



CHAMBER ACTION

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The Committee on Commerce recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to homeowners' associations; amending s. 702.09, F.S.; redefining the term "mortgage" to include liens created pursuant to a homeowners' association as defined in s. 712.01, F.S.; amending s. 718.111, F.S.; revising language with respect to official records of the condominium association authorizing the association to provide certain information to prospective purchasers or lienholders under certain circumstances; providing for immunity from liability; authorizing fees; establishing insurance requirements for condominium associations and individual unit owners; amending s. 718.112, F.S.; revising language with respect to condominium bylaws to allow the use of limited proxies for votes taken to waive certain financial reporting requirements; prohibiting the requirement of retrofitting condominiums for enhanced fire protection systems under certain circumstances; providing for voting conditions; providing for notice; amending s. 718.303, F.S.; providing that certain actions with respect



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29 | to the obligation of condominium owners shall not be
 30 | deemed actions for specific performance; amending s.
 31 | 719.104, F.S.; revising language with respect to official
 32 | records of the cooperative association authorizing the
 33 | association to provide certain information to prospective
 34 | purchasers or lienholders under certain circumstances;
 35 | providing for immunity from liability; authorizing fees;
 36 | amending s. 719.303, F.S.; providing that certain actions
 37 | with respect to the obligation of cooperative owners shall
 38 | not be deemed actions for specific performance; amending
 39 | s. 720.302, F.S.; providing that corporations not for
 40 | profit that operate residential homeowners' associations
 41 | shall be governed by and subject to the provisions of ch.
 42 | 617, F.S.; amending s. 719.1055, F.S.; prohibiting the
 43 | requirement of retrofitting cooperatives for enhanced fire
 44 | protection under certain circumstances; providing for
 45 | voting conditions; providing for notice; requiring certain
 46 | reports; providing an effective date.

47 |
 48 | Be It Enacted by the Legislature of the State of Florida:

49 |
 50 | Section 1. Section 702.09, Florida Statutes, is amended to
 51 | read:

52 | 702.09 Definitions.--For the purposes of ss. 702.07 and
 53 | 702.08 the words "decree of foreclosure" shall include a
 54 | judgment or order rendered or passed in the foreclosure
 55 | proceedings in which the decree of foreclosure shall be
 56 | rescinded, vacated, and set aside; the word "mortgage" shall



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57 | mean any written instrument securing the payment of money or
 58 | advances and includes liens to secure payment of assessments
 59 | arising under chapters 718 and 719 and liens created pursuant to
 60 | the recorded covenants of a homeowners' association as defined
 61 | in s. 712.01; the word "debt" shall include promissory notes,
 62 | bonds, and all other written obligations given for the payment
 63 | of money; the words "foreclosure proceedings" shall embrace
 64 | every action in the circuit or county courts of this state
 65 | wherein it is sought to foreclose a mortgage and sell the
 66 | property covered by the same; and the word "property" shall mean
 67 | and include both real and personal property.

68 | Section 2. Subsections (11) and (12) of section 718.111,
 69 | Florida Statutes, are amended to read:

70 | 718.111 The association.--

71 | (11) INSURANCE.--In order to protect the safety, health,
 72 | and welfare of the citizens of the State of Florida and to
 73 | ensure consistency in the provision of insurance coverage to
 74 | condominiums and their unit owners, paragraphs (b) and (c) are
 75 | deemed to apply to every condominium in the state regardless of
 76 | the date of its declaration of condominium.

77 | (a) A unit-owner controlled association shall use its best
 78 | efforts to obtain and maintain adequate insurance to protect the
 79 | association, the association property, the common elements, and
 80 | the condominium property required to be insured by the
 81 | association pursuant to paragraph (b). If the association is
 82 | developer controlled, the association shall exercise due
 83 | diligence to obtain and maintain such insurance. Failure to
 84 | obtain and maintain adequate insurance during any period of



