

By the Committee on Governmental Operations and
Representative Posey

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,
17 112.3148, and 112.3149, F.S.; transferring
18 certain functions relating to the disclosure of
19 financial interests and the reporting of gifts
20 and honoraria by public officers and employees
21 from the Department of State to the Commission
22 on Ethics; amending s. 257.36, F.S.; requiring
23 district officers and agencies to comply with
24 certain laws relating to the management of
25 records and revising provisions governing the
26 destruction or disposition of agency records;
27 amending s. 415.1065, F.S.; revising a cross
28 reference, to conform; amending s. 267.072,
29 F.S.; revising the Great Floridians program
30 administered by the Division of Historical
31 Resources of the Department of State; amending

1 s. 288.8175, F.S.; transferring from the
2 Department of Education to the Department of
3 State certain functions relating to linkage
4 institutes between certain educational
5 institutions and foreign countries; amending s.
6 403.7145, F.S.; conforming provisions relating
7 to the recycling programs for the Capitol to
8 changes made in the structure of the executive
9 branch by the State Constitution; renumbering
10 and amending ss. 617.301-617.312, F.S.,
11 relating to homeowners' associations, to remove
12 such provisions from ch. 617, F.S., relating to
13 corporations not for profit; amending ss.
14 617.0601, 617.0701, 617.0721, 617.0831, 712.01,
15 723.0751, 849.085, and 849.0931, F.S.;
16 conforming cross references; amending s.
17 849.094, F.S.; transferring from the Division
18 of Licensing of the Department of State to the
19 Department of Agriculture and Consumer Services
20 certain functions relating to the regulation of
21 game promotions; requiring the Secretary of
22 State to make a report to the Legislature on
23 recommended statutory changes; providing
24 effective dates.

25

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

27

28 Section 1. Effective January 7, 2003, section 15.01,
29 Florida Statutes, is amended to read:

30 15.01 Residence, office, and duties.--~~The Secretary of~~
31 ~~State shall reside at the seat of government and shall have~~

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

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

19 20.03 Definitions.--To provide uniform nomenclature
20 throughout the structure of the executive branch, the
21 following definitions apply:

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

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

29 20.10 Department of State.--There is created a
30 Department of State.

31

1 (1) The head of the Department of State is the
2 Secretary of State. The Secretary of State shall be appointed
3 by the Governor, subject to confirmation by the Senate, and
4 shall serve at the pleasure of the Governor. The Secretary of
5 State shall perform the functions conferred by the State
6 Constitution upon the custodian of state records.

7 (2) The following divisions of the Department of State
8 are established:

- 9 (a) Division of Elections.
10 (b) Division of Historical Resources.
11 (c) Division of Corporations.
12 (d) Division of Library and Information Services.
13 (e) Division of Licensing.
14 (f) Division of Cultural Affairs.
15 (g) Division of Administration.

16 Section 4. Effective January 1, 2001, section
17 112.3144, Florida Statutes, is amended to read:

18 112.3144 Full and public disclosure of financial
19 interests.--

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

24 (2)~~(1)~~ No person who is required, pursuant to s. 8,
25 Art. II of the State Constitution, to file a full and public
26 disclosure of financial interests and who has filed a full and
27 public disclosure of financial interests for any calendar or
28 fiscal year shall be required to file a statement of financial
29 interests pursuant to s. 112.3145(2) and (3) for the same year
30 or for any part thereof notwithstanding any requirement of
31 this part, except that a candidate for office shall file a

1 copy of his or her disclosure with the officer before whom he
2 or she qualifies.

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

9 (a) Jewelry;

10 (b) Collections of stamps, guns, and numismatic
11 properties;

12 (c) Art objects;

13 (d) Household equipment and furnishings;

14 (e) Clothing;

15 (f) Other household items; and

16 (g) Vehicles for personal use.

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

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

1 unit of government in providing at the request of the
2 commission the name, address, and name of the office held by
3 each public official within the respective unit of government.

