



1 A bill to be entitled
2 An act relating to homeowners' associations; amending s.
3 702.09, F.S.; redefining the term "mortgage" to include
4 liens created pursuant to a homeowners' association as
5 defined in s. 712.01, F.S.; amending s. 718.111, F.S.;
6 revising language with respect to official records of the
7 condominium association authorizing the association to
8 provide certain information to prospective purchasers or
9 lienholders under certain circumstances; providing for
10 immunity from liability; authorizing fees; establishing
11 insurance requirements for condominium associations and
12 individual unit owners; amending s. 718.112, F.S.;
13 revising language with respect to condominium bylaws to
14 allow the use of limited proxies for votes taken to waive
15 certain financial reporting requirements; prohibiting the
16 requirement of retrofitting condominiums for enhanced fire
17 protection systems under certain circumstances; providing
18 for voting conditions; providing for notice; amending s.
19 718.303, F.S.; providing that certain actions with respect
20 to the obligation of condominium owners shall not be
21 deemed actions for specific performance; amending s.
22 719.104, F.S.; revising language with respect to official
23 records of the cooperative association authorizing the
24 association to provide certain information to prospective
25 purchasers or lienholders under certain circumstances;
26 providing for immunity from liability; authorizing fees;
27 amending s. 719.303, F.S.; providing that certain actions
28 with respect to the obligation of cooperative owners shall



29 not be deemed actions for specific performance; amending
30 s. 720.302, F.S.; providing that corporations not for
31 profit that operate residential homeowners' associations
32 shall be governed by and subject to the provisions of ch.
33 617, F.S.; amending s. 719.1055, F.S.; prohibiting the
34 requirement of retrofitting cooperatives for enhanced fire
35 protection under certain circumstances; providing for
36 voting conditions; providing for notice; requiring certain
37 reports; providing an effective date.

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Section 702.09, Florida Statutes, is amended to
42 read:

43 702.09 Definitions.--For the purposes of ss. 702.07 and
44 702.08 the words "decree of foreclosure" shall include a
45 judgment or order rendered or passed in the foreclosure
46 proceedings in which the decree of foreclosure shall be
47 rescinded, vacated, and set aside; the word "mortgage" shall
48 mean any written instrument securing the payment of money or
49 advances and includes liens to secure payment of assessments
50 arising under chapters 718 and 719 and liens created pursuant to
51 the recorded covenants of a homeowners' association as defined
52 in s. 712.01; the word "debt" shall include promissory notes,
53 bonds, and all other written obligations given for the payment
54 of money; the words "foreclosure proceedings" shall embrace
55 every action in the circuit or county courts of this state
56 wherein it is sought to foreclose a mortgage and sell the



57 | property covered by the same; and the word "property" shall mean
58 | and include both real and personal property.

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

61 | 718.111 The association.--

62 | (11) INSURANCE.--In order to protect the safety, health,
63 | and welfare of the citizens of the State of Florida and to
64 | ensure consistency in the provision of insurance coverage to
65 | condominiums and their unit owners, paragraphs (b) and (c) are
66 | deemed to apply to every condominium in the state regardless of
67 | the date of its declaration of condominium.

68 | (a) A unit-owner controlled association shall use its best
69 | efforts to obtain and maintain adequate insurance to protect the
70 | association, the association property, the common elements, and
71 | the condominium property required to be insured by the
72 | association pursuant to paragraph (b). If the association is
73 | developer controlled, the association shall exercise due
74 | diligence to obtain and maintain such insurance. Failure to
75 | obtain and maintain adequate insurance during any period of
76 | developer control shall constitute a breach of fiduciary
77 | responsibility by the developer-appointed members of the board
78 | of directors of the association, unless said members can show
79 | that despite such failure, they have exercised due diligence.
80 | The declaration of condominium as originally recorded, or
81 | amended pursuant to the procedures provided therein, may require
82 | that condominium property consisting of freestanding buildings,
83 | where there is no more than one building in or on such unit,
84 | need not be insured by the association if the declaration



