

By the Committee on Governmental Oversight and Productivity;  
and Senator Brown-Waite

302-1878-00

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. 15.01,  
6           F.S.; striking a reference to performance by  
7           the Secretary of State of constitutional  
8           duties; amending s. 20.03, F.S.; redefining the  
9           term "cabinet" as used in provisions relating  
10          to the structure of the executive branch to  
11          conform to changes made to the State  
12          Constitution; amending s. 20.10, F.S.;  
13          providing for the structure of the Department  
14          of State and providing for the appointment,  
15          term of office, and duties of the head of the  
16          department; amending ss. 112.3144, 112.3145,  
17          F.S.; transferring certain functions relating  
18          to the disclosure of financial interests by  
19          public officers and employees from the  
20          Department of State to the Florida Commission  
21          on Ethics; amending s. 257.36, F.S.; requiring  
22          district officers and agencies to comply with  
23          certain laws relating to the management of  
24          records and revising provisions governing the  
25          destruction or disposition of agency records;  
26          amending s. 267.072, F.S.; revising programs  
27          administered by the Division of Historical  
28          Resources of the Department of State; amending  
29          s. 288.8175, F.S.; transferring from the  
30          Department of Education to the Department of  
31          State certain functions relating to linkage

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

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

24  
25 Section 1. Effective January 7, 2003, section 15.01,  
26 Florida Statutes, is amended to read:

27 15.01 Residence, office, and duties.--~~The Secretary of~~  
28 ~~State shall reside at the seat of government and shall have~~  
29 ~~her or his office in the Capitol and perform the duties~~  
30 ~~prescribed by the State Constitution.~~The Department of State  
31 shall have the custody of the constitution and Great Seal of

1 this state, and of the original statutes thereof, and of the  
2 resolutions of the Legislature, and of all the official  
3 correspondence of the Governor. The department shall keep in  
4 its office a register and an index of all official letters,  
5 orders, communications, messages, documents, and other  
6 official acts issued or received by the Governor or the  
7 Secretary of State, and record these in a book numbered in  
8 chronological order. The Governor, before issuing any order  
9 or transmission of any official letter, communication, or  
10 document from the executive office or promulgation of any  
11 official act or proceeding, except military orders, shall  
12 deliver the same or a copy thereof to the Department of State  
13 to be recorded.

14 Section 2. Effective January 7, 2003, subsection (1)  
15 of section 20.03, Florida Statutes, is amended to read:

16 20.03 Definitions.--To provide uniform nomenclature  
17 throughout the structure of the executive branch, the  
18 following definitions apply:

19 (1) "Cabinet" means collectively the ~~Secretary of~~  
20 ~~State, Attorney General, the Chief Financial Officer, and the~~  
21 ~~Comptroller, Treasurer, Commissioner of Agriculture, and~~  
22 ~~Commissioner of Education,~~ as specified in s. 4, Art. IV of  
23 the State Constitution.

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

26 20.10 Department of State.--There is created a  
27 Department of State.

28 (1) The head of the Department of State is the  
29 Secretary of State. The Secretary of State shall be appointed  
30 by the Governor, subject to confirmation by the Senate, and  
31 shall serve at the pleasure of the Governor. The Secretary of

1 State shall perform the functions conferred by the State  
2 Constitution upon the custodian of state records.

3 (2) The following divisions of the Department of State  
4 are established:

- 5 (a) Division of Elections.  
6 (b) Division of Historical Resources.  
7 (c) Division of Corporations.  
8 (d) Division of Library and Information Services.  
9 (e) Division of Licensing.  
10 (f) Division of Cultural Affairs.  
11 (g) Division of Administration.

12 Section 4. Effective January 1, 2001, section  
13 112.3144, Florida Statutes, is amended to read:

14 112.3144 Full and public disclosure of financial  
15 interests.--

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

21 (2)(1) No person who is required, pursuant to s. 8,  
22 Art. II of the State Constitution, to file a full and public  
23 disclosure of financial interests and who has filed a full and  
24 public disclosure of financial interests for any calendar or  
25 fiscal year shall be required to file a statement of financial  
26 interests pursuant to s. 112.3145(2) and (3) for the same year  
27 or for any part thereof notwithstanding any requirement of  
28 this part, except that a candidate for office shall file a  
29 copy of his or her disclosure with the officer before whom he  
30 or she qualifies.

31

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

7           (a) Jewelry;

8           (b) Collections of stamps, guns, and numismatic  
9 properties;

10          (c) Art objects;

11          (d) Household equipment and furnishings;

12          (e) Clothing;

13          (f) Other household items; and

14          (g) Vehicles for personal use.

15           (4)~~(3)~~ Forms for compliance with the full and public  
16 disclosure requirements of s. 8, Art. II of the State  
17 Constitution, ~~and a current list of persons required to file~~  
18 ~~full and public disclosure by s. 8, Art. II of the State~~  
19 ~~Constitution, or other state law, shall be created provided by~~  
20 ~~the Commission on Ethics. The commission to the Secretary of~~  
21 ~~State, who shall give notice of disclosure deadlines and~~  
22 ~~delinquencies and distribute forms in the following manner:~~

23           (a) Not later than May 1 of each year, the commission  
24 ~~on Ethics~~ shall prepare a current list of the names and  
25 addresses of and the offices held by every person required to  
26 file full and public disclosure annually by s. 8, Art. II of  
27 the State Constitution, or other state law, ~~and shall provide~~  
28 ~~the Secretary of State with the mailing list.~~ In compiling the  
29 list, the commission shall be assisted by each unit of  
30 government in providing at the request of the commission the  
31

1 name, address, and name of the office held by each public  
2 official within the respective unit of government.

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

8 (c) Not later than 30 days after July 1 of each year,  
9 the commission ~~Secretary of State~~ shall determine which  
10 persons on the mailing list have failed to file full and  
11 public disclosure and shall send delinquency notices by  
12 certified mail to such persons. Each notice shall state that a  
13 grace period is in effect until September 1 of the current  
14 year ~~and that, if the statement is not filed by September 1 of~~  
15 ~~the current year, the Secretary of State is required by law to~~  
16 ~~notify the Commission on Ethics of the delinquency.~~

17 ~~(d) Not later than 30 days following September 1 of~~  
18 ~~each year, the Secretary of State shall certify to the~~  
19 ~~Commission on Ethics a list of the names and addresses of and~~  
20 ~~the offices held by all persons on the mailing list who have~~  
21 ~~failed to timely file full and public disclosure. The~~  
22 ~~certification shall be on a form prescribed by the commission~~  
23 ~~and shall indicate whether the Secretary of State has provided~~  
24 ~~the disclosure forms and notice as required by this section to~~  
25 ~~all persons named on the delinquency list.~~

26 (d)(e) Any person subject to the annual filing of full  
27 and public disclosure under s. 8, Art. II of the State  
28 Constitution, or other state law, whose name is not on the  
29 commission's mailing list of persons required to file full and  
30 public disclosure ~~provided to the Secretary of State~~ shall not  
31

1 be deemed delinquent for failure to file full and public  
2 disclosure in any year in which the omission occurred.

