

By Senator Cowin

11-12E-01

1 A bill to be entitled
2 An act relating to Marion County; requiring a
3 disclosure summary to prospective purchasers of
4 property in a subdivision that requires
5 membership in a homeowners' association;
6 providing for audits of certain homeowners'
7 associations; authorizing the creation of a
8 homeowners' grievance board to mediate
9 complaints from homeowners; authorizing the
10 county to provide monetary penalties and the
11 revocation or suspension of business permits or
12 occupational licenses; providing for the
13 disclosure of maintenance and amenity fees in a
14 complete financial report by the developer;
15 providing for methods of distribution of
16 financial reports; providing exceptions;
17 providing for severability; providing an
18 effective date.

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

21
22 Section 1. Public Interest.--It is declared to be in
23 the public interest of the state that, in order to safeguard
24 the life, health, property, and public welfare of homeowners
25 and prospective homeowners in Marion County, developers and
26 homeowners' associations in Marion County are subject to the
27 requirements of this act in addition to what may otherwise be
28 required by general law.

29 Section 2. Disclosure.--

30 (1) A prospective parcel owner in a residential
31 subdivision in Marion County in which owners are required to

1 be members of a homeowners' association must be presented a
2 written disclosure summary at least 7 days before executing
3 the contract for sale. The disclosure summary must be in a
4 form substantially similar to the following form:

5
6 DISCLOSURE SUMMARY

7 FOR

8 (NAME OF SUBDIVISION)

9
10 1. AS A PURCHASER OF PROPERTY IN THIS SUBDIVISION, YOU
11 WILL BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

12 2. THIS SUBDIVISION'S HOMEOWNERS' ASSOCIATION (IS) (IS
13 NOT) UNDER THE CONTROL OF THE DEVELOPER.

14 3. THERE HAVE BEEN OR WILL BE RECORDED DEED
15 RESTRICTIONS AND COVENANTS GOVERNING THE USE AND OCCUPANCY OF
16 PROPERTIES IN THIS SUBDIVISION.

17 4. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE
18 DEVELOPER OR ASSOCIATION, WHICH ASSESSMENTS ARE SUBJECT TO
19 PERIODIC CHANGE.

20 5. YOUR FAILURE TO PAY THESE ASSESSMENTS COULD RESULT
21 IN A LIEN ON YOUR PROPERTY.

22 6. THERE (IS) (IS NOT) AN OBLIGATION TO PAY AMENITIES
23 OR MAINTENANCE FEES FOR RECREATIONAL OR OTHER COMMONLY USED
24 FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS'
25 ASSOCIATION. (If such obligation exists, then the amount of
26 the current obligation shall be set forth.)

27 7. THE RESTRICTIVE COVENANTS (CAN) (CANNOT) BE AMENDED
28 WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP.

29 8. A CERTIFIED PLAT OF THE PLANNED DEVELOPMENT IS ON
30 FILE WITH THE COUNTY DENOTING ALL PHASES OF THE COMMUNITY,
31 INCLUDING ALL ROADS, FACILITIES, DRAINAGE AREAS, PARKS,

1 SIDEWALKS, ETC. A COPY OF THE CERTIFIED PLAT IS ALSO AVAILABLE
2 FOR VIEWING AT THE DEVELOPER'S OR OWNER'S SALES OFFICE.

3 9. THERE (IS) (IS NOT) A COMMUNITY DEBT FOR WHICH THE
4 HOMEOWNERS (ARE) (WILL BE) RESPONSIBLE.

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

9 11. THESE DOCUMENTS ARE MATTERS OF PUBLIC RECORD AND
10 CAN BE OBTAINED FROM THE RECORD OFFICE IN MARION COUNTY.

11 PURCHASER: DATE:

12 PURCHASER: DATE:

13 DEVELOPER/SELLER: DATE:

14
15 The disclosure must be supplied by the developer or by the
16 parcel owner if the sale is by an owner that is not the
17 developer. Any contract or agreement for sale shall refer to
18 and incorporate the disclosure summary and shall include a
19 statement that the potential buyer should not execute the
20 contract or agreement until he or she has received and read
21 the disclosure summary required by this section. The latest
22 deed restrictions and covenants must also be included with the
23 disclosure summary. A prospective purchaser who has received
24 the required disclosure at least 1 day before executing a
25 contract or agreement for sale may waive the 7-day requirement
26 by executing an acknowledgment that the prospective purchaser
27 understands that the purchaser is entitled to a 7-day advance
28 notice period but that the purchaser nevertheless desires to
29 wave such period and execute a contract or agreement for
30 sale.