85 requires the unit owner to obtain adequate insurance for the
86 condominium property. An association may also obtain and
87 maintain liability insurance for directors and officers,
88 insurance for the benefit of association employees, and flood
89 insurance for common elements, association property, and units.
90 Adequate insurance, regardless of any requirement in the
91 declaration of condominium for coverage by the association for
92 "full insurable value," "replacement cost," or the like, may
93 include reasonable deductibles, as determined by the board. An
94 association or group of associations may self-insure against
95 claims against the association, the association property, and
96 the condominium property required to be insured by an
97 association, upon compliance with ss. 624.460-624.488. A copy of
98 each policy of insurance in effect shall be made available for
99 inspection by unit owners at reasonable times.

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

103 1. Portions of the condominium property located outside
104 the units;

105 2. The condominium property located inside the units as
106 such property was initially installed, or replacements thereof
107 of like kind and quality, and in accordance with the original
108 plans and specifications, or if the original plans and
109 specifications are not available, as they existed at the time
110 the unit was initially conveyed; and

111 3. Portions of the condominium property for which the
112 declaration of condominium requires coverage by the association.



113
114 Anything to the contrary notwithstanding, the terms "condominium
115 property," "building," "improvements," "insurable improvements,"
116 "common elements," "association property," and any other term
117 found in the declaration of condominium which defines the scope
118 of property or casualty insurance which a condominium
119 association must obtain shall exclude all floor, wall, and
120 ceiling coverings, that the word "building" wherever used in the
121 policy include, but not necessarily be limited to, fixtures,
122 installations, or additions comprising that part of the building
123 within the unfinished interior surfaces of the perimeter walls,
124 floors, and ceilings of the individual units initially
125 installed, or replacements thereof of like kind or quality, in
126 accordance with the original plans and specifications, or as
127 they existed at the time the unit was initially conveyed if the
128 original plans and specifications are not available. However,
129 unless prior to October 1, 1986, the association is required by
130 the declaration to provide coverage therefor, the word
131 "building" does not include unit floor coverings, wall
132 coverings, or ceiling coverings, and, as to contracts entered
133 into after July 1, 1992, does not include the following
134 equipment if it is located within a unit and the unit owner is
135 required to repair or replace such equipment: electrical
136 fixtures, appliances, air conditioner or heating equipment,
137 water heaters, water filters, ~~or~~ built-in cabinets and
138 countertops and window treatments, including curtains, drapes,
139 blinds, hardware and similar window treatment components, or
140 replacements of any of the foregoing, which are located within



141 the boundaries of a unit and serve only one unit and all air
142 conditioning compressors that service only an individual unit,
143 whether or not located within the unit boundaries. The foregoing
144 is intended to establish the property or casualty insuring
145 responsibilities of the association and those of the individual
146 unit owner and do not serve to broaden or extend the perils of
147 coverage afforded by any insurance contract provided to the
148 individual unit owner. From and after January 1, 2004, the
149 association shall have the authority to amend the declaration of
150 condominium, without regard to any requirement for mortgagee
151 approval of amendments affecting insurance requirements, to
152 conform the declaration of condominium to the coverage
153 requirements of this section. With respect to the coverage
154 provided for by this paragraph, the unit owners shall be
155 considered additional insureds under the policy.

156 (c) Every hazard insurance policy issued or renewed on or
157 after January 1, 2004, to an individual unit owner shall provide
158 that the coverage afforded by such policy is excess over the
159 amount recoverable under any other policy covering the same
160 property. Every insurance policy issued to an individual unit
161 owner providing such coverage shall be without rights of
162 subrogation against the condominium association which operates
163 the condominium in which such unit owner's unit is located. All
164 real or personal property located within the boundaries of the
165 unit owner's unit which are excluded from the coverage to be
166 provided by the association as set forth in paragraph (b) are to
167 be insured by the individual unit owner.