3 (e)~~(f)~~ The notification requirements of this  
4 subsection do not apply to candidates or to the first filing  
5 required of any person appointed to elective constitutional  
6 office. The appointing official shall notify such newly  
7 appointed person of the obligation to file full and public  
8 disclosure by July 1.

9 Section 5. Effective January 1, 2001, paragraph (c) of  
10 subsection (2) and subsections (4) and (6) of section  
11 112.3145, Florida Statutes, are amended to read:

12 112.3145 Disclosure of financial interests and clients  
13 represented before agencies.--

14 (2)

15 (c) State officers, ~~persons qualifying for a state~~  
16 ~~office~~, and specified state employees shall file their  
17 statements of financial interests with the Commission on  
18 Ethics Secretary of State. Local officers shall file their  
19 statements of financial interests with the supervisor of  
20 elections of the county in which they permanently reside.  
21 Local officers who do not permanently reside in any county in  
22 the state shall file their statements of financial interests  
23 with the supervisor of elections of the county in which their  
24 agency maintains its headquarters. Persons seeking to qualify  
25 as candidates for local public office shall file their  
26 statements of financial interests with the officer before whom  
27 they qualify.

28 (4) Each elected constitutional officer, state  
29 officer, local officer, and specified state employee shall  
30 file a quarterly report of the names of clients represented  
31 for a fee or commission, except for appearances in ministerial

1 matters, before agencies at his or her level of government.  
2 For the purposes of this part, agencies of government shall be  
3 classified as state-level agencies or agencies below state  
4 level. Each local officer shall file such report with the  
5 supervisor of elections of the county in which the officer is  
6 principally employed or is a resident. Each state officer,  
7 elected constitutional officer, and specified state employee  
8 shall file such report with the commission ~~Secretary of State~~.  
9 The report shall be filed only when a reportable  
10 representation is made during the calendar quarter and shall  
11 be filed no later than 15 days after the last day of the  
12 quarter. Representation before any agency shall be deemed to  
13 include representation by such officer or specified state  
14 employee or by any partner or associate of the professional  
15 firm of which he or she is a member and of which he or she has  
16 actual knowledge. For the purposes of this subsection, the  
17 term "representation before any agency" does not include  
18 appearances before any court or Chief Judges of Compensation  
19 Claims or judges of compensation claims or representations on  
20 behalf of one's agency in one's official capacity. Such term  
21 does not include the preparation and filing of forms and  
22 applications merely for the purpose of obtaining or  
23 transferring a license based on a quota or a franchise of such  
24 agency or a license or operation permit to engage in a  
25 profession, business, or occupation, so long as the issuance  
26 or granting of such license, permit, or transfer does not  
27 require substantial discretion, a variance, a special  
28 consideration, or a certificate of public convenience and  
29 necessity.  
30 (6) Forms for compliance with the disclosure  
31 requirements of this section and a current list of persons



1 subject to disclosure shall be provided by the Commission on  
2 Ethics to the Secretary of State and to each supervisor of  
3 elections, who shall give notice of disclosure deadlines and  
4 delinquencies and distribute forms in the following manner:

5 (a)1. Not later than May 1 of each year, the  
6 Commission on Ethics shall prepare a current list of the names  
7 and addresses of, and the offices or positions held by, every  
8 state officer, local officer, and specified employee. In  
9 compiling the list, the commission shall be assisted by each  
10 unit of government in providing, at the request of the  
11 commission, the name, address, and name of agency of, and the  
12 office or position held by, each state officer, local officer,  
13 or specified state employee within the respective unit of  
14 government.

15 2. Not later than May 15 of each year, the commission  
16 shall provide ~~the Secretary of State with a current mailing~~  
17 ~~list of all state officers and specified employees and shall~~  
18 provide each supervisor of elections with a current mailing  
19 list of all local officers required to file with such  
20 supervisor of elections.

21 (b) Not later than 30 days before July 1 of each year,  
22 the commission ~~Secretary of State~~ and each supervisor of  
23 elections, as appropriate, shall mail a copy of the form  
24 prescribed for compliance with subsection (3) and a notice of  
25 all applicable disclosure forms and filing deadlines to each  
26 person required to file a statement of financial interests.

27 (c) Not later than 30 days after July 1 of each year,  
28 the commission ~~Secretary of State~~ and each supervisor of  
29 elections shall determine which persons required to file a  
30 statement of financial interests in their respective offices  
31 have failed to do so and shall send delinquency notices by

1 certified mail to such persons. Each notice shall state that  
2 a grace period is in effect until September 1 of the current  
3 year; that no investigative or disciplinary action based upon  
4 the delinquency will be taken by the agency head or Commission  
5 on Ethics if the statement is filed by September 1 of the  
6 current year; that, if the statement is not filed by September  
7 1 of the current year, he or she is required by law to notify  
8 the Commission on Ethics of the delinquency; and that, if upon  
9 the filing of a sworn complaint the commission finds that the  
10 person has failed to timely file the statement by September 1  
11 of the current year, such person shall be subject to the  
12 penalties provided in s. 112.317.

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

23 (e) Any state officer, local officer, or specified  
24 employee whose name is not on the mailing list of persons  
25 required to file statements of financial interests ~~provided to~~  
26 ~~the Secretary of State or supervisor of elections~~ is not  
27 subject to the penalties provided in s. 112.317 for failure to  
28 timely file a statement of financial interests in any year in  
29 which the omission occurred.

30  
31

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

4 Section 6. Section 257.36, Florida Statutes, is  
5 amended to read:

6 257.36 Records and information management.--

7 (1) There is created within the Division of Library  
8 and Information Services of the Department of State a records  
9 and information management program. It is the duty and  
10 responsibility of the division to:

11 (a) Establish and administer a records management  
12 program directed to the application of efficient and  
13 economical management methods relating to the creation,  
14 utilization, maintenance, retention, preservation, and  
15 disposal of records.

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

21 (c) Analyze, develop, establish, and coordinate  
22 standards, procedures, and techniques of recordmaking and  
23 recordkeeping.