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85 developer control shall constitute a breach of fiduciary
86 responsibility by the developer-appointed members of the board
87 of directors of the association, unless said members can show
88 that despite such failure, they have exercised due diligence.
89 The declaration of condominium as originally recorded, or
90 amended pursuant to the procedures provided therein, may require
91 that condominium property consisting of freestanding buildings,
92 where there is no more than one building in or on such unit,
93 need not be insured by the association if the declaration
94 requires the unit owner to obtain adequate insurance for the
95 condominium property. An association may also obtain and
96 maintain liability insurance for directors and officers,
97 insurance for the benefit of association employees, and flood
98 insurance for common elements, association property, and units.
99 Adequate insurance, regardless of any requirement in the
100 declaration of condominium for coverage by the association for
101 "full insurable value," "replacement cost," or the like, may
102 include reasonable deductibles, as determined by the board. An
103 association or group of associations may self-insure against
104 claims against the association, the association property, and
105 the condominium property required to be insured by an
106 association, upon compliance with ss. 624.460-624.488. A copy of
107 each policy of insurance in effect shall be made available for
108 inspection by unit owners at reasonable times.

109 (b) Every hazard insurance policy ~~which is issued or~~
110 renewed on or after January 1, 2004, to protect the a
111 condominium ~~building~~ shall provide primary coverage for:



112 1. Portions of the condominium property located outside
 113 the units;

114 2. The condominium property located inside the units as
 115 such property was initially installed, or replacements thereof
 116 of like kind and quality, and in accordance with the original
 117 plans and specifications, or if the original plans and
 118 specifications are not available, as they existed at the time
 119 the unit was initially conveyed; and

120 3. Portions of the condominium property for which the
 121 declaration of condominium requires coverage by the association.

122
 123 Anything to the contrary notwithstanding, the terms "condominium
 124 property," "building," "improvements," "insurable improvements,"
 125 "common elements," "association property," and any other term
 126 found in the declaration of condominium which defines the scope
 127 of property or casualty insurance which a condominium
 128 association must obtain shall exclude all floor, wall, and
 129 ceiling coverings, that the word "building" wherever used in the
 130 policy include, but not necessarily be limited to, fixtures,
 131 installations, or additions comprising that part of the building
 132 within the unfinished interior surfaces of the perimeter walls,
 133 floors, and ceilings of the individual units initially
 134 installed, or replacements thereof of like kind or quality, in
 135 accordance with the original plans and specifications, or as
 136 they existed at the time the unit was initially conveyed if the
 137 original plans and specifications are not available. However,
 138 unless prior to October 1, 1986, the association is required by
 139 the declaration to provide coverage therefor, the word



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140 ~~"building" does not include unit floor coverings, wall~~
141 ~~coverings, or ceiling coverings, and, as to contracts entered~~
142 ~~into after July 1, 1992, does not include the following~~
143 ~~equipment if it is located within a unit and the unit owner is~~
144 ~~required to repair or replace such equipment:~~ electrical
145 fixtures, appliances, air conditioner or heating equipment,
146 water heaters, water filters, ~~or~~ built-in cabinets and
147 countertops and window treatments, including curtains, drapes,
148 blinds, hardware and similar window treatment components, or
149 replacements of any of the foregoing, which are located within
150 the boundaries of a unit and serve only one unit and all air
151 conditioning compressors that service only an individual unit,
152 whether or not located within the unit boundaries. The foregoing
153 is intended to establish the property or casualty insuring
154 responsibilities of the association and those of the individual
155 unit owner and do not serve to broaden or extend the perils of
156 coverage afforded by any insurance contract provided to the
157 individual unit owner. From and after January 1, 2004, the
158 association shall have the authority to amend the declaration of
159 condominium, without regard to any requirement for mortgagee
160 approval of amendments affecting insurance requirements, to
161 conform the declaration of condominium to the coverage
162 requirements of this section. With respect to the coverage
163 ~~provided for by this paragraph, the unit owners shall be~~
164 ~~considered additional insureds under the policy.~~

165 (c) Every hazard insurance policy issued or renewed on or
166 after January 1, 2004, to an individual unit owner shall provide
167 that the coverage afforded by such policy is excess over the



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168 amount recoverable under any other policy covering the same
169 property. Every insurance policy issued to an individual unit
170 owner providing such coverage shall be without rights of
171 subrogation against the condominium association which operates
172 the condominium in which such unit owner's unit is located. All
173 real or personal property located within the boundaries of the
174 unit owner's unit which are excluded from the coverage to be
175 provided by the association as set forth in paragraph (b) are to
176 be insured by the individual unit owner.