168 (d) The association shall obtain and maintain adequate
169 insurance or fidelity bonding of all persons who control or
170 disburse funds of the association. The insurance policy or
171 fidelity bond must cover the maximum funds that will be in the
172 custody of the association or its management agent at any one
173 time. As used in this paragraph, the term "persons who control
174 or disburse funds of the association" includes, but is not
175 limited to, those individuals authorized to sign checks and the
176 president, secretary, and treasurer of the association. The
177 association shall bear the cost of bonding.

178 (12) OFFICIAL RECORDS.--

179 (a) From the inception of the association, the association
180 shall maintain each of the following items, when applicable,
181 which shall constitute the official records of the association:

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

184 2. A photocopy of the recorded declaration of condominium
185 of each condominium operated by the association and of each
186 amendment to each declaration.

187 3. A photocopy of the recorded bylaws of the association
188 and of each amendment to the bylaws.

189 4. A certified copy of the articles of incorporation of
190 the association, or other documents creating the association,
191 and of each amendment thereto.

192 5. A copy of the current rules of the association.

193 6. A book or books which contain the minutes of all
194 meetings of the association, of the board of directors, and of



195 unit owners, which minutes shall be retained for a period of not
196 less than 7 years.

197 7. A current roster of all unit owners and their mailing
198 addresses, unit identifications, voting certifications, and, if
199 known, telephone numbers.

200 8. All current insurance policies of the association and
201 condominiums operated by the association.

202 9. A current copy of any management agreement, lease, or
203 other contract to which the association is a party or under
204 which the association or the unit owners have an obligation or
205 responsibility.

206 10. Bills of sale or transfer for all property owned by
207 the association.

208 11. Accounting records for the association and separate
209 accounting records for each condominium which the association
210 operates. All accounting records shall be maintained for a
211 period of not less than 7 years. The accounting records shall
212 include, but are not limited to:

213 a. Accurate, itemized, and detailed records of all
214 receipts and expenditures.

215 b. A current account and a monthly, bimonthly, or
216 quarterly statement of the account for each unit designating the
217 name of the unit owner, the due date and amount of each
218 assessment, the amount paid upon the account, and the balance
219 due.

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



222 d. All contracts for work to be performed. Bids for work
223 to be performed shall also be considered official records and
224 shall be maintained for a period of 1 year.

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

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

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

233 15. All other records of the association not specifically
234 included in the foregoing which are related to the operation of
235 the association.

236 (b) The official records of the association shall be
237 maintained within the state. The records of the association
238 shall be made available to a unit owner within 5 working days
239 after receipt of written request by the board or its designee.
240 This paragraph may be complied with by having a copy of the
241 official records of the association available for inspection or
242 copying on the condominium property or association property.

243 (c) The official records of the association are open to
244 inspection by any association member or the authorized
245 representative of such member at all reasonable times. The right
246 to inspect the records includes the right to make or obtain
247 copies, at the reasonable expense, if any, of the association
248 member. The association may adopt reasonable rules regarding the
249 frequency, time, location, notice, and manner of record



250 inspections and copying. The failure of an association to
251 provide the records within 10 working days after receipt of a
252 written request shall create a rebuttable presumption that the
253 association willfully failed to comply with this paragraph. A
254 unit owner who is denied access to official records is entitled
255 to the actual damages or minimum damages for the association's
256 willful failure to comply with this paragraph. The minimum
257 damages shall be \$50 per calendar day up to 10 days, the
258 calculation to begin on the 11th working day after receipt of
259 the written request. The failure to permit inspection of the
260 association records as provided herein entitles any person
261 prevailing in an enforcement action to recover reasonable
262 attorney's fees from the person in control of the records who,
263 directly or indirectly, knowingly denied access to the records
264 for inspection. The association shall maintain an adequate
265 number of copies of the declaration, articles of incorporation,
266 bylaws, and rules, and all amendments to each of the foregoing,
267 as well as the question and answer sheet provided for in s.
268 718.504 and year-end financial information required in this
269 section on the condominium property to ensure their availability
270 to unit owners and prospective purchasers, and may charge its
271 actual costs for preparing and furnishing these documents to
272 those requesting the same. Notwithstanding the provisions of
273 this paragraph, the following records shall not be accessible to
274 unit owners:

