the English language.

26           (2) The application for appointment shall be signed  
27 and sworn to by the applicant and shall be accompanied by a  
28 fee of \$25, together with the \$10 commission fee required by  
29 s. 113.01, and a surcharge of \$4, which \$4 is appropriated to  
30 the Department of State ~~Executive Office of the Governor~~ to be  
31 used to educate and assist notaries public. The Department of

1 State ~~Executive Office of the Governor~~ may contract with  
2 private vendors to provide the services set forth in this  
3 section. However, no commission fee shall be required for the  
4 issuance of a commission as a notary public to a veteran who  
5 served during a period of wartime service, as defined in s.  
6 1.01(14), and who has been rated by the United States  
7 Government or the United States Department of Veterans Affairs  
8 or its predecessor to have a disability rating of 50 percent  
9 or more; such a disability is subject to verification by the  
10 Secretary of State, who has authority to adopt reasonable  
11 procedures to implement this act. The oath of office and  
12 notary bond required by this section shall also accompany the  
13 application and shall be in a form prescribed by the  
14 Department of State which shall require, but not be limited  
15 to, the following information: full name, residence address  
16 and telephone number, business address and telephone number,  
17 date of birth, race, sex, social security number, citizenship  
18 status, driver's license number or the number of other  
19 official state-issued identification, affidavit of good  
20 character from someone unrelated to the applicant who has  
21 known the applicant for 1 year or more, a list of all  
22 professional licenses and commissions issued by the state  
23 during the previous 10 years and a statement as to whether or  
24 not the applicant has had such license or commission revoked  
25 or suspended, and a statement as to whether or not the  
26 applicant has been convicted of a felony, and, if there has  
27 been a conviction, a statement of the nature of the felony and  
28 restoration of civil rights. The applicant may not use a  
29 fictitious or assumed name other than a nickname on an  
30 application for commission. The application shall be  
31 maintained by the Department of State for the full term of a

1 notary commission. A notary public shall notify, in writing,  
2 the Department of State of any change in his or her business  
3 address, home telephone number, business telephone number,  
4 home address, or criminal record within 60 days after such  
5 change. The Governor may require any other information he or  
6 she deems necessary for determining whether an applicant is  
7 eligible for a notary public commission. Each applicant must  
8 swear or affirm on the application that the information on the  
9 application is true and correct.

10 (5)(a) If a notary public receives notice from the  
11 Department of State that his or her office has been declared  
12 vacant, the notary shall forthwith mail or deliver to the  
13 Secretary of State his or her notary commission.

14 (b) A notary public who wishes to resign his or her  
15 commission, or a notary public who does not maintain legal  
16 residence in this state during the entire term of appointment,  
17 or a notary public whose resignation is required by the  
18 Governor, shall send a signed letter of resignation to the  
19 Secretary of State ~~Governor~~ and shall return his or her  
20 certificate of notary public commission. The resigning notary  
21 public shall destroy his or her official notary public seal of  
22 office, unless the Secretary of State ~~Governor~~ requests its  
23 return.

24 (8) Upon payment to any individual harmed as a result  
25 of a breach of duty by the notary public, the entity who has  
26 issued the bond for the notary public shall notify the  
27 Secretary of State ~~Governor~~ of the payment and the  
28 circumstances which led to the claim.

29 Section 6. Paragraph (d) of subsection (3) of section  
30 117.05, Florida Statutes, is amended to read:

31

1           117.05 Use of notary commission; unlawful use; notary  
2 fee; seal; duties; employer liability; name change;  
3 advertising; photocopies; penalties.--

4           (3)

5           (d) A notary public whose official seal is lost,  
6 stolen, or believed to be in the possession of another person  
7 shall immediately notify the Department of State ~~or the~~  
8 ~~Governor~~ in writing.

9           Section 7. Section 257.36, Florida Statutes, is  
10 amended to read:

11           257.36 Records and information management.--

12           (1) There is created within the Division of Library  
13 and Information Services of the Department of State a records  
14 and information management program. It is the duty and  
15 responsibility of the division to:

16           (a) Establish and administer a records management  
17 program directed to the application of efficient and  
18 economical management methods relating to the creation,  
19 utilization, maintenance, retention, preservation, and  
20 disposal of records.

21           (b) Establish and operate a records center or centers  
22 primarily for the storage, processing, servicing, and security  
23 of public records that must be retained for varying periods of  
24 time but need not be retained in an agency's office equipment  
25 or space.

26           (c) Analyze, develop, establish, and coordinate  
27 standards, procedures, and techniques of recordmaking and  
28 recordkeeping.

29           (d) Ensure the maintenance and security of records  
30 which are deemed appropriate for preservation.

31

1           (e) Establish safeguards against unauthorized or  
2 unlawful removal or loss of records.

3           (f) Initiate appropriate action to recover records  
4 removed unlawfully or without authorization.

5           (g) Institute and maintain a training and information  
6 program in:

7           1. All phases of records and information management to  
8 bring approved and current practices, methods, procedures, and  
9 devices for the efficient and economical management of records  
10 to the attention of all agencies.

11           2. The requirements relating to access to public  
12 records under chapter 119.

13           (h) Provide a centralized program of microfilming for  
14 the benefit of all agencies.

15           (i) Make continuous surveys of recordkeeping  
16 operations.

17           (j) Recommend improvements in current records  
18 management practices, including the use of space, equipment,  
19 supplies, and personnel in creating, maintaining, and  
20 servicing records.

21           (k) Establish and maintain a program in cooperation  
22 with each agency for the selection and preservation of records  
23 considered essential to the operation of government and to the  
24 protection of the rights and privileges of citizens.

25           (1) Make, or have made, preservation duplicates, or  
26 designate existing copies as preservation duplicates, to be  
27 preserved in the place and manner of safekeeping as prescribed  
28 by the division.

29           (2)(a) All records transferred to the division may be  
30 held by it in a records center or centers, to be designated by  
31 it, for such time as in its judgment retention therein is

1 deemed necessary. At such time as it is established by the  
2 division, such records as are determined by it as having  
3 historical or other value warranting continued preservation  
4 shall be transferred to the Florida State Archives.

5 (b) Title to any record detained in any records center  
6 shall remain in the agency transferring such record to the  
7 division.

8 (c) When a record held in a records center is eligible  
9 for destruction, the division shall notify, in writing, by  
10 certified mail, the agency which transferred the record. The  
11 agency shall have 90 days from receipt of that notice to  
12 respond requesting continued retention or authorizing  
13 destruction or disposal of the record. If the agency does not  
14 respond within that time, title to the record shall pass to  
15 the division.

16 (3) The division may charge fees for supplies and  
17 services, including, but not limited to, shipping containers,  
18 pickup, delivery, reference, and storage. Fees shall be based  
19 upon the actual cost of the supplies and services and shall be  
20 deposited in the Records Management Trust Fund.

