

By Senator Fasano

11-667-03

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A bill to be entitled
An act relating to homeowners' associations;
amending s. 720.303, F.S.; providing powers for
associations controlled by unit owners other
than the developer; amending s. 720.306, F.S.;
prohibiting certain amendments to bylaws of the
associations; providing an effective date.

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

Section 1. Subsection (1) of section 720.303, Florida
Statutes, is amended to read:

720.303 Association powers and duties; meetings of
board; official records; budgets; financial reporting.--

(1) POWERS AND DUTIES.--An association which operates
a community as defined in s. 720.301, must be operated by an
association that is a Florida corporation. After October 1,
1995, the association must be incorporated and the initial
governing documents must be recorded in the official records
of the county in which the community is located. An
association may operate more than one community. The officers
and directors of an association have a fiduciary relationship
to the members who are served by the association. The powers
and duties of an association include those set forth in this
chapter and, except as expressly limited or restricted in this
chapter, those set forth in the governing documents. After
control of the association is obtained by unit owners other
that the developer, the association may institute, maintain,
settle, or appeal actions or hearings in its name on behalf of
all members concerning matters of common interest to the
members, including, but not limited to, the common areas; roof

1 or structural components of a building, or other improvements
2 for which the association is responsible; mechanical,
3 electrical, or plumbing elements serving an improvement or
4 building for which the association is responsible;
5 representations of the developer pertaining to any existing or
6 proposed commonly used facility; and protesting ad valorem
7 taxes on commonly used facilities. The association may defend
8 actions in eminent domain or bring inverse condemnation
9 actions. If the association has the authority to maintain a
10 class action, it may be joined in an action as a
11 representative of that class with reference to litigation and
12 disputes involving the matters for which the association could
13 bring a class action. This subsection does not limit any
14 statutory or common-law right of any individual member or
15 class of members to bring any action without participation by
16 the association.A member does not have authority to act for
17 the association by virtue of being a member. An association
18 may have more than one class of members and may issue
19 membership certificates.

20 Section 2. Subsection (1) of section 720.306, Florida
21 Statutes, is amended to read:

22 720.306 Meetings of members; voting and election
23 procedures; amendments.--

24 (1) QUORUM; AMENDMENTS.--

25 (a) Unless a lower number is provided in the bylaws,
26 the percentage of voting interests required to constitute a
27 quorum at a meeting of the members shall be 30 percent of the
28 total voting interests. Unless otherwise provided in this
29 chapter or in the articles of incorporation or bylaws,
30 decisions that require a vote of the members must be made by
31 the concurrence of at least a majority of the voting interests

1 present, in person or by proxy, at a meeting at which a quorum
2 has been attained.

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

8 (c) Unless otherwise provided in the governing
9 documents as originally recorded or permitted by this chapter
10 or ch. 617, an amendment may not materially and adversely
11 alter the proportionate voting interest appurtenant to a
12 parcel or increase the proportion or percentage by which a
13 parcel shares in the common expenses of the association ~~affect~~
14 ~~vested rights~~ unless the record parcel owner ~~of the affected~~
15 ~~parcel~~ and all record owners of liens on the ~~affected~~ parcels
16 join in the execution of the amendment. For purposes of this
17 section, a change in quorum requirements is not an alteration
18 of voting interests.

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

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22 SENATE SUMMARY

23 Provides powers for homeowners' associations that are
24 controlled by owners other than the developer. Prohibits
25 certain amendments to homeowners' association bylaws
pertaining to voting interests of unit owners. (See bill
for details.)

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