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

26 (e) Establish safeguards against unauthorized or  
27 unlawful removal or loss of records.

28 (f) Initiate appropriate action to recover records  
29 removed unlawfully or without authorization.

30 (g) Institute and maintain a training and information  
31 program in:

1           1. All phases of records and information management to  
2 bring approved and current practices, methods, procedures, and  
3 devices for the efficient and economical management of records  
4 to the attention of all agencies.

5           2. The requirements relating to access to public  
6 records under chapter 119.

7           (h) Provide a centralized program of microfilming for  
8 the benefit of all agencies.

9           (i) Make continuous surveys of recordkeeping  
10 operations.

11           (j) Recommend improvements in current records  
12 management practices, including the use of space, equipment,  
13 supplies, and personnel in creating, maintaining, and  
14 servicing records.

15           (k) Establish and maintain a program in cooperation  
16 with each agency for the selection and preservation of records  
17 considered essential to the operation of government and to the  
18 protection of the rights and privileges of citizens.

19           (l) Make, or have made, preservation duplicates, or  
20 designate existing copies as preservation duplicates, to be  
21 preserved in the place and manner of safekeeping as prescribed  
22 by the division.

23           (2)(a) All records transferred to the division may be  
24 held by it in a records center or centers, to be designated by  
25 it, for such time as in its judgment retention therein is  
26 deemed necessary. At such time as it is established by the  
27 division, such records as are determined by it as having  
28 historical or other value warranting continued preservation  
29 shall be transferred to the Florida State Archives.

30  
31

1           (b) Title to any record detained in any records center  
2 shall remain in the agency transferring such record to the  
3 division.

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

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

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

24           (5) For the purposes of this section, the term  
25 "agency" shall mean any state, county, district, or municipal  
26 officer, department, division, bureau, board, commission, or  
27 other separate unit of government created or established by  
28 law. It is the duty of each agency to:

29           (a) Cooperate with the division in complying with the  
30 provisions of this chapter and designate a records management  
31 liaison officer.

1           (b) Establish and maintain an active and continuing  
2 program for the economical and efficient management of  
3 records.

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

13           (6)(7) A public record may be destroyed or otherwise  
14 disposed of only in accordance with retention schedules  
15 established by the division.~~No record shall be destroyed or~~  
16 ~~disposed of by any agency unless approval of the division is~~  
17 ~~first obtained.~~The division shall adopt reasonable rules not  
18 inconsistent with this chapter which shall be binding on all  
19 agencies relating to the destruction and disposition disposal  
20 of records. Such rules shall provide, but not be limited to:

21           (a) Procedures for complying and submitting to the  
22 division records-retention lists and schedules of records  
23 ~~proposed for disposal.~~

24           (b) Procedures for the physical destruction or other  
25 disposal of records.

26           (c) Standards for the reproduction of records for  
27 security or with a view to the disposal of the original  
28 record.

29           Section 7. Paragraph (d) of subsection (1) of section  
30 267.072, Florida Statutes, is amended to read:

31           267.072 Museum of Florida history programs.--

1           (1) The division shall:

2           (d) Establish and administer a program, to be entitled  
3 the Great Floridians program, which shall be designed to  
4 recognize and record the achievements of Floridians, living  
5 and deceased, who have made major contributions to the  
6 progress and welfare of this state.

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

17           2. To enhance public participation and involvement in  
18 the identification of any person worthy of being nominated as  
19 a Great Floridian, the division shall seek advice and  
20 assistance from persons qualified through the demonstration of  
21 special interest, experience, or education in the  
22 dissemination of knowledge about the state's history.

23           a. In formulating its nominations, the division shall  
24 also seek the assistance of the Museum of Florida History  
25 Foundation, Inc., ~~Florida History Associates, Inc.~~, or its  
26 successor, acting in the capacity as a citizen support  
27 organization of the division, pursuant to s. 267.17 and  
28 approved to act on behalf of the Museum of Florida History.

29           b. Annually, the division shall convene an ad hoc  
30 committee composed of representatives of the Governor, each  
31 member of the Florida Cabinet, the President of the Senate,

1 the Speaker of the House of Representatives, and the Museum of  
2 Florida History Foundation, Inc.~~Florida History Associates,~~  
3 ~~Inc.~~This committee shall meet at least twice. The committee  
4 shall nominate ~~living citizens of this state who during their~~  
5 ~~lives have made major contributions to the progress of the~~  
6 ~~nation or this state and its citizens and shall from those~~  
7 ~~nominated select each year not fewer less than two persons~~  
8 whose names shall be submitted to the Secretary of State with  
9 the recommendation that they be honored with the designation  
10 "Great Floridian."

11 3. Upon designation of a person as a Great Floridian  
12 by the Secretary of State, the division shall undertake  
13 appropriate activities intended to achieve wide public  
14 knowledge of the person designated.

15 a. The division may seek to initiate production of a  
16 film or videotape depicting the life and contributions of the  
17 designee to this state and to the nation. If technology  
18 surpasses the use of film or videotape, another medium of  
19 equal quality may be used.

20 (I) In the production of such films, the division  
21 shall seek cooperation from local volunteers throughout the  
22 state and, in particular, shall seek fundraising and other  
23 assistance of the citizen support organization created  
24 pursuant to s. 267.17 to support the programs of the Museum of  
25 Florida History.

26 ~~(II) In the case of persons nominated as Great~~  
27 ~~Floridians as a result of the committee convened pursuant to~~  
28 ~~sub-subparagraph 2.b., the division shall immediately begin~~  
29 ~~taking the steps necessary to produce a film depicting the~~  
30 ~~contributions of such persons to this state and to the nation;~~  
31 ~~however, the requirement to produce such a film shall be~~



1 ~~contingent upon appropriation of sufficient funds by the~~  
2 ~~legislature.~~

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

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

17 b. Deceased persons designated as Great Floridians  
18 typically shall be recognized by markers affixed to properties  
19 significantly associated with the major contributions of the  
20 designee. Such markers shall be erected pursuant to the  
21 provisions of s. 267.061(3)(n).

22 Section 8. Section 288.8175, Florida Statutes, is  
23 amended to read:

24 288.8175 Linkage institutes between postsecondary  
25 institutions in this state and foreign countries.--

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

28 (2)~~(1)~~ There are created, ~~within the Department of~~  
29 ~~Education,~~ Florida linkage institutes. A primary purpose of  
30 these institutes is to assist in the development of stronger  
31 economic, cultural, educational, and social ties between this

1 state and strategic foreign countries through the promotion of  
2 expanded public and private dialogue on cooperative research  
3 and technical assistance activities, increased bilateral  
4 commerce, student and faculty exchange, cultural exchange, and  
5 the enhancement of language training skills between the  
6 postsecondary institutions in this state and those of selected  
7 foreign countries. Each institute must ensure that minority  
8 students are afforded an equal opportunity to participate in  
9 the exchange programs.

