

By Senator Lynn

7-558B-03

See HB 165

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

1 from liability; authorizing fees; amending s.
2 719.303, F.S.; providing that certain actions
3 with respect to the obligation of cooperative
4 owners shall not be deemed actions for specific
5 performance; amending s. 720.302, F.S.;
6 providing that corporations not for profit that
7 operate residential homeowners' associations
8 shall be governed by and subject to the
9 provisions of ch. 617, F.S.; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 702.09, Florida Statutes, is
15 amended to read:

16 702.09 Definitions.--For the purposes of ss. 702.07
17 and 702.08 the words "decree of foreclosure" shall include a
18 judgment or order rendered or passed in the foreclosure
19 proceedings in which the decree of foreclosure shall be
20 rescinded, vacated, and set aside; the word "mortgage" shall
21 mean any written instrument securing the payment of money or
22 advances and includes liens to secure payment of assessments
23 arising under chapters 718 and 719 and liens created pursuant
24 to the recorded covenants of a homeowners' association as
25 defined in s. 712.01; the word "debt" shall include promissory
26 notes, bonds, and all other written obligations given for the
27 payment of money; the words "foreclosure proceedings" shall
28 embrace every action in the circuit or county courts of this
29 state wherein it is sought to foreclose a mortgage and sell
30 the property covered by the same; and the word "property"
31 shall mean and include both real and personal property.

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

3 718.111 The association.--

4 (11) INSURANCE.--In order to protect the safety,
5 health, and welfare of the people of the State of Florida and
6 to ensure consistency in the provision of insurance coverage
7 to condominiums and their unit owners, paragraphs (b) and (c)
8 are deemed to apply to every condominium in the state,
9 regardless of the date of its declaration of condominium.

10 (a) A unit-owner controlled association shall use its
11 best efforts to obtain and maintain adequate insurance to
12 protect the association, the association property, the common
13 elements, and the condominium property required to be insured
14 by the association pursuant to paragraph (b). If the
15 association is developer controlled, the association shall
16 exercise due diligence to obtain and maintain such insurance.
17 Failure to obtain and maintain adequate insurance during any
18 period of developer control shall constitute a breach of
19 fiduciary responsibility by the developer-appointed members of
20 the board of directors of the association, unless said members
21 can show that despite such failure, they have exercised due
22 diligence. The declaration of condominium as originally
23 recorded, or amended pursuant to procedures provided therein,
24 may require that condominium property consisting of
25 freestanding buildings where there is no more than one
26 building in or on such unit need not be insured by the
27 association if the declaration requires the unit owner to
28 obtain adequate insurance for the condominium property.An
29 association may also obtain and maintain liability insurance
30 for directors and officers, insurance for the benefit of
31 association employees, and flood insurance for common

1 elements, association property, and units. Adequate insurance,
2 regardless of any requirement in the declaration of
3 condominium for coverage by the association for "full
4 insurable value," "replacement cost," or the like, may include
5 reasonable deductibles as determined by the board. An
6 association or group of associations may self-insure against
7 claims against the association, the association property, and
8 the condominium property required to be insured by an
9 association, upon compliance with ss. 624.460-624.488. A copy
10 of each policy of insurance in effect shall be made available
11 for inspection by unit owners at reasonable times.

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

15 1. All portions of the condominium property located
16 outside the units;

17 2. The condominium property located inside the units
18 as such property was initially installed, or replacements
19 thereof of like kind and quality and in accordance with the
20 original plans and specifications or, if the original plans
21 and specifications are not available, as they existed at the
22 time the unit was initially conveyed; and

23 3. All portions of the condominium property for which
24 the declaration of condominium requires coverage by the
25 association.

26
27 Anything to the contrary notwithstanding, the terms
28 "condominium property," "building," "improvements," "insurable
29 improvements," "common elements," "association property," or
30 any other term found in the declaration of condominium which
31 defines the scope of property or casualty insurance that a