177 (d) The association shall obtain and maintain adequate
178 insurance or fidelity bonding of all persons who control or
179 disburse funds of the association. The insurance policy or
180 fidelity bond must cover the maximum funds that will be in the
181 custody of the association or its management agent at any one
182 time. As used in this paragraph, the term "persons who control
183 or disburse funds of the association" includes, but is not
184 limited to, those individuals authorized to sign checks and the
185 president, secretary, and treasurer of the association. The
186 association shall bear the cost of bonding.

187 (12) OFFICIAL RECORDS.--

188 (a) From the inception of the association, the association
189 shall maintain each of the following items, when applicable,
190 which shall constitute the official records of the association:

191 1. A copy of the plans, permits, warranties, and other
192 items provided by the developer pursuant to s. 718.301(4).

193 2. A photocopy of the recorded declaration of condominium
194 of each condominium operated by the association and of each
195 amendment to each declaration.



196 | 3. A photocopy of the recorded bylaws of the association
197 | and of each amendment to the bylaws.

198 | 4. A certified copy of the articles of incorporation of
199 | the association, or other documents creating the association,
200 | and of each amendment thereto.

201 | 5. A copy of the current rules of the association.

202 | 6. A book or books which contain the minutes of all
203 | meetings of the association, of the board of directors, and of
204 | unit owners, which minutes shall be retained for a period of not
205 | less than 7 years.

206 | 7. A current roster of all unit owners and their mailing
207 | addresses, unit identifications, voting certifications, and, if
208 | known, telephone numbers.

209 | 8. All current insurance policies of the association and
210 | condominiums operated by the association.

211 | 9. A current copy of any management agreement, lease, or
212 | other contract to which the association is a party or under
213 | which the association or the unit owners have an obligation or
214 | responsibility.

215 | 10. Bills of sale or transfer for all property owned by
216 | the association.

217 | 11. Accounting records for the association and separate
218 | accounting records for each condominium which the association
219 | operates. All accounting records shall be maintained for a
220 | period of not less than 7 years. The accounting records shall
221 | include, but are not limited to:

222 | a. Accurate, itemized, and detailed records of all
223 | receipts and expenditures.



224 b. A current account and a monthly, bimonthly, or
225 quarterly statement of the account for each unit designating the
226 name of the unit owner, the due date and amount of each
227 assessment, the amount paid upon the account, and the balance
228 due.

229 c. All audits, reviews, accounting statements, and
230 financial reports of the association or condominium.

231 d. All contracts for work to be performed. Bids for work
232 to be performed shall also be considered official records and
233 shall be maintained for a period of 1 year.

234 12. Ballots, sign-in sheets, voting proxies, and all other
235 papers relating to voting by unit owners, which shall be
236 maintained for a period of 1 year from the date of the election,
237 vote, or meeting to which the document relates.

238 13. All rental records, when the association is acting as
239 agent for the rental of condominium units.

240 14. A copy of the current question and answer sheet as
241 described by s. 718.504.

242 15. All other records of the association not specifically
243 included in the foregoing which are related to the operation of
244 the association.

245 (b) The official records of the association shall be
246 maintained within the state. The records of the association
247 shall be made available to a unit owner within 5 working days
248 after receipt of written request by the board or its designee.
249 This paragraph may be complied with by having a copy of the
250 official records of the association available for inspection or
251 copying on the condominium property or association property.



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252 (c) The official records of the association are open to
253 inspection by any association member or the authorized
254 representative of such member at all reasonable times. The right
255 to inspect the records includes the right to make or obtain
256 copies, at the reasonable expense, if any, of the association
257 member. The association may adopt reasonable rules regarding the
258 frequency, time, location, notice, and manner of record
259 inspections and copying. The failure of an association to
260 provide the records within 10 working days after receipt of a
261 written request shall create a rebuttable presumption that the
262 association willfully failed to comply with this paragraph. A
263 unit owner who is denied access to official records is entitled
264 to the actual damages or minimum damages for the association's
265 willful failure to comply with this paragraph. The minimum
266 damages shall be \$50 per calendar day up to 10 days, the
267 calculation to begin on the 11th working day after receipt of
268 the written request. The failure to permit inspection of the
269 association records as provided herein entitles any person
270 prevailing in an enforcement action to recover reasonable
271 attorney's fees from the person in control of the records who,
272 directly or indirectly, knowingly denied access to the records
273 for inspection. The association shall maintain an adequate
274 number of copies of the declaration, articles of incorporation,
275 bylaws, and rules, and all amendments to each of the foregoing,
276 as well as the question and answer sheet provided for in s.
277 718.504 and year-end financial information required in this
278 section on the condominium property to ensure their availability
279 to unit owners and prospective purchasers, and may charge its