10 (3)~~(2)~~ Each institute must be governed by an  
11 agreement, approved by the department ~~of Education~~, between  
12 the State University System and the Florida Community College  
13 System with the counterpart organization ~~of higher education~~  
14 in a ~~the~~ foreign country. Each institute must report to the  
15 department regarding its program activities, expenditures, and  
16 policies.

17 (4)~~(3)~~ Each institute must be co-administered in this  
18 state by a university-community college partnership, as  
19 designated in subsection (5)~~(4)~~, and must have a private  
20 sector and public sector advisory committee. The advisory  
21 committee must be representative of the international  
22 education and commercial interests of the state and may have  
23 members who are native to the foreign country partner. Six  
24 members must be appointed by the department ~~of Education~~. The  
25 department must appoint at least one member who is an  
26 international educator. The presidents, or their designees,  
27 of the participating university and community college must  
28 also serve on the advisory committee.

29 (5)~~(4)~~ The institutes are:

30 (a) Florida-Brazil Institute (University of Florida  
31 and Miami-Dade Community College).

1 (b) Florida-Costa Rica Institute (Florida State  
2 University and Valencia Community College).

3 (c) Florida Caribbean Institute (Florida International  
4 University and Daytona Beach Community College).

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

7 (e) Florida-China Institute (University of West  
8 Florida, University of South Florida, and Brevard Community  
9 College).

10 (f) Florida-Japan Institute (University of South  
11 Florida, University of West Florida, and St. Petersburg  
12 Community College).

13 (g) Florida-France Institute (New College of the  
14 University of South Florida, Miami-Dade Community College, and  
15 Florida State University).

16 (h) Florida-Israel Institute (Florida Atlantic  
17 University and Broward Community College).

18 (i) Florida-West Africa Institute (Florida  
19 Agricultural and Mechanical University, University of North  
20 Florida, and Florida Community College at Jacksonville).

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

23 (k) Florida-Mexico Institute (Florida International  
24 University and Polk Community College).

25 (6)~~(5)~~ Each institute is allowed to exempt from s.  
26 240.1201 up to 25 full-time equivalent students per year from  
27 the respective host countries to study in any of the state  
28 universities or community colleges in this state as resident  
29 students for tuition purposes. The institute directors shall  
30 develop criteria, to be approved by the Department of  
31 Education, for the selection of these students. Students must

1 return home within 3 years after their tenure of graduate or  
2 undergraduate study for a length of time equal to their  
3 exemption period.

4 (7)~~(6)~~ Each state university and community college  
5 linkage institute partner may enter into an agreement for a  
6 student exchange program, that requires that the tuition and  
7 fees of a student who is enrolled in a state university or  
8 community college and who is participating in an exchange  
9 program be paid to the university or community college while  
10 the student is participating in the exchange program. The  
11 agreement may also require that the tuition and fees of a  
12 student who is enrolled in a postsecondary institution in a  
13 foreign country and who is participating in an exchange  
14 program be paid to the foreign institution of enrollment.

15 (8)~~(7)~~ No later than 60 days before every regular  
16 session of the Legislature, the department ~~of Education~~ shall  
17 present to the Speaker of the House of Representatives, the  
18 President of the Senate, and the minority leaders of the House  
19 of Representatives and the Senate a review of linkage  
20 institute program activity, criteria for their operation,  
21 accountability standards, recommended funding levels, and  
22 recommendations for establishing, maintaining, or abolishing  
23 linkage institutes. The criteria shall be developed in  
24 consultation with Enterprise Florida, Inc. The criteria must  
25 include, but need not be limited to, the purpose stated in  
26 subsection (2)~~(1)~~ and:

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

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

31

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

4 (9)~~(8)~~ A linkage institute may not be created or  
5 funded except upon the recommendation of the department of  
6 ~~Education~~ and except by amendment to this section.

7 (10)~~(9)~~ The department of ~~Education~~ shall review and  
8 make linkage-institute budget requests to the Governor and the  
9 Legislature. State appropriations for institutes created under  
10 this section must be made by a single lump-sum line item to  
11 the department, which must apportion the funds among the  
12 various institutes in accordance with criteria established by  
13 the department.

14 (11)~~(10)~~ Linkage institutes may also accept and  
15 administer moneys provided by the department of ~~State~~ for  
16 research and development of international trade. The  
17 department ~~Secretary of State~~ shall, by March 1, report to the  
18 Governor, the President of the Senate, and the Speaker of the  
19 House of Representatives in each year in which the department  
20 of ~~State~~ has provided moneys for a linkage institute. The  
21 report must detail the purpose of the expenditure by the  
22 department of ~~State~~ and the use of the moneys by the linkage  
23 institutes and must include a copy of the research documents  
24 or related materials produced, if any.

25 Section 9. Effective January 7, 2003, subsection (1)  
26 of section 403.7145, Florida Statutes, is amended to read:

27 403.7145 Recycling.--

28 (1) The Capitol and the House and Senate office  
29 buildings constitute the Capitol recycling area. The Florida  
30 House of Representatives, the Florida Senate, and the Office  
31 of the Governor, the Secretary of State, and each Cabinet

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

17 Section 10. Section 617.301, Florida Statutes, is  
18 transferred and renumbered as section 720.301, Florida  
19 Statutes, and amended to read:

20 720.301 ~~617.301~~ Homeowners' associations;  
21 definitions.--As used in ss.720.301-720.312 ~~ss.~~  
22 ~~617.301-617.312~~, the term:

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

30 (2) "Common area" means all real property within a  
31 community which is owned or leased by an association or

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

1           (b) The articles of incorporation and bylaws of the  
2 homeowners' association, and any duly adopted amendments  
3 thereto.

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

14           (8) "Member" means a member of an association, and may  
15 include, but is not limited to, a parcel owner or an  
16 association representing parcel owners or a combination  
17 thereof.

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

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

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

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

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

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

30  
31



1           (11) "Voting interest" means the voting rights  
2 distributed to the members of the homeowners' association,  
3 pursuant to the governing documents.