275 1. Any record protected by the lawyer-client privilege as
276 described in s. 90.502; and any record protected by the work-
277 product privilege, including any record prepared by an



278 association attorney or prepared at the attorney's express
279 direction; which reflects a mental impression, conclusion,
280 litigation strategy, or legal theory of the attorney or the
281 association, and which was prepared exclusively for civil or
282 criminal litigation or for adversarial administrative
283 proceedings, or which was prepared in anticipation of imminent
284 civil or criminal litigation or imminent adversarial
285 administrative proceedings until the conclusion of the
286 litigation or adversarial administrative proceedings.

287 2. Information obtained by an association in connection
288 with the approval of the lease, sale, or other transfer of a
289 unit.

290 3. Medical records of unit owners.

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

293 (e) The association or its authorized agent shall not be
294 required to provide a prospective purchaser or lienholder with
295 information about the condominium or the association other than
296 information or documents required by this chapter to be made
297 available or disclosed.

298 1. If, for the convenience of the members, the association
299 elects to provide requested information not required by law to
300 be made available or disclosed to prospective purchasers or
301 lienholders, the association may do so, and the association and
302 its authorized agent shall be immune from suit by any person or
303 entity for information given in good faith if the association or
304 its authorized agent accompanies such information with a written
305 statement in substantially the following form:



306
307 The information contained herein, to the extent not
308 required to be provided by the Florida Condominium
309 Act, is provided without warranty or certification of
310 any sort. Reliance on the accuracy of this
311 information, if provided in good faith, is at the sole
312 risk of the person or entity choosing to rely thereon.
313 You are encouraged to review original documentation
314 that may be available rather than relying on
315 summaries, compilations, statements of opinion, or
316 anecdotal information which may be the source of our
317 information. Florida law provides immunity from suit
318 for good faith information, even if it is later
319 determined to be inaccurate.

320
321 2. The association or its authorized agent shall be
322 entitled to charge a reasonable fee to the prospective
323 purchaser, lienholder, or the current unit owner for its time in
324 providing good faith responses to requests for information by or
325 on behalf of a prospective purchaser or lienholder, other than
326 that required by law, provided that such fee shall not exceed
327 \$150 plus the reasonable cost of photocopying and any attorney's
328 fees incurred by the association.

329 Section 3. Paragraphs (b) and (1) of subsection (2) of
330 section 718.112, Florida Statutes, are amended to read:

331 718.112 Bylaws.--



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

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

336 1. Unless a lower number is provided in the bylaws, the
337 percentage of voting interests required to constitute a quorum
338 at a meeting of the members shall be a majority of the voting
339 interests. Unless otherwise provided in this chapter or in the
340 declaration, articles of incorporation, or bylaws, and except as
341 provided in subparagraph (d)3., decisions shall be made by
342 owners of a majority of the voting interests represented at a
343 meeting at which a quorum is present.

344 2. Except as specifically otherwise provided herein, after
345 January 1, 1992, unit owners may not vote by general proxy, but
346 may vote by limited proxies substantially conforming to a
347 limited proxy form adopted by the division. Limited proxies and
348 general proxies may be used to establish a quorum. Limited
349 proxies shall be used for votes taken to waive or reduce
350 reserves in accordance with subparagraph (f)2.; for votes taken
351 to waive the financial reporting requirements of s. 718.111(13);
352 for votes taken to amend the declaration pursuant to s. 718.110;
353 for votes taken to amend the articles of incorporation or bylaws
354 pursuant to this section; and for any other matter for which
355 this chapter requires or permits a vote of the unit owners.
356 Except as provided in paragraph (d), after January 1, 1992, no
357 proxy, limited or general, shall be used in the election of
358 board members. General proxies may be used for other matters for
359 which limited proxies are not required, and may also be used in



360 voting for nonsubstantive changes to items for which a limited
361 proxy is required and given. Notwithstanding the provisions of
362 this subparagraph, unit owners may vote in person at unit owner
363 meetings. Nothing contained herein shall limit the use of
364 general proxies or require the use of limited proxies for any
365 agenda item or election at any meeting of a timeshare
366 condominium association.