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280 actual costs for preparing and furnishing these documents to
281 those requesting the same. Notwithstanding the provisions of
282 this paragraph, the following records shall not be accessible to
283 unit owners:

284 1. Any record protected by the lawyer-client privilege as
285 described in s. 90.502; and any record protected by the work-
286 product privilege, including any record prepared by an
287 association attorney or prepared at the attorney's express
288 direction; which reflects a mental impression, conclusion,
289 litigation strategy, or legal theory of the attorney or the
290 association, and which was prepared exclusively for civil or
291 criminal litigation or for adversarial administrative
292 proceedings, or which was prepared in anticipation of imminent
293 civil or criminal litigation or imminent adversarial
294 administrative proceedings until the conclusion of the
295 litigation or adversarial administrative proceedings.

296 2. Information obtained by an association in connection
297 with the approval of the lease, sale, or other transfer of a
298 unit.

299 3. Medical records of unit owners.

300 (d) The association shall prepare a question and answer
301 sheet as described in s. 718.504, and shall update it annually.

302 (e) The association or its authorized agent shall not be
303 required to provide a prospective purchaser or lienholder with
304 information about the condominium or the association other than
305 information or documents required by this chapter to be made
306 available or disclosed.



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307 1. If, for the convenience of the members, the association
308 elects to provide requested information not required by law to
309 be made available or disclosed to prospective purchasers or
310 lienholders, the association may do so, and the association and
311 its authorized agent shall be immune from suit by any person or
312 entity for information given in good faith if the association or
313 its authorized agent accompanies such information with a written
314 statement in substantially the following form:

315
316 The information contained herein, to the extent not
317 required to be provided by the Florida Condominium
318 Act, is provided without warranty or certification of
319 any sort. Reliance on the accuracy of this
320 information, if provided in good faith, is at the sole
321 risk of the person or entity choosing to rely thereon.
322 You are encouraged to review original documentation
323 that may be available rather than relying on
324 summaries, compilations, statements of opinion, or
325 anecdotal information which may be the source of our
326 information. Florida law provides immunity from suit
327 for good faith information, even if it is later
328 determined to be inaccurate.

329
330 2. The association or its authorized agent shall be
331 entitled to charge a reasonable fee to the prospective
332 purchaser, lienholder, or the current unit owner for its time in
333 providing good faith responses to requests for information by or
334 on behalf of a prospective purchaser or lienholder, other than



335 that required by law, provided that such fee shall not exceed
 336 \$150 plus the reasonable cost of photocopying and any attorney's
 337 fees incurred by the association.

338 Section 3. Paragraphs (b) and (l) of subsection (2) of
 339 section 718.112, Florida Statutes, are amended to read:

340 718.112 Bylaws.--

341 (2) REQUIRED PROVISIONS.--The bylaws shall provide for the
 342 following and, if they do not do so, shall be deemed to include
 343 the following:

344 (b) *Quorum; voting requirements; proxies.*--

345 1. Unless a lower number is provided in the bylaws, the
 346 percentage of voting interests required to constitute a quorum
 347 at a meeting of the members shall be a majority of the voting
 348 interests. Unless otherwise provided in this chapter or in the
 349 declaration, articles of incorporation, or bylaws, and except as
 350 provided in subparagraph (d)3., decisions shall be made by
 351 owners of a majority of the voting interests represented at a
 352 meeting at which a quorum is present.

