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2003 Legislature CS for CS for SB 1220, 2nd Engrossed (ntc)

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An act relating to the sale of real property;
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. Section 689.26, Florida Statutes, is
amended to read:

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

(1)(a) A prospective parcel owner in a community must
be presented a disclosure summary before executing the
contract for sale. The disclosure summary must be in a form
substantially similar to the following form:

DISCLOSURE SUMMARY
FOR
(NAME OF COMMUNITY)

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

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

3. YOU(WILL) (WILL NOT)~~WILL~~ BE OBLIGATED TO PAY
ASSESSMENTS TO THE ASSOCIATION. YOU (WILL) (WILL NOT) BE
OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE RESPECTIVE

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1 MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL, ~~WHICH~~
2 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.
3 4. YOUR FAILURE TO PAY SPECIAL ~~THESE~~ ASSESSMENTS OR
4 ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION
5 COULD RESULT IN A LIEN ON YOUR PROPERTY.
6 5. THERE (IS) (IS NOT) AN OBLIGATION TO PAY RENT OR
7 LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED
8 FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS'
9 ASSOCIATION. (If such obligation exists, then the amount of
10 the current obligation shall be set forth.)
11 6. THE RESTRICTIVE COVENANTS (CAN) (CANNOT) BE AMENDED
12 WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP OR, IF NO
13 MANDATORY ASSOCIATION EXISTS, PARCEL OWNERS.
14 7. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM
15 ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER,
16 YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION
17 GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.
18 8. THESE DOCUMENTS ARE MATTERS OF PUBLIC RECORD AND
19 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE
20 PROPERTY IS LOCATED.
21 DATE: PURCHASER:
22 PURCHASER:
23
24 The disclosure must be supplied by the developer, or by the
25 parcel owner if the sale is by an owner that is not the
26 developer. Any contract or agreement for sale shall refer to
27 and incorporate the disclosure summary and shall include, in
28 prominent language, a statement that the potential buyer
29 should not execute the contract or agreement until they have
30 received and read the disclosure summary required by this
31 section.

1 (b) Each contract entered into for the sale of
2 property governed by covenants subject to disclosure required
3 by this section must contain in conspicuous type a clause that
4 states:

5
6 IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION
7 689.26, FLORIDA STATUTES, HAS NOT BEEN PROVIDED
8 TO THE PROSPECTIVE PURCHASER BEFORE EXECUTING
9 THIS CONTRACT FOR SALE, THIS CONTRACT IS
10 VOIDABLE BY BUYER BY DELIVERING TO SELLER OR
11 SELLER'S AGENT WRITTEN NOTICE OF THE BUYER'S
12 INTENTION TO CANCEL WITHIN 3 DAYS AFTER RECEIPT
13 OF THE DISCLOSURE SUMMARY OR PRIOR TO CLOSING,
14 WHICHEVER OCCURS FIRST. ANY PURPORTED WAIVER OF
15 THIS VOIDABILITY RIGHT HAS NO EFFECT. BUYER'S
16 RIGHT TO VOID THIS CONTRACT SHALL TERMINATE AT
17 CLOSING.

18
19 (c) A contract that does not conform to the
20 requirements of this subsection is voidable at the option of
21 the purchaser prior to closing.

22 (2) This section does not apply to any association
23 regulated under chapter 718, chapter 719, chapter 721, or
24 chapter 723 or to a subdivider registered under chapter 498;
25 and also does not apply if disclosure regarding the
26 association is otherwise made in connection with the
27 requirements of chapter 718, chapter 719, chapter 721, or
28 chapter 723.

29 Section 2. This act shall take effect July 1, 2003.

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