367 3. Any proxy given shall be effective only for the
368 specific meeting for which originally given and any lawfully
369 adjourned meetings thereof. In no event shall any proxy be valid
370 for a period longer than 90 days after the date of the first
371 meeting for which it was given. Every proxy is revocable at any
372 time at the pleasure of the unit owner executing it.

373 4. A member of the board of administration or a committee
374 may submit in writing his or her agreement or disagreement with
375 any action taken at a meeting that the member did not attend.
376 This agreement or disagreement may not be used as a vote for or
377 against the action taken and may not be used for the purposes of
378 creating a quorum.

379 5. When any of the board or committee members meet by
380 telephone conference, those board or committee members attending
381 by telephone conference may be counted toward obtaining a quorum
382 and may vote by telephone. A telephone speaker must be used so
383 that the conversation of those board or committee members
384 attending by telephone may be heard by the board or committee
385 members attending in person as well as by any unit owners
386 present at a meeting.



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



415 associations to report the membership vote and recording of a
416 certificate under this subsection and, if retrofitting has been
417 undertaken, the per-unit cost of such work. The division shall
418 annually report to the Department of Insurance, State Fire
419 Marshal's Office, the number of condominiums that have elected
420 to forego retrofitting.

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

423 718.303 Obligations of owners; waiver; levy of fine
424 against unit by association.--

425 (1) Each unit owner, each tenant and other invitee, and
426 each association shall be governed by, and shall comply with the
427 provisions of, this chapter, the declaration, the documents
428 creating the association, and the association bylaws and the
429 provisions thereof shall be deemed expressly incorporated into
430 any lease of a unit. Actions for damages or for injunctive
431 relief, or both, for failure to comply with these provisions may
432 be brought by the association or by a unit owner against:

433 (a) The association.

434 (b) A unit owner.

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

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

440 (e) Any tenant leasing a unit, and any other invitee
441 occupying a unit.

442



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

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

458 719.104 Cooperatives; access to units; records; financial
 459 reports; assessments; purchase of leases.--

460 (2) OFFICIAL RECORDS.--

461 (a) From the inception of the association, the association
 462 shall maintain a copy of each of the following, where
 463 applicable, which shall constitute the official records of the
 464 association:

- 465 1. The plans, permits, warranties, and other items
 466 provided by the developer pursuant to s. 719.301(4).
- 467 2. A photocopy of the cooperative documents.
- 468 3. A copy of the current rules of the association.
- 469 4. A book or books containing the minutes of all meetings
 470 of the association, of the board of directors, and of the unit



471 owners, which minutes shall be retained for a period of not less
 472 than 7 years.

473 5. A current roster of all unit owners and their mailing
 474 addresses, unit identifications, voting certifications, and, if
 475 known, telephone numbers.

476 6. All current insurance policies of the association.

477 7. A current copy of any management agreement, lease, or
 478 other contract to which the association is a party or under
 479 which the association or the unit owners have an obligation or
 480 responsibility.

481 8. Bills of sale or transfer for all property owned by the
 482 association.

483 9. Accounting records for the association and separate
 484 accounting records for each unit it operates, according to good
 485 accounting practices. All accounting records shall be maintained
 486 for a period of not less than 7 years. The accounting records
 487 shall include, but not be limited to:

488 a. Accurate, itemized, and detailed records of all
 489 receipts and expenditures.