353 2. Except as specifically otherwise provided herein, after
 354 January 1, 1992, unit owners may not vote by general proxy, but
 355 may vote by limited proxies substantially conforming to a
 356 limited proxy form adopted by the division. Limited proxies and
 357 general proxies may be used to establish a quorum. Limited
 358 proxies shall be used for votes taken to waive or reduce
 359 reserves in accordance with subparagraph (f)2.; for votes taken
 360 to waive the financial reporting requirements of s. 718.111(13);
 361 for votes taken to amend the declaration pursuant to s. 718.110;
 362 for votes taken to amend the articles of incorporation or bylaws



363 pursuant to this section; and for any other matter for which
 364 this chapter requires or permits a vote of the unit owners.
 365 Except as provided in paragraph (d), after January 1, 1992, no
 366 proxy, limited or general, shall be used in the election of
 367 board members. General proxies may be used for other matters for
 368 which limited proxies are not required, and may also be used in
 369 voting for nonsubstantive changes to items for which a limited
 370 proxy is required and given. Notwithstanding the provisions of
 371 this subparagraph, unit owners may vote in person at unit owner
 372 meetings. Nothing contained herein shall limit the use of
 373 general proxies or require the use of limited proxies for any
 374 agenda item or election at any meeting of a timeshare
 375 condominium association.

376 3. Any proxy given shall be effective only for the
 377 specific meeting for which originally given and any lawfully
 378 adjourned meetings thereof. In no event shall any proxy be valid
 379 for a period longer than 90 days after the date of the first
 380 meeting for which it was given. Every proxy is revocable at any
 381 time at the pleasure of the unit owner executing it.

382 4. A member of the board of administration or a committee
 383 may submit in writing his or her agreement or disagreement with
 384 any action taken at a meeting that the member did not attend.
 385 This agreement or disagreement may not be used as a vote for or
 386 against the action taken and may not be used for the purposes of
 387 creating a quorum.

388 5. When any of the board or committee members meet by
 389 telephone conference, those board or committee members attending
 390 by telephone conference may be counted toward obtaining a quorum



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391 and may vote by telephone. A telephone speaker must be used so
392 that the conversation of those board or committee members
393 attending by telephone may be heard by the board or committee
394 members attending in person as well as by any unit owners
395 present at a meeting.

396 (1) *Certificate of compliance.*--There shall be a provision
397 that a certificate of compliance from a licensed electrical
398 contractor or electrician may be accepted by the association's
399 board as evidence of compliance of the condominium units to the
400 applicable fire and life safety code. Notwithstanding the
401 provisions of chapter 633 or of any other statute, ordinance,
402 administrative rule, or regulation, or any interpretation of the
403 foregoing, no association, condominium, or unit owner shall be
404 obligated to retrofit the common elements or units of a
405 residential condominium with a fire sprinkler system in a
406 building that has been certified for occupancy by the applicable
407 governmental entity, provided that the unit owners have voted to
408 forego such retrofitting by the affirmative vote of two-thirds
409 of all voting interests. Such vote may not be obtained by
410 general proxy or limited proxy. Such vote may be taken at a duly
411 noticed meeting or by written consent without a meeting, and
412 shall be effective upon the recording of a duly executed
413 certificate attesting to such vote in the public records for the
414 county where the condominium is located. The association shall
415 provide each unit owner written notice of the vote to forego
416 retrofitting of the required fire sprinkler system, in at least
417 16-point bold type, by certified mail within 20 days after the
418 association's vote. Such notice shall also be provided to new



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419 owners at closing or to renters upon signing a lease. Such vote
420 shall be held biannually or, by majority vote of the board of
421 directors of the condominium association, at the next annual
422 meeting. As part of the information collected annually from
423 condominiums by the division, it shall require condominium
424 associations to report the membership vote and recording of a
425 certificate under this subsection and, if retrofitting has been
426 undertaken, the per-unit cost of such work. The division shall
427 annually report to the Department of Insurance, State Fire
428 Marshal's Office, the number of condominiums that have elected
429 to forego retrofitting.

430 Section 4. Subsection (1) of section 718.303, Florida
431 Statutes, is amended to read:

432 718.303 Obligations of owners; waiver; levy of fine
433 against unit by association.--

434 (1) Each unit owner, each tenant and other invitee, and
435 each association shall be governed by, and shall comply with the
436 provisions of, this chapter, the declaration, the documents
437 creating the association, and the association bylaws and the
438 provisions thereof shall be deemed expressly incorporated into
439 any lease of a unit. Actions for damages or for injunctive
440 relief, or both, for failure to comply with these provisions may
441 be brought by the association or by a unit owner against:

442 (a) The association.