21 (4) Any preservation duplicate of any record made  
22 pursuant to this chapter shall have the same force and effect  
23 for all purposes as the original record. A transcript,  
24 exemplification, or certified copy of such preservation  
25 duplicate shall be deemed, for all purposes, to be a  
26 transcript, exemplification, or certified copy of the original  
27 record.

28 (5) For the purposes of this section, the term  
29 "agency" shall mean any state, county, district, or municipal  
30 officer, department, division, bureau, board, commission, or  
31

1 other separate unit of government created or established by  
2 law. It is the duty of each agency to:

3 (a) Cooperate with the division in complying with the  
4 provisions of this chapter and designate a records management  
5 liaison officer.

6 (b) Establish and maintain an active and continuing  
7 program for the economical and efficient management of  
8 records.

9 ~~(6) Each agency shall submit to the division in~~  
10 ~~accordance with the rules of the division a list or schedule~~  
11 ~~of records in its custody that are not needed in the~~  
12 ~~transaction of current business and that do not have~~  
13 ~~sufficient administrative, legal, or fiscal significance to~~  
14 ~~warrant further retention by the agency. Such records shall,~~  
15 ~~in the discretion of the division, be transferred to it for~~  
16 ~~further retention and preservation, as herein provided, or may~~  
17 ~~be destroyed upon its approval.~~

18 (6)(7) A public record may be destroyed or otherwise  
19 disposed of only in accordance with retention schedules  
20 established by the division.~~No record shall be destroyed or~~  
21 ~~disposed of by any agency unless approval of the division is~~  
22 ~~first obtained.~~The division shall adopt reasonable rules not  
23 inconsistent with this chapter which shall be binding on all  
24 agencies relating to the destruction and disposition ~~disposal~~  
25 of records. Such rules shall provide, but not be limited to:

26 (a) Procedures for complying and submitting to the  
27 division records-retention lists ~~and schedules of records~~  
28 ~~proposed for disposal.~~

29 (b) Procedures for the physical destruction or other  
30 disposal of records.

31



1 (c) Standards for the reproduction of records for  
2 security or with a view to the disposal of the original  
3 record.

4 Section 8. Paragraph (d) of subsection (1) of section  
5 267.072, Florida Statutes, is amended to read:

6 267.072 Museum of Florida history programs.--

7 (1) The division shall:

8 (d) Establish and administer a program, to be entitled  
9 the Great Floridians program, which shall be designed to  
10 recognize and record the achievements of Floridians, living  
11 and deceased, who have made major contributions to the  
12 progress and welfare of this state.

13 1. The division shall nominate present or former  
14 citizens of this state, living or deceased, who during their  
15 lives have made major contributions to the progress of the  
16 nation or this state and its citizens. Nominations shall be  
17 submitted to the Secretary of State who shall select from  
18 those nominated not less than two persons each year who shall  
19 be honored with the designation "Great Floridian," provided no  
20 person whose contributions have been through elected or  
21 appointed public service shall be selected while holding any  
22 such office.

23 2. To enhance public participation and involvement in  
24 the identification of any person worthy of being nominated as  
25 a Great Floridian, the division shall seek advice and  
26 assistance from persons qualified through the demonstration of  
27 special interest, experience, or education in the  
28 dissemination of knowledge about the state's history.

29 a. In formulating its nominations, the division shall  
30 also seek the assistance of the Museum of Florida History  
31 Foundation, Inc., ~~Florida History Associates, Inc.~~, or its

1 successor, acting in the capacity as a citizen support  
2 organization of the division, pursuant to s. 267.17 and  
3 approved to act on behalf of the Museum of Florida History.

4         b. Annually, the division shall convene an ad hoc  
5 committee composed of representatives of the Governor, each  
6 member of the Florida Cabinet, the President of the Senate,  
7 the Speaker of the House of Representatives, and the Museum of  
8 Florida History Foundation, Inc.~~Florida History Associates,~~  
9 ~~Inc.~~This committee shall meet at least twice. The committee  
10 shall nominate ~~living citizens of this state who during their~~  
11 ~~lives have made major contributions to the progress of the~~  
12 ~~nation or this state and its citizens and shall from those~~  
13 ~~nominated select each year not fewer less than two persons~~  
14 whose names shall be submitted to the Secretary of State with  
15 the recommendation that they be honored with the designation  
16 "Great Floridian."

17         3. Upon designation of a person as a Great Floridian  
18 by the Secretary of State, the division shall undertake  
19 appropriate activities intended to achieve wide public  
20 knowledge of the person designated.

21         a. The division may seek to initiate production of a  
22 film or videotape depicting the life and contributions of the  
23 designee to this state and to the nation. If technology  
24 surpasses the use of film or videotape, another medium of  
25 equal quality may be used.

26         (I) In the production of such films, the division  
27 shall seek cooperation from local volunteers throughout the  
28 state and, in particular, shall seek fundraising and other  
29 assistance of the citizen support organization created  
30 pursuant to s. 267.17 to support the programs of the Museum of  
31 Florida History.

1           ~~(II)~~ In the case of persons nominated as Great  
2 Floridians as a result of the committee convened pursuant to  
3 sub-subparagraph 2.b., the division shall immediately begin  
4 taking the steps necessary to produce a film depicting the  
5 contributions of such persons to this state and to the nation;  
6 however, the requirement to produce such a film shall be  
7 contingent upon appropriation of sufficient funds by the  
8 Legislature.

9           (II)~~(III)~~ The Museum of Florida History shall be the  
10 repository of the original negative, the original master tape,  
11 and all cuttings, of any film or videotape produced under the  
12 authority of this paragraph. The division also may exercise  
13 the right of trademark over the terms "Great Floridian" or  
14 "Great Floridians" pursuant to s. 286.031.

15           (III)~~(IV)~~ The division shall arrange for the  
16 distribution of copies of all films to the general public,  
17 public television stations, educational institutions, and  
18 others and may establish a reasonable charge to recover costs  
19 associated with production and to provide a source of revenue  
20 to assist with reproduction, marketing, and distribution of  
21 Great Floridians films. Proceeds from such charges shall be  
22 deposited into the Historical Resources Operating Trust Fund.

23           b. Deceased persons designated as Great Floridians  
24 typically shall be recognized by markers affixed to properties  
25 significantly associated with the major contributions of the  
26 designee. Such markers shall be erected pursuant to the  
27 provisions of s. 267.061(3)(n).

28           Section 9. Section 288.8175, Florida Statutes, is  
29 amended to read:

30           288.8175 Linkage institutes between postsecondary  
31 institutions in this state and foreign countries.--

1           (1) As used in this section, the term "department"  
2 means the Department of State.