490 b. A current account and a monthly, bimonthly, or
 491 quarterly statement of the account for each unit designating the
 492 name of the unit owner, the due date and amount of each
 493 assessment, the amount paid upon the account, and the balance
 494 due.

495 c. All audits, reviews, accounting statements, and
 496 financial reports of the association.



497 d. All contracts for work to be performed. Bids for work
498 to be performed shall also be considered official records and
499 shall be maintained for a period of 1 year.

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

504 11. All rental records where the association is acting as
505 agent for the rental of units.

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

508 13. All other records of the association not specifically
509 included in the foregoing which are related to the operation of
510 the association.

511 (b) The official records of the association shall be
512 maintained within the state. The records of the association
513 shall be made available to a unit owner within 5 working days
514 after receipt of written request by the board or its designee.
515 This paragraph may be complied with by having a copy of the
516 official records available for inspection or copying on the
517 cooperative property.

518 (c) The official records of the association shall be open
519 to inspection by any association member or the authorized
520 representative of such member at all reasonable times. Failure
521 to permit inspection of the association records as provided
522 herein entitles any person prevailing in an enforcement action
523 to recover reasonable attorney's fees from the person in control
524 of the records who, directly or indirectly, knowingly denies



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

548 1. A record that was prepared by an association attorney
549 or prepared at the attorney's express direction; that reflects a
550 mental impression, conclusion, litigation strategy, or legal
551 theory of the attorney or the association; or that was prepared
552 exclusively for civil or criminal litigation or for adversarial



553 administrative proceedings or in anticipation of imminent civil
554 or criminal litigation or imminent adversarial administrative
555 proceedings, until the conclusion of the litigation or
556 adversarial administrative proceedings.

557 2. Information obtained by an association in connection
558 with the approval of the lease, sale, or other transfer of a
559 unit.

560 3. Medical records of unit owners.

561 (d) The association or its authorized agent shall not be
562 required to provide a prospective purchaser or lienholder with
563 information about the cooperative or association other than the
564 information or documents required by this chapter to be made
565 available or disclosed.

566 1. If, for the convenience of the members, the association
567 elects to provide requested information not required by law to
568 be made available or disclosed to prospective purchasers or
569 lienholders, the association may do so, and the association and
570 its authorized agent shall be immune from suit by any person or
571 entity for information given in good faith if the association or
572 its authorized agent accompanies such information with a written
573 statement in substantially the following form:

574
575 The information contained herein, to the extent not
576 required to be provided by the Florida Cooperative
577 Act, is provided without warranty or certification of
578 any sort. Reliance on the accuracy of this
579 information, if provided in good faith, is at the sole
580 risk of the person or entity choosing to rely thereon.



581 You are encouraged to review original documentation
582 that may be available rather than relying on
583 summaries, compilations, statements of opinion, or
584 anecdotal information which may be the source of our
585 information. Florida law provides immunity from suit
586 for good faith information, even if it is later
587 determined to be inaccurate.

588
589 2. The association or its authorized agent shall be
590 entitled to charge a reasonable fee to the prospective
591 purchaser, lienholder, or the current unit owner for its time in
592 providing good faith responses to requests for information by or
593 on behalf of a prospective purchaser or lienholder, other than
594 that required by law, provided that such fee shall not exceed
595 \$150 plus the reasonable cost of photocopying and any attorney's
596 fees incurred by the association.

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

599 719.303 Obligations of owners.--

600 (1) Each unit owner, each tenant and other invitee, and
601 each association shall be governed by, and shall comply with the
602 provisions of, this chapter, the cooperative documents, the
603 documents creating the association, and the association bylaws,
604 and the provisions thereof shall be deemed expressly
605 incorporated into any lease of a unit. Actions for damages or
606 for injunctive relief, or both, for failure to comply with these
607 provisions may be brought by the association or by a unit owner
608 against:



- 609 (a) The association.
- 610 (b) A unit owner.
- 611 (c) Directors designated by the developer, for actions
- 612 taken by them prior to the time control of the association is
- 613 assumed by unit owners other than the developer.
- 614 (d) Any director who willfully and knowingly fails to
- 615 comply with these provisions.
- 616 (e) Any tenant leasing a unit, and any other invitee
- 617 occupying a unit.