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

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

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

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

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

3 (c)~~(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 on Ethics Secretary
9 ~~of State~~. 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)(a) Forms for compliance with the disclosure
31 requirements of this section and a current list of persons

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

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

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

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

28 4.~~(c)~~ Not later than 30 days after July 1 of each
29 year, the commission ~~Secretary of State~~ and each supervisor of
30 elections shall determine which persons required to file a
31 statement of financial interests in their respective offices

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

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

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

31

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

4 Section 6. Paragraph (d) of subsection (6) of section
5 112.3148, Florida Statutes, is amended to read:

6 112.3148 Reporting and prohibited receipt of gifts by
7 individuals filing full or limited public disclosure of
8 financial interests and by procurement employees.--

9 (6)

10 (d) No later than July 1 of each year, each reporting
11 individual or procurement employee shall file a statement
12 listing each gift having a value in excess of \$100 received by
13 the reporting individual or procurement employee, either
14 directly or indirectly, from a governmental entity or a
15 direct-support organization specifically authorized by law to
16 support a governmental entity. The statement shall list the
17 name of the person providing the gift, a description of the
18 gift, the date or dates on which the gift was given, and the
19 value of the total gifts given during the calendar year for
20 which the report is made. The reporting individual or
21 procurement employee shall attach to such statement any report
22 received by him or her in accordance with paragraph (c), which
23 report shall become a public record when filed with the
24 statement of the reporting individual or procurement employee.
25 The reporting individual or procurement employee may explain
26 any differences between the report of the reporting individual
27 or procurement employee and the attached reports. The annual
28 report filed by a reporting individual shall be filed with the
29 financial disclosure statement required by either s. 8, Art.
30 II of the State Constitution or s. 112.3145, as applicable to
31 the reporting individual. The annual report filed by a

1 procurement employee shall be filed with the Commission on
2 Ethics Department of State.
3 Section 7. Subsection (6) of section 112.3149, Florida
4 Statutes, is amended to read:
5 112.3149 Solicitation and disclosure of honoraria.--
6 (6) A reporting individual or procurement employee who
7 receives payment or provision of expenses related to any
8 honorarium event from a person who is prohibited by subsection
9 (4) from paying an honorarium to a reporting individual or
10 procurement employee shall publicly disclose on an annual
11 statement the name, address, and affiliation of the person
12 paying or providing the expenses; the amount of the honorarium
13 expenses; the date of the honorarium event; a description of
14 the expenses paid or provided on each day of the honorarium
15 event; and the total value of the expenses provided to the
16 reporting individual or procurement employee in connection
17 with the honorarium event. The annual statement of honorarium
18 expenses shall be filed by July 1 of each year for such
19 expenses received during the previous calendar year. The
20 reporting individual or procurement employee shall attach to
21 the annual statement a copy of each statement received by him
22 or her in accordance with subsection (5) regarding honorarium
23 expenses paid or provided during the calendar year for which
24 the annual statement is filed. Such attached statement shall
25 become a public record upon the filing of the annual report.
26 The annual statement of a reporting individual shall be filed
27 with the financial disclosure statement required by either s.
28 8, Art. II of the State Constitution or s. 112.3145, as
29 applicable to the reporting individual. The annual statement
30 of a procurement employee shall be filed with the Commission
31 on Ethics Department of State.

1 Section 8. Section 257.36, Florida Statutes, is
2 amended to read:

3 257.36 Records and information management.--

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

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

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

18 (c) Analyze, develop, establish, and coordinate
19 standards, procedures, and techniques of recordmaking and
20 recordkeeping.

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

23 (e) Establish safeguards against unauthorized or
24 unlawful removal or loss of records.

25 (f) Initiate appropriate action to recover records
26 removed unlawfully or without authorization.

27 (g) Institute and maintain a training and information
28 program in:

29 1. All phases of records and information management to
30 bring approved and current practices, methods, procedures, and
31

1 devices for the efficient and economical management of records
2 to the attention of all agencies.

3 2. The requirements relating to access to public
4 records under chapter 119.

5 (h) Provide a centralized program of microfilming for
6 the benefit of all agencies.

7 (i) Make continuous surveys of recordkeeping
8 operations.

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

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

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

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

28 (b) Title to any record detained in any records center
29 shall remain in the agency transferring such record to the
30 division.

31

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

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

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

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

26 (a) Cooperate with the division in complying with the
27 provisions of this chapter and designate a records management
28 liaison officer.

29 (b) Establish and maintain an active and continuing
30 program for the economical and efficient management of
31 records.

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

10 (6)(7) A public record may be destroyed or otherwise
11 disposed of only in accordance with retention schedules
12 established by the division.~~No record shall be destroyed or~~
13 ~~disposed of by any agency unless approval of the division is~~
14 ~~first obtained.~~The division shall adopt reasonable rules not
15 inconsistent with this chapter which shall be binding on all
16 agencies relating to the destruction and disposition disposal
17 of records. Such rules shall provide, but not be limited to:

18 (a) Procedures for complying and submitting to the
19 division records-retention lists and ~~schedules of records~~
20 ~~proposed for disposal.~~

21 (b) Procedures for the physical destruction or other
22 disposal of records.