3           (2)~~(1)~~ There are created, ~~within the Department of~~  
4 ~~Education,~~ Florida linkage institutes. A primary purpose of  
5 these institutes is to assist in the development of stronger  
6 economic, cultural, educational, and social ties between this  
7 state and strategic foreign countries through the promotion of  
8 expanded public and private dialogue on cooperative research  
9 and technical assistance activities, increased bilateral  
10 commerce, student and faculty exchange, cultural exchange, and  
11 the enhancement of language training skills between the  
12 postsecondary institutions in this state and those of selected  
13 foreign countries. Each institute must ensure that minority  
14 students are afforded an equal opportunity to participate in  
15 the exchange programs.

16           (3)~~(2)~~ Each institute must be governed by an  
17 agreement, approved by the department ~~of Education,~~ between  
18 the State University System and the Florida Community College  
19 System with the counterpart organization ~~of higher education~~  
20 in a ~~the~~ foreign country. Each institute must report to the  
21 department regarding its program activities, expenditures, and  
22 policies.

23           (4)~~(3)~~ Each institute must be co-administered in this  
24 state by a university-community college partnership, as  
25 designated in subsection (5)~~(4)~~, and must have a private  
26 sector and public sector advisory committee. The advisory  
27 committee must be representative of the international  
28 education and commercial interests of the state and may have  
29 members who are native to the foreign country partner. Six  
30 members must be appointed by the department ~~of Education.~~ The  
31 department must appoint at least one member who is an

1 international educator. The presidents, or their designees,  
2 of the participating university and community college must  
3 also serve on the advisory committee.

4 (5)~~(4)~~ The institutes are:

5 (a) Florida-Brazil Institute (University of Florida  
6 and Miami-Dade Community College).

7 (b) Florida-Costa Rica Institute (Florida State  
8 University and Valencia Community College).

9 (c) Florida Caribbean Institute (Florida International  
10 University and Daytona Beach Community College).

11 (d) Florida-Canada Institute (University of Central  
12 Florida and Palm Beach Junior College).

13 (e) Florida-China Institute (University of West  
14 Florida, University of South Florida, and Brevard Community  
15 College).

16 (f) Florida-Japan Institute (University of South  
17 Florida, University of West Florida, and St. Petersburg  
18 Community College).

19 (g) Florida-France Institute (New College of the  
20 University of South Florida, Miami-Dade Community College, and  
21 Florida State University).

22 (h) Florida-Israel Institute (Florida Atlantic  
23 University and Broward Community College).

24 (i) Florida-West Africa Institute (Florida  
25 Agricultural and Mechanical University, University of North  
26 Florida, and Florida Community College at Jacksonville).

27 (j) Florida-Eastern Europe Institute (University of  
28 Central Florida and Lake Sumter Community College).

29 (k) Florida-Mexico Institute (Florida International  
30 University and Polk Community College).

31

1           (6)~~(5)~~ Each institute is allowed to exempt from s.  
2 240.1201 up to 25 full-time equivalent students per year from  
3 the respective host countries to study in any of the state  
4 universities or community colleges in this state as resident  
5 students for tuition purposes. The institute directors shall  
6 develop criteria, to be approved by the Department of  
7 Education, for the selection of these students. Students must  
8 return home within 3 years after their tenure of graduate or  
9 undergraduate study for a length of time equal to their  
10 exemption period.

11           (7)~~(6)~~ Each state university and community college  
12 linkage institute partner may enter into an agreement for a  
13 student exchange program, that requires that the tuition and  
14 fees of a student who is enrolled in a state university or  
15 community college and who is participating in an exchange  
16 program be paid to the university or community college while  
17 the student is participating in the exchange program. The  
18 agreement may also require that the tuition and fees of a  
19 student who is enrolled in a postsecondary institution in a  
20 foreign country and who is participating in an exchange  
21 program be paid to the foreign institution of enrollment.

22           (8)~~(7)~~ No later than 60 days before every regular  
23 session of the Legislature, the department of ~~Education~~ shall  
24 present to the Speaker of the House of Representatives, the  
25 President of the Senate, and the minority leaders of the House  
26 of Representatives and the Senate a review of linkage  
27 institute program activity, criteria for their operation,  
28 accountability standards, recommended funding levels, and  
29 recommendations for establishing, maintaining, or abolishing  
30 linkage institutes. The criteria shall be developed in  
31 consultation with Enterprise Florida, Inc. The criteria must

1 include, but need not be limited to, the purpose stated in  
2 subsection (2)~~(1)~~ and:

3 (a) The importance of economic, political, and social  
4 ties between this state and the country or region.

5 (b) The potential for growth and expansion of  
6 commercial, educational, and cultural links.

7 (c) The viability of regionally oriented, rather than  
8 country-specific, linkages, based on historical or emerging  
9 regional economic or political trading blocs.

10 (9)~~(8)~~ A linkage institute may not be created or  
11 funded except upon the recommendation of the department of  
12 ~~Education~~ and except by amendment to this section.

13 (10)~~(9)~~ The department of ~~Education~~ shall review and  
14 make linkage-institute budget requests to the Governor and the  
15 Legislature. State appropriations for institutes created under  
16 this section must be made by a single lump-sum line item to  
17 the department, which must apportion the funds among the  
18 various institutes in accordance with criteria established by  
19 the department.

20 (11)~~(10)~~ Linkage institutes may also accept and  
21 administer moneys provided by the department of ~~State~~ for  
22 research and development of international trade. The  
23 department Secretary of State shall, by March 1, report to the  
24 Governor, the President of the Senate, and the Speaker of the  
25 House of Representatives in each year in which the department  
26 ~~of State~~ has provided moneys for a linkage institute. The  
27 report must detail the purpose of the expenditure by the  
28 department of ~~State~~ and the use of the moneys by the linkage  
29 institutes and must include a copy of the research documents  
30 or related materials produced, if any.

31

1           Section 10. Effective January 7, 2003, subsection (1)  
2 of section 403.7145, Florida Statutes, is amended to read:

3           403.7145 Recycling.--

4           (1) The Capitol and the House and Senate office  
5 buildings constitute the Capitol recycling area. The Florida  
6 House of Representatives, the Florida Senate, and the Office  
7 of the Governor, the Secretary of State, and each Cabinet  
8 officer who heads a department that occupies office space in  
9 the Capitol, shall institute a recycling program for their  
10 respective offices in the House and Senate office buildings  
11 and the Capitol. Provisions shall be made to collect and sell  
12 wastepaper and empty aluminum beverage cans generated by  
13 employee activities in these offices. The collection and sale  
14 of such materials shall be coordinated with Department of  
15 Management Services recycling activities to maximize the  
16 efficiency and economy of this program. The Governor, the  
17 Speaker of the House of Representatives, the President of the  
18 Senate, the Secretary of State, and the Cabinet officers may  
19 authorize the use of proceeds from recyclable material sales  
20 for employee benefits and other purposes, in order to provide  
21 incentives to their respective employees for participation in  
22 the recycling program. Such proceeds may also be used to  
23 offset any costs of the recycling program.

