

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1551 w/CS Sale of Real Property

SPONSOR(S): Anderson

TIED BILLS: **IDEN./SIM. BILLS:** SB 1220

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Judiciary</u>	<u>14 Y, 0 N w/CS</u>	<u>Billmeier</u>	<u>Havlicak</u>
2) <u>Business Regulation</u>	<u></u>	<u>Livingston</u>	<u>Liepshutz</u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Section 689.26, F.S., provides that each potential purchaser in a community where homeowners' association membership is required must be provided an informational disclosure. HB 1551 requires the disclosure required under that section to state whether the buyer is required to be a member of a homeowner's association or whether membership is voluntary. It requires disclosure of whether the buyer must pay assessments to the association and to a municipality.

The bill also requires language in sales contracts informing the potential buyer that if the buyer has not received the required disclosure prior to signing the sales contract, the buyer may void the contract by notifying the seller within three days of receipt of the notice or prior to closing, whichever occurs first. The bill provides that a contract that does not contain such language may be voided prior to closing.

HB 1551 takes effect October 1, 2003.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1551b.br.doc

DATE: April 11, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

HB 1551 amends s. 689.26, F.S., to require additional disclosures by sellers of real property and to allow a sales contract to be voided if such disclosures are not provided in a timely manner. Section 689.26, F.S., provides that each potential purchaser in a community where homeowners' association membership is required must be provided a disclosure informing the buyer that he or she will be obligated to be a member of the homeowners' association and informing the buyer that he or she will be obligated to pay periodic assessments to the association. The disclosure must state that restrictive covenants have been, or will be, recorded. The disclosure must state whether or not the restrictive covenants can be changed and whether or not there is a fee to use the common areas or facilities of the association. This disclosure must be made in a form substantially similar to the form set forth in s. 689.26(1), F.S.

This bill amends the disclosure requirements. It requires disclosure of whether:

- (1) homeowners' association membership is required or optional; and
- (2) the buyer will be obligated to pay assessments to a homeowners' association and to a municipality.

The bill requires new language in sales contracts for the sale of real property. It requires the contract to tell the buyer that the contract is voidable if the disclosure required by s. 689.26, F.S., has not been provided. Once the disclosure is provided, the buyer may void the contract within three days or prior to closing. The right to void a contract terminates at closing. Any contract that does not contain the language required by the bill is voidable by the purchaser prior to closing.

C. SECTION DIRECTORY:

Section 1. Amends s. 689.26, F.S., to require additional disclosures and provide for voidability of a sales contract in certain situations.

Section 2. Provides an effective date of October 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to affect state government revenues.

2. Expenditures:

This bill does to appear affect state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to affect local government revenues.

2. Expenditures:

This bill does not appear to affect local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill requires additional language in sales contracts for certain real property sales and provides for voidability of certain contracts. The cost of complying with the bill is not known.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Committee on Judiciary considered the bill on April 2, 2003. The Committee adopted an amendment that removed language from the original bill which required the seller to provide copies of any restrictive covenants and gave real estate brokers immunity for providing such documents. The amendment requires more specific disclosures and provides that the sales contract may be voided if the disclosures are not provided. The bill, as amended, was reported favorably with a committee substitute.