4           Section 11. Section 617.302, Florida Statutes, is  
5 transferred and renumbered as section 720.302, Florida  
6 Statutes, and amended to read:

7           720.302 ~~617.302~~ Homeowners' associations; purposes,  
8 scope, and application.--

9           (1) The purposes of ss. 720.301-720.312 ~~ss.~~  
10 ~~617.301-617.312~~ are to give statutory recognition to  
11 corporations that operate residential communities in this  
12 state, to provide procedures for operating homeowners'  
13 associations, and to protect the rights of association members  
14 without unduly impairing the ability of such associations to  
15 perform their functions.

16           (2) The Legislature recognizes that it is not in the  
17 best interest of homeowners' associations or the individual  
18 association members thereof to create or impose a bureau or  
19 other agency of state government to regulate the affairs of  
20 homeowners' associations. Further, the Legislature recognizes  
21 that certain contract rights have been created for the benefit  
22 of homeowners' associations and members thereof before the  
23 effective date of this act and that ss. 720.301-720.312 ~~ss.~~  
24 ~~617.301-617.312~~ are not intended to impair such contract  
25 rights, including, but not limited to, the rights of the  
26 developer to complete the community as initially contemplated.

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

29           (a) A community that is composed ~~comprised~~ of property  
30 primarily intended for commercial, industrial, or other  
31 nonresidential use; or

1 (b) The commercial or industrial parcels in a  
2 community that contains both residential parcels and parcels  
3 intended for commercial or industrial use.

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

8 Section 12. Section 617.303, Florida Statutes, is  
9 transferred and renumbered as section 720.303, Florida  
10 Statutes, and amended to read:

11 720.303 ~~617.303~~ Association powers and duties;  
12 meetings of board; official records; budgets; financial  
13 reporting.--

14 (1) POWERS AND DUTIES.--An association which operates  
15 a community as defined in s. 720.301 ~~s. 617.301~~, must be  
16 operated by an association that is a Florida corporation.  
17 After October 1, 1995, the association must be incorporated  
18 and the initial governing documents must be recorded in the  
19 official records of the county in which the community is  
20 located. An association may operate more than one community.  
21 The officers and directors of an association have a fiduciary  
22 relationship to the members who are served by the association.  
23 The powers and duties of an association include those set  
24 forth in this chapter and, except as expressly limited or  
25 restricted in this chapter, those set forth in the governing  
26 documents. A member does not have authority to act for the  
27 association by virtue of being a member. An association may  
28 have more than one class of members and may issue membership  
29 certificates.

30 (2) BOARD MEETINGS.--A meeting of the board of  
31 directors of an association occurs whenever a quorum of the

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

28 (3) MINUTES.--Minutes of all meetings of the members  
29 of an association and of the board of directors of an  
30 association must be maintained in written form or in another  
31 form that can be converted into written form within a

1 reasonable time. A vote or abstention from voting on each  
2 matter voted upon for each director present at a board meeting  
3 must be recorded in the minutes.

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

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

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

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

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

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

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

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

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

27 (i) A current copy of all contracts to which the  
28 association is a party, including, without limitation, any  
29 management agreement, lease, or other contract under which the  
30 association has any obligation or responsibility. Bids  
31 received by the association for work to be performed must also

1 be considered official records and must be kept for a period  
2 of 1 year.

3 (j) The financial and accounting records of the  
4 association, kept according to good accounting practices. All  
5 financial and accounting records must be maintained for a  
6 period of at least 7 years. The financial and accounting  
7 records must include:

8 1. Accurate, itemized, and detailed records of all  
9 receipts and expenditures.

10 2. A current account and a periodic statement of the  
11 account for each member, designating the name and current  
12 address of each member who is obligated to pay assessments,  
13 the due date and amount of each assessment or other charge  
14 against the member, the date and amount of each payment on the  
15 account, and the balance due.

16 3. All tax returns, financial statements, and  
17 financial reports of the association.

18 4. Any other records that identify, measure, record,  
19 or communicate financial information.

20 (5) INSPECTION AND COPYING OF RECORDS.--The official  
21 records shall be maintained within the state and must be open  
22 to inspection and available for photocopying by members or  
23 their authorized agents at reasonable times and places within  
24 10 business days after receipt of a written request for  
25 access. This subsection may be complied with by having a copy  
26 of the official records available for inspection or copying in  
27 the community.

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

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

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

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

28           (7) FINANCIAL REPORTING.--The association shall  
29 prepare an annual financial report within 60 days after the  
30 close of the fiscal year. The association shall, within the  
31 time limits set forth in subsection (5), provide each member

1 with a copy of the annual financial report or a written notice  
2 that a copy of the financial report is available upon request  
3 at no charge to the member. The financial report must consist  
4 of either:

5 (a) Financial statements presented in conformity with  
6 generally accepted accounting principles; or

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

9 1. The amount of receipts and expenditures by  
10 classification; and

11 2. The beginning and ending cash balances of the  
12 association.

13 (8) ASSOCIATION FUNDS; COMMINGLING.--

14 (a) All association funds held by a developer shall be  
15 maintained separately in the association's name. Reserve and  
16 operating funds of the association shall not be commingled  
17 prior to turnover except the association may jointly invest  
18 reserve funds; however, such jointly invested funds must be  
19 accounted for separately.

20 (b) No developer in control of a homeowners'  
21 association shall commingle any association funds with his or  
22 her funds or with the funds of any other homeowners'  
23 association or community association.

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

27 Section 13. Section 617.306, Florida Statutes, is  
28 transferred and renumbered as section 720.306, Florida  
29 Statutes, and amended to read:

30 720.306 ~~617.306~~ Associations; meetings of members;  
31 voting and election procedures; amendments.--

1 (1) QUORUM; AMENDMENTS.--

2 (a) Unless a lower number is provided in the bylaws,  
3 the percentage of voting interests required to constitute a  
4 quorum at a meeting of the members shall be 30 percent of the  
5 total voting interests. Unless otherwise provided in this  
6 chapter or in the articles of incorporation or bylaws,  
7 decisions that require a vote of the members must be made by  
8 the concurrence of at least a majority of the voting interests  
9 present, in person or by proxy, at a meeting at which a quorum  
10 has been attained.

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

16 (c) Unless otherwise provided in the governing  
17 documents as originally recorded, an amendment may not affect  
18 vested rights unless the record owner of the affected parcel  
19 and all record owners of liens on the affected parcels join in  
20 the execution of the amendment.

21 (2) ANNUAL MEETING.--The association shall hold a  
22 meeting of its members annually for the transaction of any and  
23 all proper business at a time, date, and place stated in, or  
24 fixed in accordance with, the bylaws. The election of  
25 directors, if one is required to be held, must be held at, or  
26 in conjunction with, the annual meeting or as provided in the  
27 governing documents.