24           Section 11. Section 617.301, Florida Statutes, is  
25 transferred and renumbered as section 720.301, Florida  
26 Statutes, and amended to read:

27           720.301 ~~617.301~~ Homeowners' associations;  
28 definitions.--As used in ss.720.301-720.312 ~~ss.~~  
29 ~~617.301-617.312~~, the term:

30           (1) "Assessment" or "amenity fee" means a sum or sums  
31 of money payable to the association, to the developer or other



1 owner of common areas, or to recreational facilities and other  
2 properties serving the parcels by the owners of one or more  
3 parcels as authorized in the governing documents, which if not  
4 paid by the owner of a parcel, can result in a lien against  
5 the parcel.

6 (2) "Common area" means all real property within a  
7 community which is owned or leased by an association or  
8 dedicated for use or maintenance by the association or its  
9 members, including, regardless of whether title has been  
10 conveyed to the association:

11 (a) Real property the use of which is dedicated to the  
12 association or its members by a recorded plat; or

13 (b) Real property committed by a declaration of  
14 covenants to be leased or conveyed to the association.

15 (3) "Community" means the real property that is or  
16 will be subject to a declaration of covenants which is  
17 recorded in the county where the property is located. The  
18 term "community" includes all real property, including  
19 undeveloped phases, that is or was the subject of a  
20 development-of-regional-impact development order, together  
21 with any approved modification thereto.

22 (4) "Declaration of covenants," or "declaration,"  
23 means a recorded written instrument in the nature of covenants  
24 running with the land which subjects the land comprising the  
25 community to the jurisdiction and control of an association or  
26 associations in which the owners of the parcels, or their  
27 association representatives, must be members.

28 (5) "Developer" means a person or entity that:

29 (a) Creates the community served by the association;

30 or

31

1 (b) Succeeds to the rights and liabilities of the  
2 person or entity that created the community served by the  
3 association, provided that such is evidenced in writing.

4 (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 (7) "Homeowners' association" or "association" means a  
12 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 (8) "Member" means a member of an association, and may  
22 include, but is not limited to, a parcel owner or an  
23 association representing parcel owners or a combination  
24 thereof.

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

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

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

31

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

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

10           Section 12. Section 617.302, Florida Statutes, is  
11 transferred and renumbered as section 720.302, Florida  
12 Statutes, and amended to read:

13           720.302 ~~617.302~~ Homeowners' associations; purposes,  
14 scope, and application.--

15           (1) The purposes of ss. 720.301-720.312 ~~ss.~~  
16 ~~617.301-617.312~~ are to give statutory recognition to  
17 corporations that operate residential communities in this  
18 state, to provide procedures for operating homeowners'  
19 associations, and to protect the rights of association members  
20 without unduly impairing the ability of such associations to  
21 perform their functions.

22           (2) The Legislature recognizes that it is not in the  
23 best interest of homeowners' associations or the individual  
24 association members thereof to create or impose a bureau or  
25 other agency of state government to regulate the affairs of  
26 homeowners' associations. Further, the Legislature recognizes  
27 that certain contract rights have been created for the benefit  
28 of homeowners' associations and members thereof before the  
29 effective date of this act and that ss. 720.301-720.312 ~~ss.~~  
30 ~~617.301-617.312~~ are not intended to impair such contract

31

1 rights, including, but not limited to, the rights of the  
2 developer to complete the community as initially contemplated.

3 (3) Sections 720.301-720.312 ~~617.301-617.312~~ do not  
4 apply to:

5 (a) A community that is composed ~~comprised~~ of property  
6 primarily intended for commercial, industrial, or other  
7 nonresidential use; or

8 (b) The commercial or industrial parcels in a  
9 community that contains both residential parcels and parcels  
10 intended for commercial or industrial use.

11 (4) Sections 720.301-720.312 ~~617.301-617.312~~ do not  
12 apply to any association that is subject to regulation under  
13 chapter 718, chapter 719, or chapter 721; or to any  
14 nonmandatory association formed under chapter 723.

15 Section 13. Section 617.303, Florida Statutes, is  
16 transferred and renumbered as section 720.303, Florida  
17 Statutes, and amended to read:

18 720.303 ~~617.303~~ Association powers and duties;  
19 meetings of board; official records; budgets; financial  
20 reporting.--

21 (1) POWERS AND DUTIES.--An association which operates  
22 a community as defined in s. 720.301 ~~s. 617.301~~, must be  
23 operated by an association that is a Florida corporation.  
24 After October 1, 1995, the association must be incorporated  
25 and the initial governing documents must be recorded in the  
26 official records of the county in which the community is  
27 located. An association may operate more than one community.  
28 The officers and directors of an association have a fiduciary  
29 relationship to the members who are served by the association.  
30 The powers and duties of an association include those set  
31 forth in this chapter and, except as expressly limited or

1 restricted in this chapter, those set forth in the governing  
2 documents. A member does not have authority to act for the  
3 association by virtue of being a member. An association may  
4 have more than one class of members and may issue membership  
5 certificates.

6 (2) BOARD MEETINGS.--A meeting of the board of  
7 directors of an association occurs whenever a quorum of the  
8 board gathers to conduct association business. All meetings  
9 of the board must be open to all members except for meetings  
10 between the board and its attorney with respect to proposed or  
11 pending litigation where the contents of the discussion would  
12 otherwise be governed by the attorney-client privilege.  
13 Notices of all board meetings must be posted in a conspicuous  
14 place in the community at least 48 hours in advance of a  
15 meeting, except in an emergency. In the alternative, if  
16 notice is not posted in a conspicuous place in the community,  
17 notice of each board meeting must be mailed or delivered to  
18 each member at least 7 days before the meeting, except in an  
19 emergency. Notwithstanding this general notice requirement,  
20 for communities with more than 100 members, the bylaws may  
21 provide for a reasonable alternative to posting or mailing of  
22 notice for each board meeting, including publication of notice  
23 or provision of a schedule of board meetings. An assessment  
24 may not be levied at a board meeting unless the notice of the  
25 meeting includes a statement that assessments will be  
26 considered and the nature of the assessments. Directors may  
27 not vote by proxy or by secret ballot at board meetings,  
28 except that secret ballots may be used in the election of  
29 officers. This subsection also applies to the meetings of any  
30 committee or other similar body, when a final decision will be  
31 made regarding the expenditure of association funds, and to

1 any body vested with the power to approve or disapprove  
2 architectural decisions with respect to a specific parcel of  
3 residential property owned by a member of the community.

4 (3) MINUTES.--Minutes of all meetings of the members  
5 of an association and of the board of directors of an  
6 association must be maintained in written form or in another  
7 form that can be converted into written form within a  
8 reasonable time. A vote or abstention from voting on each  
9 matter voted upon for each director present at a board meeting  
10 must be recorded in the minutes.

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

14 (a) Copies of any plans, specifications, permits, and  
15 warranties related to improvements constructed on the common  
16 areas or other property that the association is obligated to  
17 maintain, repair, or replace.