23 (c) Standards for the reproduction of records for
24 security or with a view to the disposal of the original
25 record.

26 Section 9. Subsection (8) of section 415.1065, Florida
27 Statutes, is amended to read:

28 415.1065 Records management.--All records must be
29 maintained in their entirety for their full retention period,
30 except as otherwise provided in this section:

31

1 (8) MANNER OF STORAGE AND DISPOSAL.--All reports,
2 regardless of classification, shall be stored and disposed of
3 in a manner deemed appropriate to the department and in
4 accordance with ss. 119.041 and 257.36~~(7)~~.

5 Section 10. Paragraph (d) of subsection (1) of section
6 267.072, Florida Statutes, is amended to read:

7 267.072 Museum of Florida history programs.--

8 (1) The division shall:

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

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

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

30 a. In formulating its nominations, the division shall
31 also seek the assistance of the Museum of Florida History

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

5 b. Annually, the division shall convene an ad hoc
6 committee composed of representatives of the Governor, each
7 member of the Florida Cabinet, the President of the Senate,
8 the Speaker of the House of Representatives, and the Museum of
9 Florida History Foundation Associates, Inc. This committee
10 shall meet at least twice. The committee shall nominate
11 ~~living citizens of this state who during their lives have made~~
12 ~~major contributions to the progress of the nation or this~~
13 ~~state and its citizens and shall from those nominated select~~
14 ~~each year~~ not fewer ~~less~~ than two persons whose names shall be
15 submitted to the Secretary of State with the recommendation
16 that they be honored with the designation "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 11. 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 12. 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, and 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 13. Section 617.301, Florida Statutes, is
25 renumbered as section 720.301, Florida Statutes, and amended
26 to read:

27 720.301 ~~617.301~~ Homeowners' associations;
28 definitions.--As used in ss. 720.301-720.312 ~~617.301-617.312~~,
29 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 14. Section 617.302, Florida Statutes, is
11 renumbered as section 720.302, Florida Statutes, and amended
12 to read:

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

15 (1) The purposes of ss. 720.301-720.312
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
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 15. Section 617.303, Florida Statutes, is
16 renumbered as section 720.303, Florida Statutes, and amended
17 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 ~~617.301~~, must be operated
23 by an association that is a Florida corporation. After
24 October 1, 1995, the association must be incorporated and the
25 initial governing documents must be recorded in the official
26 records of the county in which the community is located. An
27 association may operate more than one community. The officers
28 and directors of an association have a fiduciary relationship
29 to the members who are served by the association. The powers
30 and duties of an association include those set forth in this
31 chapter and, except as expressly limited or restricted in this

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

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

1 architectural decisions with respect to a specific parcel of
2 residential property owned by a member of the community.

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

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

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

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

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

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

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

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

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

30
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 16. Section 617.306, Florida Statutes, is
5 renumbered as section 720.306, Florida Statutes, and amended
6 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)~~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 17. Section 617.307, Florida Statutes, is
27 renumbered as section 720.307, Florida Statutes, and amended
28 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 18. Section 617.3075, Florida Statutes, is
14 renumbered as section 720.3075, Florida Statutes, and amended
15 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 ~~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 ~~617.307~~, has occurred, a
6 developer is entitled to cast votes in an amount that exceeds
7 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 19. Section ~~617.311~~, Florida Statutes, is
16 renumbered as section 720.311, Florida Statutes, and amended
17 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
24 ~~617.301-617.312~~, the court may order that the parties enter
25 mediation or arbitration procedures.

26 Section 20. 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 21. 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 ~~617.301~~.

7 Section 22. 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
14 ~~617.301~~.

15 Section 23. 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 ~~617.301~~.

21 Section 24. 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 ~~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 25. 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 ~~617.301(7)~~,
14 or an association of parcel owners which is authorized to
15 enforce use restrictions that are imposed on the parcels.