31

1 (2) Any homeowners' association that collects more
2 than \$10,000 in amenity or maintenance fees or any other type
3 of fees shall cause an annual audit to be conducted of its
4 accounts. The homeowners' association and all property owners
5 who are required to become members of the association must be
6 given copies of the audit each year. The audit must be
7 completed within a reasonable time but not later than 120 days
8 after the close of the fiscal year.

9 (3) This section does not apply to any association
10 regulated under chapter 718, chapter 719, chapter 721, or
11 chapter 723, Florida Statutes, or to a subdivider registered
12 under chapter 498, Florida Statutes; it also does not apply if
13 disclosure regarding the association is otherwise made in
14 connection with the requirements of chapter 718, chapter 719,
15 chapter 721, or chapter 723, Florida Statutes.

16 Section 3. Financial reporting.--(1) In a residential
17 subdivision in Marion County in which the owners of lots or
18 parcels must pay, together with all other property owners,
19 their pro-rata share (which share is calculated periodically
20 based upon the historical or projected actual expense) of the
21 actual expense of maintaining the common areas, recreational
22 facilities, and other properties serving the lots or parcels,
23 the developer or owner of such areas, facilities, or
24 properties shall make public, within 60 days following the end
25 of each fiscal year, a complete financial report as follows:

26 (a) The financial report must denote the beginning
27 month/day/year and ending month/day/year for the applicable
28 fiscal year.

29 (b) The developer or owner shall list the specific
30 amenities or maintenance items of the subdivision for which
31 amenity or maintenance fees have been imposed. The amenities

1 or maintenance items shall be listed in sufficient detail to
2 clearly denote each amenity or maintenance item that may incur
3 expenses to be paid from the homeowners' amenity or
4 maintenance fees.

5 (c) The developer or owner shall report the actual,
6 total receipts of maintenance fees, amenity fees, and the
7 grand total of all fees received by it. The developer or owner
8 shall also report an itemized listing of the expenditures made
9 against specific amenities, maintenance items, and the grand
10 total of all expenditures made by it from those fees for that
11 year.

12 (d) The developer or owner shall certify that the
13 financial report is an accurate and factual representation of
14 the amount of amenity or maintenance fees collected and
15 expended during that year and shall sign and date that
16 certification.

17 (2) The certified financial report shall be completed
18 within 60 days after the end of the fiscal year. Within 3 days
19 after completion, the financial report shall be made public by
20 mailing it to each lot or parcel owner in the subdivision and
21 by posting it in prominent locations in the subdivision for at
22 least a 30-day period.

23 (3) An annual audit of the developer's financial
24 report shall be performed by an independent certified
25 accountant. The developer or owner shall attest by his or her
26 signature that the documents and financial data provided to
27 the auditor represent all records pertaining to the collection
28 and expenditure of amenity or maintenance fees. The audit
29 shall be completed and shall be posted beside the financial
30 report within 30 days after completion of the financial report
31 and shall be made available for copying by homeowners.

1 (4) This section does not apply to amounts paid to
2 homeowner associations pursuant to chapter 617, chapter 718,
3 chapter 719, chapter 721, or chapter 723, Florida Statutes, or
4 to amounts paid to local governmental entities, including
5 special districts.

6 Section 4. Oversight.--(1) A homeowner in a
7 residential subdivision who has paid maintenance or amenity
8 fees to the association or to the developer to provide
9 services on behalf of the association that will subsequently
10 assume such responsibility and who has not been provided the
11 maintenance service or use of the amenity within 30 days after
12 notification has the right to file a complaint with a
13 homeowners' grievance board as provided in subsection (2).

14 (2) The Marion County Board of County Commissioners
15 may create a homeowners' grievance board to mediate complaints
16 from homeowners alleging violations of this act. This
17 subsection does not limit a homeowner's right to seek legal
18 recourse against a party for a violation of that party's
19 obligations in the deed restrictions or covenants.

20 (3) The county may provide penalties for violations or
21 noncompliance with this act, which penalties may include
22 monetary fines or revocation or suspension or denial of any
23 occupational license or other permits to do business issued to
24 the developer or owner by the county.

25 Section 5. If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 invalidity does not affect other provisions or applications of
28 the act which can be given effect without the invalid
29 provision or application, and to this end the provisions of
30 this act are declared severable.

31 Section 6. This act shall take effect October 1, 2001.