18 (b) A copy of the bylaws of the association and of  
19 each amendment to the bylaws.

20 (c) A copy of the articles of incorporation of the  
21 association and of each amendment thereto.

22 (d) A copy of the declaration of covenants and a copy  
23 of each amendment thereto.

24 (e) A copy of the current rules of the homeowners'  
25 association.

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

29 (g) A current roster of all members and their mailing  
30 addresses and parcel identifications.

31

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

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

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

16           1. Accurate, itemized, and detailed records of all  
17 receipts and expenditures.

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

24           3. All tax returns, financial statements, and  
25 financial reports of the association.

26           4. Any other records that identify, measure, record,  
27 or communicate financial information.

28           (5) INSPECTION AND COPYING OF RECORDS.--The official  
29 records shall be maintained within the state and must be open  
30 to inspection and available for photocopying by members or  
31 their authorized agents at reasonable times and places within

1 10 business days after receipt of a written request for  
2 access. This subsection may be complied with by having a copy  
3 of the official records available for inspection or copying in  
4 the community.

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

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

15 (c) The association may adopt reasonable written rules  
16 governing the frequency, time, location, notice, and manner of  
17 inspections, and may impose fees to cover the costs of  
18 providing copies of the official records, including, without  
19 limitation, the costs of copying. The association shall  
20 maintain an adequate number of copies of the recorded  
21 governing documents, to ensure their availability to members  
22 and prospective members, and may charge only its actual costs  
23 for reproducing and furnishing these documents to those  
24 persons who are entitled to receive them.

25 (6) BUDGETS.--The association shall prepare an annual  
26 budget. The budget must reflect the estimated revenues and  
27 expenses for that year and the estimated surplus or deficit as  
28 of the end of the current year. The budget must set out  
29 separately all fees or charges for recreational amenities,  
30 whether owned by the association, the developer, or another  
31 person. The association shall provide each member with a copy



1 of the annual budget or a written notice that a copy of the  
2 budget is available upon request at no charge to the member.  
3 The copy must be provided to the member within the time limits  
4 set forth in subsection (5).

5 (7) FINANCIAL REPORTING.--The association shall  
6 prepare an annual financial report within 60 days after the  
7 close of the fiscal year. The association shall, within the  
8 time limits set forth in subsection (5), provide each member  
9 with a copy of the annual financial report or a written notice  
10 that a copy of the financial report is available upon request  
11 at no charge to the member. The financial report must consist  
12 of either:

13 (a) Financial statements presented in conformity with  
14 generally accepted accounting principles; or

15 (b) A financial report of actual receipts and  
16 expenditures, cash basis, which report must show:

17 1. The amount of receipts and expenditures by  
18 classification; and

19 2. The beginning and ending cash balances of the  
20 association.

21 (8) ASSOCIATION FUNDS; COMMINGLING.--

22 (a) All association funds held by a developer shall be  
23 maintained separately in the association's name. Reserve and  
24 operating funds of the association shall not be commingled  
25 prior to turnover except the association may jointly invest  
26 reserve funds; however, such jointly invested funds must be  
27 accounted for separately.

28 (b) No developer in control of a homeowners'  
29 association shall commingle any association funds with his or  
30 her funds or with the funds of any other homeowners'  
31 association or community association.

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

4           Section 14. Section 617.306, Florida Statutes, is  
5 transferred and renumbered as section 720.306, Florida  
6 Statutes, and amended to read:

7           720.306 ~~617.306~~ Associations; meetings of members;  
8 voting and election procedures; amendments.--

9           (1) QUORUM; AMENDMENTS.--

10           (a) Unless a lower number is provided in the bylaws,  
11 the percentage of voting interests required to constitute a  
12 quorum at a meeting of the members shall be 30 percent of the  
13 total voting interests. Unless otherwise provided in this  
14 chapter or in the articles of incorporation or bylaws,  
15 decisions that require a vote of the members must be made by  
16 the concurrence of at least a majority of the voting interests  
17 present, in person or by proxy, at a meeting at which a quorum  
18 has been attained.

19           (b) Unless otherwise provided in the governing  
20 documents or required by law, and other than those matters set  
21 forth in paragraph (c), any governing document of an  
22 association may be amended by the affirmative vote of  
23 two-thirds of the voting interests of the association.

24           (c) Unless otherwise provided in the governing  
25 documents as originally recorded, an amendment may not affect  
26 vested rights unless the record owner of the affected parcel  
27 and all record owners of liens on the affected parcels join in  
28 the execution of the amendment.

29           (2) ANNUAL MEETING.--The association shall hold a  
30 meeting of its members annually for the transaction of any and  
31 all proper business at a time, date, and place stated in, or

1 fixed in accordance with, the bylaws. The election of  
2 directors, if one is required to be held, must be held at, or  
3 in conjunction with, the annual meeting or as provided in the  
4 governing documents.

5 (3) SPECIAL MEETINGS.--Special meetings must be held  
6 when called by the board of directors or, unless a different  
7 percentage is stated in the governing documents, by at least  
8 10 percent of the total voting interests of the association.  
9 Business conducted at a special meeting is limited to the  
10 purposes described in the notice of the meeting.

11 (4) CONTENT OF NOTICE.--Unless law or the governing  
12 documents require otherwise, notice of an annual meeting need  
13 not include a description of the purpose or purposes for which  
14 the meeting is called. Notice of a special meeting must  
15 include a description of the purpose or purposes for which the  
16 meeting is called.

17 (5) ADJOURNMENT.--Unless the bylaws require otherwise,  
18 adjournment of an annual or special meeting to a different  
19 date, time, or place must be announced at that meeting before  
20 an adjournment is taken, or notice must be given of the new  
21 date, time, or place pursuant to s. 720.303(2)~~s. 617.303(2)~~.  
22 Any business that might have been transacted on the original  
23 date of the meeting may be transacted at the adjourned  
24 meeting. If a new record date for the adjourned meeting is or  
25 must be fixed under s. 617.0707, notice of the adjourned  
26 meeting must be given to persons who are entitled to vote and  
27 are members as of the new record date but were not members as  
28 of the previous record date.

29 (6) PROXY VOTING.--The members have the right, unless  
30 otherwise provided in this subsection or in the governing  
31 documents, to vote in person or by proxy. To be valid, a

1 proxy must be dated, must state the date, time, and place of  
2 the meeting for which it was given, and must be signed by the  
3 authorized person who executed the proxy. A proxy is  
4 effective only for the specific meeting for which it was  
5 originally given, as the meeting may lawfully be adjourned and  
6 reconvened from time to time, and automatically expires 90  
7 days after the date of the meeting for which it was originally  
8 given. A proxy is revocable at any time at the pleasure of  
9 the person who executes it. If the proxy form expressly so  
10 provides, any proxy holder may appoint, in writing, a  
11 substitute to act in his or her place.