28 (3) SPECIAL MEETINGS.--Special meetings must be held  
29 when called by the board of directors or, unless a different  
30 percentage is stated in the governing documents, by at least  
31 10 percent of the total voting interests of the association.



1 Business conducted at a special meeting is limited to the  
2 purposes described in the notice of the meeting.

3 (4) CONTENT OF NOTICE.--Unless law or the governing  
4 documents require otherwise, notice of an annual meeting need  
5 not include a description of the purpose or purposes for which  
6 the meeting is called. Notice of a special meeting must  
7 include a description of the purpose or purposes for which the  
8 meeting is called.

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

21 (6) PROXY VOTING.--The members have the right, unless  
22 otherwise provided in this subsection or in the governing  
23 documents, to vote in person or by proxy. To be valid, a  
24 proxy must be dated, must state the date, time, and place of  
25 the meeting for which it was given, and must be signed by the  
26 authorized person who executed the proxy. A proxy is  
27 effective only for the specific meeting for which it was  
28 originally given, as the meeting may lawfully be adjourned and  
29 reconvened from time to time, and automatically expires 90  
30 days after the date of the meeting for which it was originally  
31 given. A proxy is revocable at any time at the pleasure of

1 the person who executes it. If the proxy form expressly so  
2 provides, any proxy holder may appoint, in writing, a  
3 substitute to act in his or her place.

4 (7) ELECTIONS.--Elections of directors must be  
5 conducted in accordance with the procedures set forth in the  
6 governing documents of the association. All members of the  
7 association shall be eligible to serve on the board of  
8 directors, and a member may nominate himself or herself as a  
9 candidate for the board at a meeting where the election is to  
10 be held. Except as otherwise provided in the governing  
11 documents, boards of directors must be elected by a plurality  
12 of the votes cast by eligible voters.

13 (8) RECORDING.--Any parcel owner may tape record or  
14 videotape meetings of the board of directors and meetings of  
15 the members. The board of directors of the association may  
16 adopt reasonable rules governing the taping of meetings of the  
17 board and the membership.

18 Section 14. Section 617.307, Florida Statutes, is  
19 transferred and renumbered as section 720.307, Florida  
20 Statutes, and amended to read:

21 720.307 ~~617.307~~ Transition of homeowners' association  
22 control in a community.--With respect to homeowners'  
23 associations ~~as defined in s. 617.301~~:

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

28 (a) Three months after 90 percent of the parcels in  
29 all phases of the community that will ultimately be operated  
30 by the homeowners' association have been conveyed to members;  
31 or

1           (b) Such other percentage of the parcels has been  
2 conveyed to members, or such other date or event has occurred,  
3 as is set forth in the governing documents in order to comply  
4 with the requirements of any governmentally chartered entity  
5 with regard to the mortgage financing of parcels.

6  
7 For purposes of this section, the term "members other than the  
8 developer" shall not include builders, contractors, or others  
9 who purchase a parcel for the purpose of constructing  
10 improvements thereon for resale.

11           (2) The developer is entitled to elect at least one  
12 member of the board of directors of the homeowners'  
13 association as long as the developer holds for sale in the  
14 ordinary course of business at least 5 percent of the parcels  
15 in all phases of the community. After the developer  
16 relinquishes control of the homeowners' association, the  
17 developer may exercise the right to vote any developer-owned  
18 voting interests in the same manner as any other member,  
19 except for purposes of reacquiring control of the homeowners'  
20 association or selecting the majority of the members of the  
21 board of directors.

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

27           (a) All deeds to common property owned by the  
28 association.

29           (b) The original of the association's declarations of  
30 covenants and restrictions.

31

- 1 (c) A certified copy of the articles of incorporation  
2 of the association.
- 3 (d) A copy of the bylaws.
- 4 (e) The minute books, including all minutes.
- 5 (f) The books and records of the association.
- 6 (g) Policies, rules, and regulations, if any, which  
7 have been adopted.
- 8 (h) Resignations of directors who are required to  
9 resign because the developer is required to relinquish control  
10 of the association.
- 11 (i) The financial records of the association from the  
12 date of incorporation through the date of turnover.
- 13 (j) All association funds and control thereof.
- 14 (k) All tangible property of the association.
- 15 (l) A copy of all contracts which may be in force with  
16 the association as one of the parties.
- 17 (m) A list of the names and addresses and telephone  
18 numbers of all contractors, subcontractors, or others in the  
19 current employ of the association.
- 20 (n) Any and all insurance policies in effect.
- 21 (o) Any permits issued to the association by  
22 governmental entities.
- 23 (p) Any and all warranties in effect.
- 24 (q) A roster of current homeowners and their addresses  
25 and telephone numbers and section and lot numbers.
- 26 (r) Employment and service contracts in effect.
- 27 (s) All other contracts in effect to which the  
28 association is a party.
- 29 (4) This section does not apply to a homeowners'  
30 association in existence on the effective date of this act, or  
31 to a homeowners' association, no matter when created, if such

1 association is created in a community that is included in an  
2 effective development-of-regional-impact development order as  
3 of the effective date of this act, together with any approved  
4 modifications thereof.

5 Section 15. Section 617.3075, Florida Statutes, is  
6 transferred and renumbered as section 720.3075, Florida  
7 Statutes, and amended to read:

8 720.3075 ~~617.3075~~ Prohibited clauses in homeowners'  
9 association documents.--

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

17 (a) A developer has the unilateral ability and right  
18 to make changes to the homeowners' association documents after  
19 the transition of homeowners' association control in a  
20 community from the developer to the nondeveloper members, as  
21 set forth in s. 720.307 ~~s. 617.307~~, has occurred.

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

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

31

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

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

7 Section 16. Section 617.311, Florida Statutes, is  
8 transferred and renumbered as section 720.311, Florida  
9 Statutes, and amended to read:

10 720.311 ~~617.311~~ Dispute resolution.--The Legislature  
11 finds that alternative dispute resolution has made progress in  
12 reducing court dockets and trials and in offering a more  
13 efficient, cost-effective option to litigation. At any time  
14 after the filing in a court of competent jurisdiction of a  
15 complaint relating to a dispute under ss. 720.301-720.312 ~~ss.~~  
16 ~~617.301-617.312~~, the court may order that the parties enter  
17 mediation or arbitration procedures.

18 Section 17. Sections 617.304, 617.305, 617.308,  
19 617.309, 617.31, and 617.312, Florida Statutes, are  
20 transferred and renumbered as sections 720.304, 720.305,  
21 720.308, 720.309, 720.31, and 720.312, Florida Statutes,  
22 respectively.