16 Section 26. Subsection (1) of section 723.0751,
17 Florida Statutes, is amended to read:

18 723.0751 Mobile home subdivision homeowners'
19 association.--

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

28 Section 27. Subsection (5) of section 849.085, Florida
29 Statutes, is amended to read:

30 849.085 Certain penny-ante games not crimes;
31 restrictions.--

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

13 Section 28. Subsection (4) and paragraph (e) of
14 subsection (11) of section 849.0931, Florida Statutes, are
15 amended to read:

16 849.0931 Bingo authorized; conditions for conduct;
17 permitted uses of proceeds; limitations.--

18 (4) The right of a condominium association, a
19 cooperative association, a homeowners' association as defined
20 in s. 702.301 ~~617.301~~, a mobile home owners' association, a
21 group of residents of a mobile home park as defined in chapter
22 723, or a group of residents of a mobile home park or
23 recreational vehiclepark as defined in chapter 513 to conduct
24 bingo is conditioned upon the return of the net proceeds from
25 such games to players in the form of prizes after having
26 deducted the actual business expenses for such games for
27 articles designed for and essential to the operation, conduct,
28 and playing of bingo. Any net proceeds remaining after paying
29 prizes may be donated by the association to a charitable,
30 nonprofit, or veterans' organization which is exempt from
31 federal income tax under the provisions of s. 501(c) of the

1 Internal Revenue Code to be used in such recipient
2 organization's charitable, civic, community, benevolent,
3 religious, or scholastic works or similar activities or, in
4 the alternative, such remaining proceeds shall be used as
5 specified in subsection (3).

6 (11) Bingo games may be held only on the following
7 premises:

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

19 Section 29. Section 849.094, Florida Statutes, is
20 amended to read:

21 849.094 Game promotion in connection with sale of
22 consumer products or services.--

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

24 (a) "Game promotion" means, but is not limited to, a
25 contest, game of chance, or gift enterprise, conducted within
26 or throughout the state and other states in connection with
27 the sale of consumer products or services, and in which the
28 elements of chance and prize are present. However, "game
29 promotion" shall not be construed to apply to bingo games
30 conducted pursuant to s. 849.0931.

31

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

5 (2) It is unlawful for any operator:

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

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

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

16 (b) Arbitrarily to remove, disqualify, disallow, or
17 reject any entry;

18 (c) To fail to award prizes offered;

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

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

24 (3) The operator of a game promotion in which the
25 total announced value of the prizes offered is greater than
26 \$5,000 shall file with the Department of Agriculture and
27 Consumer Services ~~State~~ a copy of the rules and regulations of
28 the game promotion and a list of all prizes and prize
29 categories offered at least 7 days before the commencement of
30 the game promotion. Such rules and regulations may not
31 thereafter be changed, modified, or altered. The operator of

1 a game promotion shall conspicuously post the rules and
2 regulations of such game promotion in each and every retail
3 outlet or place where such game promotion may be played or
4 participated in by the public and shall also publish the rules
5 and regulations in all advertising copy used in connection
6 therewith. Radio and television announcements may indicate
7 that the rules and regulations are available at retail outlets
8 or from the operator of the promotion. A nonrefundable filing
9 fee of \$100 shall accompany each filing and shall be ~~deposited~~
10 ~~into the Division of Licensing Trust Fund to be~~ used to pay
11 the costs incurred in administering and enforcing the
12 provisions of this section.

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

1 least 7 days in advance of the commencement of the game
2 promotion.

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

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

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

22 (5) Every operator of a game promotion in which the
23 total announced value of the prizes offered is greater than
24 \$5,000 shall provide the Department of Agriculture and
25 Consumer Services ~~State~~ with a certified list of the names and
26 addresses of all persons, whether from this state or from
27 another state, who have won prizes which have a value of more
28 than \$25, the value of such prizes, and the dates when the
29 prizes were won within 60 days after such winners have been
30 finally determined. The operator shall provide a copy of the
31 list of winners, without charge, to any person who requests

1 it. In lieu of the foregoing, the operator of a game
2 promotion may, at his or her option, publish the same
3 information about the winners in a Florida newspaper of
4 general circulation within 60 days after such winners have
5 been determined and shall provide to the Department of
6 Agriculture and Consumer Services ~~State~~ a certified copy of
7 the publication containing the information about the winners.
8 The operator of a game promotion is not required to notify a
9 winner by mail or by telephone when the winner is already in
10 possession of a game card from which the winner can determine
11 that he or she has won a designated prize. All winning
12 entries shall be held by the operator for a period of 90 days
13 after the close or completion of the game.

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

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

30 (8)(a) The Department of Agriculture and Consumer
31 Services ~~State~~ shall have the power to promulgate such rules

1 and regulations respecting the operation of game promotions as
2 it may deem advisable.

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

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

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

26 (10) This section does not apply to actions or
27 transactions regulated by the Department of Business and
28 Professional Regulation or to the activities of nonprofit
29 organizations or to any other organization engaged in any
30 enterprise other than the sale of consumer products or
31 services. Subsections (3), (4), (5), (6), and (7) and