12 (7) ELECTIONS.--Elections of directors must be  
13 conducted in accordance with the procedures set forth in the  
14 governing documents of the association. All members of the  
15 association shall be eligible to serve on the board of  
16 directors, and a member may nominate himself or herself as a  
17 candidate for the board at a meeting where the election is to  
18 be held. Except as otherwise provided in the governing  
19 documents, boards of directors must be elected by a plurality  
20 of the votes cast by eligible voters.

21 (8) RECORDING.--Any parcel owner may tape record or  
22 videotape meetings of the board of directors and meetings of  
23 the members. The board of directors of the association may  
24 adopt reasonable rules governing the taping of meetings of the  
25 board and the membership.

26 Section 15. Section 617.307, Florida Statutes, is  
27 transferred and renumbered as section 720.307, Florida  
28 Statutes, and amended to read:

29 720.307 ~~617.307~~ Transition of homeowners' association  
30 control in a community.--With respect to homeowners'  
31 associations ~~as defined in s. 617.301:~~

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

5           (a) Three months after 90 percent of the parcels in  
6 all phases of the community that will ultimately be operated  
7 by the homeowners' association have been conveyed to members;  
8 or

9           (b) Such other percentage of the parcels has been  
10 conveyed to members, or such other date or event has occurred,  
11 as is set forth in the governing documents in order to comply  
12 with the requirements of any governmentally chartered entity  
13 with regard to the mortgage financing of parcels.

14  
15 For purposes of this section, the term "members other than the  
16 developer" shall not include builders, contractors, or others  
17 who purchase a parcel for the purpose of constructing  
18 improvements thereon for resale.

19           (2) The developer is entitled to elect at least one  
20 member of the board of directors of the homeowners'  
21 association as long as the developer holds for sale in the  
22 ordinary course of business at least 5 percent of the parcels  
23 in all phases of the community. After the developer  
24 relinquishes control of the homeowners' association, the  
25 developer may exercise the right to vote any developer-owned  
26 voting interests in the same manner as any other member,  
27 except for purposes of reacquiring control of the homeowners'  
28 association or selecting the majority of the members of the  
29 board of directors.

30           (3) At the time the members are entitled to elect at  
31 least a majority of the board of directors of the homeowners'

1 association, the developer shall, at the developer's expense,  
2 within no more than 90 days deliver the following documents to  
3 the board:

4 (a) All deeds to common property owned by the  
5 association.

6 (b) The original of the association's declarations of  
7 covenants and restrictions.

8 (c) A certified copy of the articles of incorporation  
9 of the association.

10 (d) A copy of the bylaws.

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

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

13 (g) Policies, rules, and regulations, if any, which  
14 have been adopted.

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

18 (i) The financial records of the association from the  
19 date of incorporation through the date of turnover.

20 (j) All association funds and control thereof.

21 (k) All tangible property of the association.

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

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

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

28 (o) Any permits issued to the association by  
29 governmental entities.

30 (p) Any and all warranties in effect.

31

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

3 (r) Employment and service contracts in effect.

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

6 (4) This section does not apply to a homeowners'  
7 association in existence on the effective date of this act, or  
8 to a homeowners' association, no matter when created, if such  
9 association is created in a community that is included in an  
10 effective development-of-regional-impact development order as  
11 of the effective date of this act, together with any approved  
12 modifications thereof.

13 Section 16. Section 617.3075, Florida Statutes, is  
14 transferred and renumbered as section 720.3075, Florida  
15 Statutes, and amended to read:

16 720.3075 ~~617.3075~~ Prohibited clauses in homeowners'  
17 association documents.--

18 (1) It is ~~hereby~~ declared that the public policy of  
19 this state prohibits the inclusion or enforcement of certain  
20 types of clauses in homeowners' association documents,  
21 including declaration of covenants, articles of incorporation,  
22 bylaws, or any other document of the association which binds  
23 members of the association, which either have the effect of or  
24 provide that:

25 (a) A developer has the unilateral ability and right  
26 to make changes to the homeowners' association documents after  
27 the transition of homeowners' association control in a  
28 community from the developer to the nondeveloper members, as  
29 set forth in s. 720.307 ~~s. 617.307~~, has occurred.

30 (b) A homeowners' association is prohibited or  
31 restricted from filing a lawsuit against the developer, or the

1 homeowners' association is otherwise effectively prohibited or  
2 restricted from bringing a lawsuit against the developer.

3 (c) After the transition of homeowners' association  
4 control in a community from the developer to the nondeveloper  
5 members, as set forth in s. 720.307 ~~s. 617.307~~, has occurred,  
6 a developer is entitled to cast votes in an amount that  
7 exceeds one vote per residential lot.

8  
9 Such clauses are ~~hereby~~ declared null and void as against the  
10 public policy of this state.

11 (2) The public policy described in subsection (1)  
12 prohibits the inclusion or enforcement of such clauses created  
13 on or after the effective date of section 3 of chapter 98-261,  
14 Laws of Florida ~~this section~~.

15 Section 17. Section 617.311, Florida Statutes, is  
16 transferred and renumbered as section 720.311, Florida  
17 Statutes, and amended to read:

18 720.311 ~~617.311~~ Dispute resolution.--The Legislature  
19 finds that alternative dispute resolution has made progress in  
20 reducing court dockets and trials and in offering a more  
21 efficient, cost-effective option to litigation. At any time  
22 after the filing in a court of competent jurisdiction of a  
23 complaint relating to a dispute under ss. 720.301-720.312 ~~ss.~~  
24 ~~617.301-617.312~~, the court may order that the parties enter  
25 mediation or arbitration procedures.

26 Section 18. Sections 617.304, 617.305, 617.308,  
27 617.309, 617.31, and 617.312, Florida Statutes, are  
28 transferred and renumbered as sections 720.304, 720.305,  
29 720.308, 720.309, 720.31, and 720.312, Florida Statutes,  
30 respectively.

31



1           Section 19. Subsection (6) of section 617.0601,  
2 Florida Statutes, is amended to read:

3           617.0601 Members, generally.--

4           (6) Subsections (1), (2), (3), and (4) do not apply to  
5 a corporation that is an association as defined in s. 720.301  
6 ~~s. 617.301~~.

7           Section 20. Subsection (6) of section 617.0701,  
8 Florida Statutes, is amended to read:

9           617.0701 Meetings of members, generally; failure to  
10 hold annual meeting; special meeting; consent to corporate  
11 actions without meetings; waiver of notice of meetings.--

12           (6) Subsections (1) and (3) do not apply to any  
13 corporation that is an association as defined in s. 720.301 ~~s.~~  
14 ~~617.301~~.

15           Section 21. Subsection (6) of section 617.0721,  
16 Florida Statutes, is amended to read:

17           617.0721 Voting by members.--

18           (6) Subsections (1), (2), (4), and (5) do not apply to  
19 a corporation that is an association as defined in s. 720.301  
20 ~~s. 617.301~~.