618

619 The prevailing party in any such action or in any action in

620 which the purchaser claims a right of voidability based upon

621 contractual provisions as required in s. 719.503(1)(a) is

622 entitled to recover reasonable attorney's fees. A unit owner

623 prevailing in an action between the association and the unit

624 owner under this section, in addition to recovering his or her

625 reasonable attorney's fees, may recover additional amounts as

626 determined by the court to be necessary to reimburse the unit

627 owner for his or her share of assessments levied by the

628 association to fund its expenses of the litigation. This relief

629 does not exclude other remedies provided by law. Actions arising

630 under this subsection shall not be deemed to be actions for

631 specific performance.

632 Section 7. Section 720.302, Florida Statutes, is amended

633 to read:

634 720.302 Purposes, scope, and application.--

635 (1) The purposes of ss. 720.301-720.312 are to give

636 statutory recognition to corporations not for profit that



637 operate residential communities in this state, to provide
638 procedures for operating homeowners' associations, and to
639 protect the rights of association members without unduly
640 impairing the ability of such associations to perform their
641 functions.

642 (2) The Legislature recognizes that it is not in the best
643 interest of homeowners' associations or the individual
644 association members thereof to create or impose a bureau or
645 other agency of state government to regulate the affairs of
646 homeowners' associations. Further, the Legislature recognizes
647 that certain contract rights have been created for the benefit
648 of homeowners' associations and members thereof before the
649 effective date of this act and that ss. 720.301-720.312 are not
650 intended to impair such contract rights, including, but not
651 limited to, the rights of the developer to complete the
652 community as initially contemplated.

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

654 (a) A community that is composed of property primarily
655 intended for commercial, industrial, or other nonresidential
656 use; or

657 (b) The commercial or industrial parcels in a community
658 that contains both residential parcels and parcels intended for
659 commercial or industrial use.

660 (4) Sections 720.301-720.312 do not apply to any
661 association that is subject to regulation under chapter 718,
662 chapter 719, or chapter 721; or to any nonmandatory association
663 formed under chapter 723.



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

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

671 719.1055 Amendment of cooperative documents; alteration
672 and acquisition of property.--

673 (5) Notwithstanding the provisions of chapter 633 or of
674 any other statute, ordinance, administrative rule, or
675 regulation, or any interpretation of the foregoing, no
676 association, cooperative, or unit owner shall be obligated to
677 retrofit the common areas or units of a residential cooperative
678 with a fire sprinkler system or other enhanced fire protection
679 system in a building that has been certified for occupancy by
680 the applicable governmental entity, provided that the unit
681 owners have voted to forego such retrofitting by the affirmative
682 vote of two-thirds of all voting interests. Such vote may not be
683 obtained by general proxy or limited proxy. Such vote may be
684 taken at a duly noticed meeting or by written consent without a
685 meeting, and shall be effective upon the recording of a duly
686 executed certificate attesting to such vote in the public
687 records for the county where the cooperative is located. The
688 association shall provide each unit owner written notice of the
689 vote to forego retrofitting of the required fire sprinkler
690 system, in at least 16-point bold type, by certified mail within
691 20 days after the association's vote. Such notice shall also be



692 provided to new owners at closing or to renters upon signing a
693 lease. As part of the information collected from cooperatives by
694 the division, it shall require cooperative associations to
695 report the membership vote and recording of a certificate under
696 this subsection and, if retrofitting has been undertaken, the
697 per-unit cost of such work. The division shall annually report
698 to the Department of Financial Services, Division of State Fire
699 Marshal, the number of cooperatives that have elected to forego
700 retrofitting.

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

702