23 Section 18. Subsection (6) of section 617.0601,  
24 Florida Statutes, is amended to read:

25 617.0601 Members, generally.--

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

29 Section 19. Subsection (6) of section 617.0701,  
30 Florida Statutes, is amended to read:

31

1           617.0701 Meetings of members, generally; failure to  
2 hold annual meeting; special meeting; consent to corporate  
3 actions without meetings; waiver of notice of meetings.--

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

7           Section 20. Subsection (6) of section 617.0721,  
8 Florida Statutes, is amended to read:

9           617.0721 Voting by members.--

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

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

15           617.0831 Indemnification and liability of officers,  
16 directors, employees, and agents.--Except as provided in s.  
17 617.0834, ss. 607.0831 and 607.0850 apply to a corporation  
18 organized under this act and a rural electric cooperative  
19 organized under chapter 425. Any reference to "directors" in  
20 those sections includes the directors, managers, or trustees  
21 of a corporation organized under this act or of a rural  
22 electric cooperative organized under chapter 425. However, the  
23 term "director" as used in ss. 607.0831 and 607.0850 does not  
24 include a director appointed by the developer to the board of  
25 directors of a condominium association under chapter 718, a  
26 cooperative association under chapter 719, a homeowners'  
27 association defined in s. 720.301 ~~s. 617.301~~, or a timeshare  
28 managing entity under chapter 721. Any reference to  
29 "shareholders" in those sections includes members of a  
30 corporation organized under this act and members of a rural  
31 electric cooperative organized under chapter 425.

1           Section 22. Subsection (4) of section 712.01, Florida  
2 Statutes, is amended to read:

3           712.01 Definitions.--As used in this law:

4           (4) The term "homeowners' association" means a  
5 homeowners' association as defined in s. 720.301 ~~s.~~  
6 ~~617.301(7)~~, or an association of parcel owners which is  
7 authorized to enforce use restrictions that are imposed on the  
8 parcels.

9           Section 23. Subsection (1) of section 723.0751,  
10 Florida Statutes, is amended to read:

11           723.0751 Mobile home subdivision homeowners'  
12 association.--

13           (1) In the event that no homeowners' association has  
14 been created pursuant to ss. 720.301-720.312 ~~ss.~~  
15 ~~617.301-617.312~~ to operate a mobile home subdivision, the  
16 owners of lots in such mobile home subdivision shall be  
17 authorized to create a mobile home subdivision homeowners'  
18 association in the manner prescribed in ss. 723.075, 723.076,  
19 and 723.078 which shall have the powers and duties, to the  
20 extent applicable, set forth in ss. 723.002(2) and 723.074.

21           Section 24. Subsection (5) of section 849.085, Florida  
22 Statutes, is amended to read:

23           849.085 Certain penny-ante games not crimes;  
24 restrictions.--

25           (5) The conduct of any penny-ante game within the  
26 common elements or common area of a condominium, cooperative,  
27 residential subdivision, or mobile home park or the conduct of  
28 any penny-ante game within the dwelling of an eligible  
29 organization as defined in subsection (2) or within a publicly  
30 owned community center owned by a municipality or county  
31 creates no civil liability for damages arising from the



1 penny-ante game on the part of a condominium association,  
2 cooperative association, a homeowners' association as defined  
3 in s. 720.301 ~~s. 617.301~~, mobile home owner's association,  
4 dwelling owner, or municipality or county or on the part of a  
5 unit owner who was not a participant in the game.

6 Section 25. Subsection (4) and paragraph (e) of  
7 subsection (11) of section 849.0931, Florida Statutes, are  
8 amended to read:

9 849.0931 Bingo authorized; conditions for conduct;  
10 permitted uses of proceeds; limitations.--

11 (4) The right of a condominium association, a  
12 cooperative association, a homeowners' association as defined  
13 in s. 702.301 ~~s. 617.301~~, a mobile home owners' association, a  
14 group of residents of a mobile home park as defined in chapter  
15 723, or a group of residents of a mobile home park or  
16 recreational vehicle park as defined in chapter 513 to conduct  
17 bingo is conditioned upon the return of the net proceeds from  
18 such games to players in the form of prizes after having  
19 deducted the actual business expenses for such games for  
20 articles designed for and essential to the operation, conduct,  
21 and playing of bingo. Any net proceeds remaining after paying  
22 prizes may be donated by the association to a charitable,  
23 nonprofit, or veterans' organization which is exempt from  
24 federal income tax under the provisions of s. 501(c) of the  
25 Internal Revenue Code to be used in such recipient  
26 organization's charitable, civic, community, benevolent,  
27 religious, or scholastic works or similar activities or, in  
28 the alternative, such remaining proceeds shall be used as  
29 specified in subsection (3).

30 (11) Bingo games may be held only on the following  
31 premises:

1           (e) With respect to bingo games conducted by a  
2 condominium association, a cooperative association, a  
3 homeowners' association as defined in s. 720.301 ~~s. 617.301~~, a  
4 mobile home owners' association, a group of residents of a  
5 mobile home park as defined in chapter 723, or a group of  
6 residents of a mobile home park or recreational vehicle park  
7 as defined in chapter 513, property owned by the association,  
8 property owned by the residents of the mobile home park or  
9 recreational vehicle park, or property which is a common area  
10 located within the condominium, mobile home park, or  
11 recreational vehicle park.

12           Section 26. Section 849.094, Florida Statutes, is  
13 amended to read:

14           849.094 Game promotion in connection with sale of  
15 consumer products or services.--

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

17           (a) "Game promotion" means, but is not limited to, a  
18 contest, game of chance, or gift enterprise, conducted within  
19 or throughout the state and other states in connection with  
20 the sale of consumer products or services, and in which the  
21 elements of chance and prize are present. However, "game  
22 promotion" shall not be construed to apply to bingo games  
23 conducted pursuant to s. 849.0931.

24           (b) "Operator" means any person, firm, corporation, or  
25 association or agent or employee thereof who promotes,  
26 operates, or conducts a game promotion, except any charitable  
27 nonprofit organization.