21           Section 22. Section 617.0831, Florida Statutes, is  
22 amended to read:

23           617.0831 Indemnification and liability of officers,  
24 directors, employees, and agents.--Except as provided in s.  
25 617.0834, ss. 607.0831 and 607.0850 apply to a corporation  
26 organized under this act and a rural electric cooperative  
27 organized under chapter 425. Any reference to "directors" in  
28 those sections includes the directors, managers, or trustees  
29 of a corporation organized under this act or of a rural  
30 electric cooperative organized under chapter 425. However, the  
31 term "director" as used in ss. 607.0831 and 607.0850 does not

1 include a director appointed by the developer to the board of  
2 directors of a condominium association under chapter 718, a  
3 cooperative association under chapter 719, a homeowners'  
4 association defined in s. 720.301 ~~s. 617.301~~, or a timeshare  
5 managing entity under chapter 721. Any reference to  
6 "shareholders" in those sections includes members of a  
7 corporation organized under this act and members of a rural  
8 electric cooperative organized under chapter 425.

9 Section 23. Subsection (4) of section 712.01, Florida  
10 Statutes, is amended to read:

11 712.01 Definitions.--As used in this law:

12 (4) The term "homeowners' association" means a  
13 homeowners' association as defined in s. 720.301 ~~s.~~  
14 ~~617.301(7)~~, or an association of parcel owners which is  
15 authorized to enforce use restrictions that are imposed on the  
16 parcels.

17 Section 24. Subsection (1) of section 723.0751,  
18 Florida Statutes, is amended to read:

19 723.0751 Mobile home subdivision homeowners'  
20 association.--

21 (1) In the event that no homeowners' association has  
22 been created pursuant to ss. 720.301-720.312 ~~ss.~~  
23 ~~617.301-617.312~~ to operate a mobile home subdivision, the  
24 owners of lots in such mobile home subdivision shall be  
25 authorized to create a mobile home subdivision homeowners'  
26 association in the manner prescribed in ss. 723.075, 723.076,  
27 and 723.078 which shall have the powers and duties, to the  
28 extent applicable, set forth in ss. 723.002(2) and 723.074.

29 Section 25. Subsection (5) of section 849.085, Florida  
30 Statutes, is amended to read:

31

1           849.085 Certain penny-ante games not crimes;  
2 restrictions.--

3           (5) The conduct of any penny-ante game within the  
4 common elements or common area of a condominium, cooperative,  
5 residential subdivision, or mobile home park or the conduct of  
6 any penny-ante game within the dwelling of an eligible  
7 organization as defined in subsection (2) or within a publicly  
8 owned community center owned by a municipality or county  
9 creates no civil liability for damages arising from the  
10 penny-ante game on the part of a condominium association,  
11 cooperative association, a homeowners' association as defined  
12 in s. 720.301 ~~s. 617.301~~, mobile home owner's association,  
13 dwelling owner, or municipality or county or on the part of a  
14 unit owner who was not a participant in the game.

15           Section 26. Subsection (4) and paragraph (e) of  
16 subsection (11) of section 849.0931, Florida Statutes, are  
17 amended to read:

18           849.0931 Bingo authorized; conditions for conduct;  
19 permitted uses of proceeds; limitations.--

20           (4) The right of a condominium association, a  
21 cooperative association, a homeowners' association as defined  
22 in s. 702.301 ~~s. 617.301~~, a mobile home owners' association, a  
23 group of residents of a mobile home park as defined in chapter  
24 723, or a group of residents of a mobile home park or  
25 recreational vehicle park as defined in chapter 513 to conduct  
26 bingo is conditioned upon the return of the net proceeds from  
27 such games to players in the form of prizes after having  
28 deducted the actual business expenses for such games for  
29 articles designed for and essential to the operation, conduct,  
30 and playing of bingo. Any net proceeds remaining after paying  
31 prizes may be donated by the association to a charitable,

1 nonprofit, or veterans' organization which is exempt from  
2 federal income tax under the provisions of s. 501(c) of the  
3 Internal Revenue Code to be used in such recipient  
4 organization's charitable, civic, community, benevolent,  
5 religious, or scholastic works or similar activities or, in  
6 the alternative, such remaining proceeds shall be used as  
7 specified in subsection (3).

8 (11) Bingo games may be held only on the following  
9 premises:

10 (e) With respect to bingo games conducted by a  
11 condominium association, a cooperative association, a  
12 homeowners' association as defined in s. 720.301 ~~s. 617.301~~, a  
13 mobile home owners' association, a group of residents of a  
14 mobile home park as defined in chapter 723, or a group of  
15 residents of a mobile home park or recreational vehicle park  
16 as defined in chapter 513, property owned by the association,  
17 property owned by the residents of the mobile home park or  
18 recreational vehicle park, or property which is a common area  
19 located within the condominium, mobile home park, or  
20 recreational vehicle park.

21 Section 27. Section 849.094, Florida Statutes, is  
22 amended to read:

23 849.094 Game promotion in connection with sale of  
24 consumer products or services.--

25 (1) As used in this section, the term:

26 (a) "Game promotion" means, but is not limited to, a  
27 contest, game of chance, or gift enterprise, conducted within  
28 or throughout the state and other states in connection with  
29 the sale of consumer products or services, and in which the  
30 elements of chance and prize are present. However, "game

31

1 promotion" shall not be construed to apply to bingo games  
2 conducted pursuant to s. 849.0931.

3 (b) "Operator" means any person, firm, corporation, or  
4 association or agent or employee thereof who promotes,  
5 operates, or conducts a game promotion, except any charitable  
6 nonprofit organization.

7 (2) It is unlawful for any operator:

8 (a) To design, engage in, promote, or conduct such a  
9 game promotion, in connection with the promotion or sale of  
10 consumer products or services, wherein the winner may be  
11 predetermined or the game may be manipulated or rigged so as  
12 to:

13 1. Allocate a winning game or any portion thereof to  
14 certain lessees, agents, or franchises; or

15 2. Allocate a winning game or part thereof to a  
16 particular period of the game promotion or to a particular  
17 geographic area;

18 (b) Arbitrarily to remove, disqualify, disallow, or  
19 reject any entry;

20 (c) To fail to award prizes offered;

21 (d) To print, publish, or circulate literature or  
22 advertising material used in connection with such game  
23 promotions which is false, deceptive, or misleading; or

24 (e) To require an entry fee, payment, or proof of  
25 purchase as a condition of entering a game promotion.