443 (b) A unit owner.

444 (c) Directors designated by the developer, for actions
445 taken by them prior to the time control of the association is
446 assumed by unit owners other than the developer.



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447 (d) Any director who willfully and knowingly fails to
448 comply with these provisions.

449 (e) Any tenant leasing a unit, and any other invitee
450 occupying a unit.

451
452 The prevailing party in any such action or in any action in
453 which the purchaser claims a right of voidability based upon
454 contractual provisions as required in s. 718.503(1)(a) is
455 entitled to recover reasonable attorney's fees. A unit owner
456 prevailing in an action between the association and the unit
457 owner under this section, in addition to recovering his or her
458 reasonable attorney's fees, may recover additional amounts as
459 determined by the court to be necessary to reimburse the unit
460 owner for his or her share of assessments levied by the
461 association to fund its expenses of the litigation. This relief
462 does not exclude other remedies provided by law. Actions arising
463 under this subsection shall not be deemed to be actions for
464 specific performance.

465 Section 5. Subsection (2) of section 719.104, Florida
466 Statutes, is amended to read:

467 719.104 Cooperatives; access to units; records; financial
468 reports; assessments; purchase of leases.--

469 (2) OFFICIAL RECORDS.--

470 (a) From the inception of the association, the association
471 shall maintain a copy of each of the following, where
472 applicable, which shall constitute the official records of the
473 association:



- 474 | 1. The plans, permits, warranties, and other items
475 | provided by the developer pursuant to s. 719.301(4).
476 | 2. A photocopy of the cooperative documents.
477 | 3. A copy of the current rules of the association.
478 | 4. A book or books containing the minutes of all meetings
479 | of the association, of the board of directors, and of the unit
480 | owners, which minutes shall be retained for a period of not less
481 | than 7 years.
482 | 5. A current roster of all unit owners and their mailing
483 | addresses, unit identifications, voting certifications, and, if
484 | known, telephone numbers.
485 | 6. All current insurance policies of the association.
486 | 7. A current copy of any management agreement, lease, or
487 | other contract to which the association is a party or under
488 | which the association or the unit owners have an obligation or
489 | responsibility.
490 | 8. Bills of sale or transfer for all property owned by the
491 | association.
492 | 9. Accounting records for the association and separate
493 | accounting records for each unit it operates, according to good
494 | accounting practices. All accounting records shall be maintained
495 | for a period of not less than 7 years. The accounting records
496 | shall include, but not be limited to:
497 | a. Accurate, itemized, and detailed records of all
498 | receipts and expenditures.
499 | b. A current account and a monthly, bimonthly, or
500 | quarterly statement of the account for each unit designating the
501 | name of the unit owner, the due date and amount of each



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502 assessment, the amount paid upon the account, and the balance
503 due.

504 c. All audits, reviews, accounting statements, and
505 financial reports of the association.

506 d. All contracts for work to be performed. Bids for work
507 to be performed shall also be considered official records and
508 shall be maintained for a period of 1 year.

509 10. Ballots, sign-in sheets, voting proxies, and all other
510 papers relating to voting by unit owners, which shall be
511 maintained for a period of 1 year after the date of the
512 election, vote, or meeting to which the document relates.

513 11. All rental records where the association is acting as
514 agent for the rental of units.

515 12. A copy of the current question and answer sheet as
516 described in s. 719.504.

517 13. All other records of the association not specifically
518 included in the foregoing which are related to the operation of
519 the association.

520 (b) The official records of the association shall be
521 maintained within the state. The records of the association
522 shall be made available to a unit owner within 5 working days
523 after receipt of written request by the board or its designee.
524 This paragraph may be complied with by having a copy of the
525 official records available for inspection or copying on the
526 cooperative property.

