

By the Committees on Comprehensive Planning; Judiciary; and
Senators Fasano, Lynn and Argenziano

316-2273-03

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A bill to be entitled
An act relating to the sale of real property;
requiring disclosures by nondeveloper owners of
real property in deed-restricted communities;
amending s. 689.26, F.S.; requiring disclosures
to prospective parcel owners in a community;
providing an effective date.

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

Section 1. Nondeveloper owner disclosure of property
in deed-restricted communities prior to sale; voidability.--

(1)(a) An owner of real property in a deed-restricted
community who is not a developer of the property shall comply
with the provisions of this section prior to the sale of the
property. Each prospective purchaser who has entered into a
contract for the purchase of property shall be provided, at
the seller's expense, with a current copy of the recorded deed
restrictions that apply to the property.

(b) "As used in this section, the term
"deed-restricted community" means a platted subdivision in
which the land therein is governed by restrictive covenants
and where such restrictions are recorded in the county in
which the land is located and are enforceable either by the
homeowners' association created for that subdivision or by
owners of lots in the subdivision.

(2) A person licensed under part I of chapter 475 who
provides to or otherwise obtains for a prospective purchaser
the documents described in this section is not liable for any
error or inaccuracy contained in the documents.

1 (3) Each contract entered into after July 1, 2003, for
2 the resale of property in a deed-restricted community must
3 contain in conspicuous type either:

4 (a) A clause that states: THE BUYER HEREBY
5 ACKNOWLEDGES THAT THE BUYER HAS BEEN PROVIDED A CURRENT COPY
6 OF THE DEED RESTRICTIONS FOR THE COMMUNITY MORE THAN 3 DAYS,
7 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO
8 EXECUTION OF THIS CONTRACT; or

9 (b) A clause that states: THIS AGREEMENT IS VOIDABLE
10 BY THE BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S
11 INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS,
12 SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF
13 THIS AGREEMENT BY THE BUYER OR RECEIPT BY THE BUYER OF A
14 CURRENT COPY OF THE DEED RESTRICTIONS FOR THE COMMUNITY,
15 WHICHEVER OCCURS LATER. ANY PURPORTED WAIVER OF THESE
16 VOIDABILITY RIGHTS HAS NO EFFECT. THE BUYER MAY EXTEND THE
17 TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS,
18 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE
19 DATE ON WHICH THE BUYER RECEIVES THE DEED RESTRICTIONS. THE
20 BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT
21 CLOSING.

22 (4) A contract that does not conform to the
23 requirements of this section is voidable at the option of the
24 purchaser prior to closing.

25 Section 2. Section 689.26, Florida Statutes, is
26 amended to read:

27 689.26 Prospective purchasers subject to association
28 membership requirement; disclosure required; covenants;
29 assessments; contract voidability.--

30 (1)(a) A prospective parcel owner in a community must
31 be presented a disclosure summary before executing the

1 contract for sale. The disclosure summary must be in a form
2 substantially similar to the following form:

3
4 DISCLOSURE SUMMARY
5 FOR
6 (NAME OF COMMUNITY)
7

8 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU
9 (WILL) (WILL NOT)~~WILL~~ BE OBLIGATED TO BE A MEMBER OF A
10 HOMEOWNERS' ASSOCIATION.

11 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE
12 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN
13 THIS COMMUNITY.

14 3. YOU (WILL) (WILL NOT)~~WILL~~ BE OBLIGATED TO PAY
15 ASSESSMENTS TO THE ASSOCIATION. YOU (WILL) (WILL NOT) BE
16 OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE RESPECTIVE
17 MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL, WHICH
18 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

19 4. YOUR FAILURE TO PAY SPECIAL ~~THESE~~ ASSESSMENTS OR
20 ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION
21 COULD RESULT IN A LIEN ON YOUR PROPERTY.

22 5. THERE (IS) (IS NOT) AN OBLIGATION TO PAY RENT OR
23 LAND USE 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 6. THE RESTRICTIVE COVENANTS (CAN) (CANNOT) BE AMENDED
28 WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP OR, IF NO
29 MANDATORY ASSOCIATION EXISTS, PARCEL OWNERS.

30 7. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM
31 ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER,

1 YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION
2 GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

3 8. THESE DOCUMENTS ARE MATTERS OF PUBLIC RECORD AND
4 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE
5 PROPERTY IS LOCATED.

6 DATE: PURCHASER:
7 PURCHASER:

8
9 The disclosure must be supplied by the developer, or by the
10 parcel owner if the sale is by an owner that is not the
11 developer. Any contract or agreement for sale shall refer to
12 and incorporate the disclosure summary and shall include, in
13 prominent language, a statement that the potential buyer
14 should not execute the contract or agreement until they have
15 received and read the disclosure summary required by this
16 section.

17 (b) Each contract entered into for the sale of
18 property governed by covenants subject to disclosure required
19 by this section must contain in conspicuous type a clause that
20 states:

21
22 THIS AGREEMENT IS VOIDABLE BY BUYER BY
23 DELIVERING WRITTEN NOTICE OF THE BUYER'S
24 INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING
25 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER
26 THE DATE OF EXECUTION OF THIS AGREEMENT BY THE
27 BUYER. ANY PURPORTED WAIVER OF THESE
28 VOIDABILITY RIGHTS HAS NO EFFECT. THE BUYER'S
29 RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT
30 CLOSING.

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1 (c) A contract that does not conform to the
2 requirements of this subsection is voidable at the option of
3 the purchaser prior to closing.

4 (2) This section does not apply to any association
5 regulated under chapter 718, chapter 719, chapter 721, or
6 chapter 723 or to a subdivider registered under chapter 498;
7 and also does not apply if disclosure regarding the
8 association is otherwise made in connection with the
9 requirements of chapter 718, chapter 719, chapter 721, or
10 chapter 723.

11 Section 3. This act shall take effect July 1, 2003.

12
13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 CS/SB 1220

16 Under the CS, a disclosure form providing notice of whether
17 there is a requirement to be a member of a homeowners'
18 association and whether there is an obligation to pay
19 assessments to a homeowners' association or a municipality
20 must be provided to all prospective purchasers of property in
21 a residential area.

22 The committee substitute revises the disclosure requirements
23 that must be provided to prospective purchasers of real
24 property. A contract for the sale of property governed by
25 covenants subject to disclosure under s. 689.26, F.S., must
26 contain a voidability clause, in the same form as provided for
27 in the bill, and is voidable at the option of the purchaser
28 prior to closing if it does not have such a clause.
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