26 (3) The operator of a game promotion in which the  
27 total announced value of the prizes offered is greater than  
28 \$5,000 shall file with the Department of Agriculture and  
29 Consumer Services ~~State~~ a copy of the rules and regulations of  
30 the game promotion and a list of all prizes and prize  
31 categories offered at least 7 days before the commencement of

1 the game promotion. Such rules and regulations may not  
2 thereafter be changed, modified, or altered. The operator of  
3 a game promotion shall conspicuously post the rules and  
4 regulations of such game promotion in each and every retail  
5 outlet or place where such game promotion may be played or  
6 participated in by the public and shall also publish the rules  
7 and regulations in all advertising copy used in connection  
8 therewith. Radio and television announcements may indicate  
9 that the rules and regulations are available at retail outlets  
10 or from the operator of the promotion. A nonrefundable filing  
11 fee of \$100 shall accompany each filing and shall be ~~deposited~~  
12 ~~into the Division of Licensing Trust Fund to be~~ used to pay  
13 the costs incurred in administering and enforcing the  
14 provisions of this section.

15 (4)(a) Every operator of such a game promotion in  
16 which the total announced value of the prizes offered is  
17 greater than \$5,000 shall establish a trust account, in a  
18 national or state-chartered financial institution, with a  
19 balance sufficient to pay or purchase the total value of all  
20 prizes offered. On a form supplied by the Department of  
21 Agriculture and Consumer Services ~~State~~, an official of the  
22 financial institution holding the trust account shall set  
23 forth the dollar amount of the trust account, the identity of  
24 the entity or individual establishing the trust account, and  
25 the name of the game promotion for which the trust account has  
26 been established. Such form shall be filed with the  
27 Department of Agriculture and Consumer Services ~~State~~ at least  
28 7 days in advance of the commencement of the game promotion.  
29 In lieu of establishing such trust account, the operator may  
30 obtain a surety bond in an amount equivalent to the total  
31 value of all prizes offered; and such bond shall be filed with

1 the Department of Agriculture and Consumer Services ~~State~~ at  
2 least 7 days in advance of the commencement of the game  
3 promotion.

4 1. The moneys held in the trust account may be  
5 withdrawn in order to pay the prizes offered only upon  
6 certification to the Department of Agriculture and Consumer  
7 Services ~~State~~ of the name of the winner or winners and the  
8 amount of the prize or prizes and the value thereof.

9 2. If the operator of a game promotion has obtained a  
10 surety bond in lieu of establishing a trust account, the  
11 amount of the surety bond shall equal at all times the total  
12 amount of the prizes offered.

13 (b) The Department of Agriculture and Consumer  
14 Services ~~State~~ may waive the provisions of this subsection for  
15 any operator who has conducted game promotions in the state  
16 for not less than 5 consecutive years and who has not had any  
17 civil, criminal, or administrative action instituted against  
18 him or her by the state or an agency of the state for  
19 violation of this section within that 5-year period. Such  
20 waiver may be revoked upon the commission of a violation of  
21 this section by such operator, as determined by the Department  
22 of Agriculture and Consumer Services ~~State~~.

23 (5) Every operator of a game promotion in which the  
24 total announced value of the prizes offered is greater than  
25 \$5,000 shall provide the Department of Agriculture and  
26 Consumer Services ~~State~~ with a certified list of the names and  
27 addresses of all persons, whether from this state or from  
28 another state, who have won prizes which have a value of more  
29 than \$25, the value of such prizes, and the dates when the  
30 prizes were won within 60 days after such winners have been  
31 finally determined. The operator shall provide a copy of the

1 list of winners, without charge, to any person who requests  
2 it. In lieu of the foregoing, the operator of a game  
3 promotion may, at his or her option, publish the same  
4 information about the winners in a Florida newspaper of  
5 general circulation within 60 days after such winners have  
6 been determined and shall provide to the Department of  
7 Agriculture and Consumer Services ~~State~~ a certified copy of  
8 the publication containing the information about the winners.  
9 The operator of a game promotion is not required to notify a  
10 winner by mail or by telephone when the winner is already in  
11 possession of a game card from which the winner can determine  
12 that he or she has won a designated prize. All winning  
13 entries shall be held by the operator for a period of 90 days  
14 after the close or completion of the game.

15 (6) The Department of Agriculture and Consumer  
16 Services ~~State~~ shall keep the certified list of winners for a  
17 period of at least 6 months after receipt of the certified  
18 list. The department thereafter may dispose of all records and  
19 lists.

20 (7) No operator shall force, directly or indirectly, a  
21 lessee, agent, or franchise dealer to purchase or participate  
22 in any game promotion. For the purpose of this section,  
23 coercion or force shall be presumed in these circumstances in  
24 which a course of business extending over a period of 1 year  
25 or longer is materially changed coincident with a failure or  
26 refusal of a lessee, agent, or franchise dealer to participate  
27 in such game promotions. Such force or coercion shall further  
28 be presumed when an operator advertises generally that game  
29 promotions are available at its lessee dealers or agent  
30 dealers.

31



1           (8)(a) The Department of Agriculture and Consumer  
2 Services ~~State~~ shall have the power to promulgate such rules  
3 and regulations respecting the operation of game promotions as  
4 it may deem advisable.

5           (b) Whenever the Department of Agriculture and  
6 Consumer Services ~~State~~ or the Department of Legal Affairs has  
7 reason to believe that a game promotion is being operated in  
8 violation of this section, it may bring an action in the  
9 circuit court of any judicial circuit in which the game  
10 promotion is being operated in the name and on behalf of the  
11 people of the state against any operator thereof to enjoin the  
12 continued operation of such game promotion anywhere within the  
13 state.

14           (9)(a) Any person, firm, or corporation, or  
15 association or agent or employee thereof, who engages in any  
16 acts or practices stated in this section to be unlawful, or  
17 who violates any of the rules and regulations made pursuant to  
18 this section, is guilty of a misdemeanor of the second degree,  
19 punishable as provided in s. 775.082 or s. 775.083.

20           (b) Any person, firm, corporation, association, agent,  
21 or employee who violates any provision of this section or any  
22 of the rules and regulations made pursuant to this section  
23 shall be liable for a civil penalty of not more than \$1,000  
24 for each such violation, which shall accrue to the state and  
25 may be recovered in a civil action brought by the Department  
26 of Agriculture and Consumer Services ~~State~~ or the Department  
27 of Legal Affairs.

28           (10) This section does not apply to actions or  
29 transactions regulated by the Department of Business and  
30 Professional Regulation or to the activities of nonprofit  
31 organizations or to any other organization engaged in any

1 enterprise other than the sale of consumer products or  
2 services. Subsections (3), (4), (5), (6), and (7) and  
3 paragraph (8)(a) and any of the rules made pursuant thereto do  
4 not apply to television or radio broadcasting companies  
5 licensed by the Federal Communications Commission.

6 Section 28. Except as otherwise provided in this act,  
7 this act shall take effect July 1, 2000.

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SENATE SUMMARY

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Implements recommendations of the Constitutional  
Transition Task Force appointed by the Secretary of State  
relating to the functions and roles of the Secretary of  
State and the Department of State. Provides for the  
appointment by the Governor of the Secretary of State to  
head the Department of State and makes the Secretary of  
State the custodian of state records. Realigns certain  
functions performed by the executive-branch agencies.  
(See bill for details.)