527 (c) The official records of the association shall be open
528 to inspection by any association member or the authorized
529 representative of such member at all reasonable times. Failure



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530 to permit inspection of the association records as provided
531 herein entitles any person prevailing in an enforcement action
532 to recover reasonable attorney's fees from the person in control
533 of the records who, directly or indirectly, knowingly denies
534 access to the records for inspection. The right to inspect the
535 records includes the right to make or obtain copies, at the
536 reasonable expense, if any, of the association member. The
537 association may adopt reasonable rules regarding the frequency,
538 time, location, notice, and manner of record inspections and
539 copying. The failure of an association to provide the records
540 within 10 working days after receipt of a written request
541 creates a rebuttable presumption that the association willfully
542 failed to comply with this paragraph. A unit owner who is denied
543 access to official records is entitled to the actual damages or
544 minimum damages for the association's willful failure to comply
545 with this paragraph. The minimum damages shall be \$50 per
546 calendar day up to 10 days, the calculation to begin on the 11th
547 day after receipt of the written request. The association shall
548 maintain an adequate number of copies of the declaration,
549 articles of incorporation, bylaws, and rules, and all amendments
550 to each of the foregoing, as well as the question and answer
551 sheet provided for in s. 719.504, on the cooperative property to
552 ensure their availability to unit owners and prospective
553 purchasers, and may charge its actual costs for preparing and
554 furnishing these documents to those requesting the same.
555 Notwithstanding the provisions of this paragraph, the following
556 records shall not be accessible to unit owners:



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557 1. A record that was prepared by an association attorney
558 or prepared at the attorney's express direction; that reflects a
559 mental impression, conclusion, litigation strategy, or legal
560 theory of the attorney or the association; or that was prepared
561 exclusively for civil or criminal litigation or for adversarial
562 administrative proceedings or in anticipation of imminent civil
563 or criminal litigation or imminent adversarial administrative
564 proceedings, until the conclusion of the litigation or
565 adversarial administrative proceedings.

566 2. Information obtained by an association in connection
567 with the approval of the lease, sale, or other transfer of a
568 unit.

569 3. Medical records of unit owners.

570 (d) The association or its authorized agent shall not be
571 required to provide a prospective purchaser or lienholder with
572 information about the cooperative or association other than the
573 information or documents required by this chapter to be made
574 available or disclosed.

575 1. If, for the convenience of the members, the association
576 elects to provide requested information not required by law to
577 be made available or disclosed to prospective purchasers or
578 lienholders, the association may do so, and the association and
579 its authorized agent shall be immune from suit by any person or
580 entity for information given in good faith if the association or
581 its authorized agent accompanies such information with a written
582 statement in substantially the following form:

583



584 The information contained herein, to the extent not
 585 required to be provided by the Florida Cooperative
 586 Act, is provided without warranty or certification of
 587 any sort. Reliance on the accuracy of this
 588 information, if provided in good faith, is at the sole
 589 risk of the person or entity choosing to rely thereon.
 590 You are encouraged to review original documentation
 591 that may be available rather than relying on
 592 summaries, compilations, statements of opinion, or
 593 anecdotal information which may be the source of our
 594 information. Florida law provides immunity from suit
 595 for good faith information, even if it is later
 596 determined to be inaccurate.

598 2. The association or its authorized agent shall be
 599 entitled to charge a reasonable fee to the prospective
 600 purchaser, lienholder, or the current unit owner for its time in
 601 providing good faith responses to requests for information by or
 602 on behalf of a prospective purchaser or lienholder, other than
 603 that required by law, provided that such fee shall not exceed
 604 \$150 plus the reasonable cost of photocopying and any attorney's
 605 fees incurred by the association.

606 Section 6. Subsection (1) of section 719.303, Florida
 607 Statutes, is amended to read:

608 719.303 Obligations of owners.--

609 (1) Each unit owner, each tenant and other invitee, and
 610 each association shall be governed by, and shall comply with the
 611 provisions of, this chapter, the cooperative documents, the



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612 documents creating the association, and the association bylaws,
613 and the provisions thereof shall be deemed expressly
614 incorporated into any lease of a unit. Actions for damages or
615 for injunctive relief, or both, for failure to comply with these
616 provisions may be brought by the association or by a unit owner
617 against:

618 (a) The association.

619 (b) A unit owner.

620 (c) Directors designated by the developer, for actions
621 taken by them prior to the time control of the association is
622 assumed by unit owners other than the developer.

623 (d) Any director who willfully and knowingly fails to
624 comply with these provisions.