28           (2) It is unlawful for any operator:

29           (a) To design, engage in, promote, or conduct such a  
30 game promotion, in connection with the promotion or sale of  
31 consumer products or services, wherein the winner may be

1 predetermined or the game may be manipulated or rigged so as  
2 to:

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

5 2. Allocate a winning game or part thereof to a  
6 particular period of the game promotion or to a particular  
7 geographic area;

8 (b) Arbitrarily to remove, disqualify, disallow, or  
9 reject any entry;

10 (c) To fail to award prizes offered;

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

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

16 (3) The operator of a game promotion in which the  
17 total announced value of the prizes offered is greater than  
18 \$5,000 shall file with the Department of Agriculture and  
19 Consumer Services ~~State~~ a copy of the rules and regulations of  
20 the game promotion and a list of all prizes and prize  
21 categories offered at least 7 days before the commencement of  
22 the game promotion. Such rules and regulations may not  
23 thereafter be changed, modified, or altered. The operator of  
24 a game promotion shall conspicuously post the rules and  
25 regulations of such game promotion in each and every retail  
26 outlet or place where such game promotion may be played or  
27 participated in by the public and shall also publish the rules  
28 and regulations in all advertising copy used in connection  
29 therewith. Radio and television announcements may indicate  
30 that the rules and regulations are available at retail outlets  
31 or from the operator of the promotion. A nonrefundable filing

1 fee of \$100 shall accompany each filing and shall be ~~deposited~~  
2 ~~into the Division of Licensing Trust Fund to be~~ used to pay  
3 the costs incurred in administering and enforcing the  
4 provisions of this section.

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

25 1. The moneys held in the trust account may be  
26 withdrawn in order to pay the prizes offered only upon  
27 certification to the Department of Agriculture and Consumer  
28 Services State of the name of the winner or winners and the  
29 amount of the prize or prizes and the value thereof.

30 2. If the operator of a game promotion has obtained a  
31 surety bond in lieu of establishing a trust account, the

1 amount of the surety bond shall equal at all times the total  
2 amount of the prizes offered.

3 (b) The Department of Agriculture and Consumer  
4 Services State may waive the provisions of this subsection for  
5 any operator who has conducted game promotions in the state  
6 for not less than 5 consecutive years and who has not had any  
7 civil, criminal, or administrative action instituted against  
8 him or her by the state or an agency of the state for  
9 violation of this section within that 5-year period. Such  
10 waiver may be revoked upon the commission of a violation of  
11 this section by such operator, as determined by the Department  
12 of Agriculture and Consumer Services State.

13 (5) Every operator of a game promotion in which the  
14 total announced value of the prizes offered is greater than  
15 \$5,000 shall provide the Department of Agriculture and  
16 Consumer Services State with a certified list of the names and  
17 addresses of all persons, whether from this state or from  
18 another state, who have won prizes which have a value of more  
19 than \$25, the value of such prizes, and the dates when the  
20 prizes were won within 60 days after such winners have been  
21 finally determined. The operator shall provide a copy of the  
22 list of winners, without charge, to any person who requests  
23 it. In lieu of the foregoing, the operator of a game  
24 promotion may, at his or her option, publish the same  
25 information about the winners in a Florida newspaper of  
26 general circulation within 60 days after such winners have  
27 been determined and shall provide to the Department of  
28 Agriculture and Consumer Services State a certified copy of  
29 the publication containing the information about the winners.  
30 The operator of a game promotion is not required to notify a  
31 winner by mail or by telephone when the winner is already in

1 possession of a game card from which the winner can determine  
2 that he or she has won a designated prize. All winning  
3 entries shall be held by the operator for a period of 90 days  
4 after the close or completion of the game.

5 (6) The Department of Agriculture and Consumer  
6 Services ~~State~~ shall keep the certified list of winners for a  
7 period of at least 6 months after receipt of the certified  
8 list. The department thereafter may dispose of all records and  
9 lists.

10 (7) No operator shall force, directly or indirectly, a  
11 lessee, agent, or franchise dealer to purchase or participate  
12 in any game promotion. For the purpose of this section,  
13 coercion or force shall be presumed in these circumstances in  
14 which a course of business extending over a period of 1 year  
15 or longer is materially changed coincident with a failure or  
16 refusal of a lessee, agent, or franchise dealer to participate  
17 in such game promotions. Such force or coercion shall further  
18 be presumed when an operator advertises generally that game  
19 promotions are available at its lessee dealers or agent  
20 dealers.

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

25 (b) Whenever the Department of Agriculture and  
26 Consumer Services ~~State~~ or the Department of Legal Affairs has  
27 reason to believe that a game promotion is being operated in  
28 violation of this section, it may bring an action in the  
29 circuit court of any judicial circuit in which the game  
30 promotion is being operated in the name and on behalf of the  
31 people of the state against any operator thereof to enjoin the

1 continued operation of such game promotion anywhere within the  
2 state.

3 (9)(a) Any person, firm, or corporation, or  
4 association or agent or employee thereof, who engages in any  
5 acts or practices stated in this section to be unlawful, or  
6 who violates any of the rules and regulations made pursuant to  
7 this section, is guilty of a misdemeanor of the second degree,  
8 punishable as provided in s. 775.082 or s. 775.083.

9 (b) Any person, firm, corporation, association, agent,  
10 or employee who violates any provision of this section or any  
11 of the rules and regulations made pursuant to this section  
12 shall be liable for a civil penalty of not more than \$1,000  
13 for each such violation, which shall accrue to the state and  
14 may be recovered in a civil action brought by the Department  
15 of Agriculture and Consumer Services ~~State~~ or the Department  
16 of Legal Affairs.

17 (10) This section does not apply to actions or  
18 transactions regulated by the Department of Business and  
19 Professional Regulation or to the activities of nonprofit  
20 organizations or to any other organization engaged in any  
21 enterprise other than the sale of consumer products or  
22 services. Subsections (3), (4), (5), (6), and (7) and  
23 paragraph (8)(a) and any of the rules made pursuant thereto do  
24 not apply to television or radio broadcasting companies  
25 licensed by the Federal Communications Commission.

26 Section 27. The Secretary of State shall review the  
27 Florida Statutes, identify any provisions relating to the  
28 performance of constitutional or cabinet duties of the  
29 Secretary of State, and recommend changes to those sections of  
30 law to the President of the Senate and the Speaker of the  
31 House of Representatives by January 1, 2002.

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

3  
4                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
5                   COMMITTEE SUBSTITUTE FOR  
6                   SB 1194

7 Strikes a reference to constitutional duties of the Secretary  
8 of State in s. 15.01, F.S.

9 Provides a later effective date for two sections of the bill  
10 that require filings with the Commission on Ethics instead of  
11 the Department of State.

12 Removes from the bill those sections which transferred  
13 responsibilities for notaries from the Office of the Governor  
14 to the Department of State.

15 Requires the Secretary of State to review laws which relate to  
16 constitutional and cabinet duties of the Secretary of State  
17 and report to the Legislature necessary changes.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31