625 (e) Any tenant leasing a unit, and any other invitee
626 occupying a unit.

627

628 The prevailing party in any such action or in any action in
629 which the purchaser claims a right of voidability based upon
630 contractual provisions as required in s. 719.503(1)(a) is
631 entitled to recover reasonable attorney's fees. A unit owner
632 prevailing in an action between the association and the unit
633 owner under this section, in addition to recovering his or her
634 reasonable attorney's fees, may recover additional amounts as
635 determined by the court to be necessary to reimburse the unit
636 owner for his or her share of assessments levied by the
637 association to fund its expenses of the litigation. This relief
638 does not exclude other remedies provided by law. Actions arising



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639 | under this subsection shall not be deemed to be actions for
640 | specific performance.

641 | Section 7. Section 720.302, Florida Statutes, is amended
642 | to read:

643 | 720.302 Purposes, scope, and application.--

644 | (1) The purposes of ss. 720.301-720.312 are to give
645 | statutory recognition to corporations not for profit that
646 | operate residential communities in this state, to provide
647 | procedures for operating homeowners' associations, and to
648 | protect the rights of association members without unduly
649 | impairing the ability of such associations to perform their
650 | functions.

651 | (2) The Legislature recognizes that it is not in the best
652 | interest of homeowners' associations or the individual
653 | association members thereof to create or impose a bureau or
654 | other agency of state government to regulate the affairs of
655 | homeowners' associations. Further, the Legislature recognizes
656 | that certain contract rights have been created for the benefit
657 | of homeowners' associations and members thereof before the
658 | effective date of this act and that ss. 720.301-720.312 are not
659 | intended to impair such contract rights, including, but not
660 | limited to, the rights of the developer to complete the
661 | community as initially contemplated.

662 | (3) Sections 720.301-720.312 do not apply to:

663 | (a) A community that is composed of property primarily
664 | intended for commercial, industrial, or other nonresidential
665 | use; or



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666 (b) The commercial or industrial parcels in a community
667 that contains both residential parcels and parcels intended for
668 commercial or industrial use.

669 (4) Sections 720.301-720.312 do not apply to any
670 association that is subject to regulation under chapter 718,
671 chapter 719, or chapter 721; or to any nonmandatory association
672 formed under chapter 723.

673 (5) Unless expressly stated to the contrary, corporations
674 not for profit that operate residential homeowners' associations
675 in this state shall be governed by and subject to the provisions
676 of chapter 617. This provision is intended to clarify existing
677 law.

678 Section 8. Subsection (5) is added to section 719.1055,
679 Florida Statutes, to read:

680 719.1055 Amendment of cooperative documents; alteration
681 and acquisition of property.--

682 (5) Notwithstanding the provisions of chapter 633 or of
683 any other statute, ordinance, administrative rule, or
684 regulation, or any interpretation of the foregoing, no
685 association, cooperative, or unit owner shall be obligated to
686 retrofit the common areas or units of a residential cooperative
687 with a fire sprinkler system or other enhanced fire protection
688 system in a building that has been certified for occupancy by
689 the applicable governmental entity, provided that the unit
690 owners have voted to forego such retrofitting by the affirmative
691 vote of two-thirds of all voting interests. Such vote may not be
692 obtained by general proxy or limited proxy. Such vote may be
693 taken at a duly noticed meeting or by written consent without a



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694 meeting, and shall be effective upon the recording of a duly
695 executed certificate attesting to such vote in the public
696 records for the county where the cooperative is located. The
697 association shall provide each unit owner written notice of the
698 vote to forego retrofitting of the required fire sprinkler
699 system, in at least 16-point bold type, by certified mail within
700 20 days after the association's vote. Such notice shall also be
701 provided to new owners at closing or to renters upon signing a
702 lease. As part of the information collected from cooperatives by
703 the division, it shall require cooperative associations to
704 report the membership vote and recording of a certificate under
705 this subsection and, if retrofitting has been undertaken, the
706 per-unit cost of such work. The division shall annually report
707 to the Department of Financial Services, Division of State Fire
708 Marshal, the number of cooperatives that have elected to forego
709 retrofitting.

710 Section 9. This act shall take effect upon becoming a law.
711