1 condominium association must obtain shall exclude all floor,
2 wall, and ceiling coverings,~~that the word "building" wherever~~
3 ~~used in the policy include, but not necessarily be limited to,~~
4 ~~fixtures, installations, or additions comprising that part of~~
5 ~~the building within the unfinished interior surfaces of the~~
6 ~~perimeter walls, floors, and ceilings of the individual units~~
7 ~~initially installed, or replacements thereof of like kind or~~
8 ~~quality, in accordance with the original plans and~~
9 ~~specifications, or as they existed at the time the unit was~~
10 ~~initially conveyed if the original plans and specifications~~
11 ~~are not available. However, unless prior to October 1, 1986,~~
12 ~~the association is required by the declaration to provide~~
13 ~~coverage therefor, the word "building" does not include unit~~
14 ~~floor coverings, wall coverings, or ceiling coverings, and, as~~
15 ~~to contracts entered into after July 1, 1992, does not include~~
16 ~~the following equipment if it is located within a unit and the~~
17 ~~unit owner is required to repair or replace such equipment:~~
18 ~~electrical fixtures, appliances, air conditioner or heating~~
19 ~~equipment, water heaters, water filters, or built-in cabinets~~
20 ~~and countertops, and window treatments, including curtains,~~
21 ~~drapes, blinds, hardware, and similar window treatment~~
22 ~~components, or replacements of any of the foregoing which are~~
23 ~~located within the boundaries of a unit and serve only one~~
24 ~~unit and all air conditioning compressors that service only an~~
25 ~~individual unit, whether or not located within the unit~~
26 ~~boundaries. The foregoing is intended to establish the~~
27 ~~property or casualty insuring responsibilities of the~~
28 ~~association and those of the individual unit owner and do not~~
29 ~~serve to broaden or extend the perils of coverage afforded by~~
30 ~~any insurance contract provided to the individual unit owner.~~
31 Beginning January 1, 2004, the association shall have the

1 authority to amend the declaration of condominium, without
2 regard to any requirement for mortgagee approval of amendments
3 affecting insurance requirements, to conform the declaration
4 of condominium to the coverage requirements of this section.
5 ~~With respect to the coverage provided for by this paragraph,~~
6 ~~the unit owners shall be considered additional insureds under~~
7 ~~the policy.~~

8 (c) Every hazard insurance policy issued or renewed on
9 or after January 1, 2004, to an individual unit owner shall
10 provide that the coverage afforded by such policy is excess
11 over the amount recoverable under any other policy covering
12 the same property. Each insurance policy issued to an
13 individual unit owner providing such coverage shall be without
14 rights of subrogation against the condominium association that
15 operates the condominium in which such unit owner's unit is
16 located. All real or personal property located within the
17 boundaries of the unit owner's unit which is excluded from the
18 coverage to be provided by the association as set forth in
19 paragraph (b) shall be insured by the individual unit owner.

20 (d) The association shall obtain and maintain adequate
21 insurance or fidelity bonding of all persons who control or
22 disburse funds of the association. The insurance policy or
23 fidelity bond must cover the maximum funds that will be in the
24 custody of the association or its management agent at any one
25 time. As used in this paragraph, the term "persons who control
26 or disburse funds of the association" includes, but is not
27 limited to, those individuals authorized to sign checks and
28 the president, secretary, and treasurer of the association.
29 The association shall bear the cost of bonding.

30 (12) OFFICIAL RECORDS.--

31

- 1 10. Bills of sale or transfer for all property owned
2 by the association.
- 3 11. Accounting records for the association and
4 separate accounting records for each condominium which the
5 association operates. All accounting records shall be
6 maintained for a period of not less than 7 years. The
7 accounting records shall include, but are not limited to:
- 8 a. Accurate, itemized, and detailed records of all
9 receipts and expenditures.
- 10 b. A current account and a monthly, bimonthly, or
11 quarterly statement of the account for each unit designating
12 the name of the unit owner, the due date and amount of each
13 assessment, the amount paid upon the account, and the balance
14 due.
- 15 c. All audits, reviews, accounting statements, and
16 financial reports of the association or condominium.
- 17 d. All contracts for work to be performed. Bids for
18 work to be performed shall also be considered official records
19 and shall be maintained for a period of 1 year.
- 20 12. Ballots, sign-in sheets, voting proxies, and all
21 other papers relating to voting by unit owners, which shall be
22 maintained for a period of 1 year from the date of the
23 election, vote, or meeting to which the document relates.
- 24 13. All rental records, when the association is acting
25 as agent for the rental of condominium units.
- 26 14. A copy of the current question and answer sheet as
27 described by s. 718.504.
- 28 15. All other records of the association not
29 specifically included in the foregoing which are related to
30 the operation of the association.
- 31

1 (b) The official records of the association shall be
2 maintained within the state. The records of the association
3 shall be made available to a unit owner within 5 working days
4 after receipt of written request by the board or its designee.
5 This paragraph may be complied with by having a copy of the
6 official records of the association available for inspection
7 or copying on the condominium property or association
8 property.

9 (c) The official records of the association are open
10 to inspection by any association member or the authorized
11 representative of such member at all reasonable times. The
12 right to inspect the records includes the right to make or
13 obtain copies, at the reasonable expense, if any, of the
14 association member. The association may adopt reasonable rules
15 regarding the frequency, time, location, notice, and manner of
16 record inspections and copying. The failure of an association
17 to provide the records within 10 working days after receipt of
18 a written request shall create a rebuttable presumption that
19 the association willfully failed to comply with this
20 paragraph. A unit owner who is denied access to official
21 records is entitled to the actual damages or minimum damages
22 for the association's willful failure to comply with this
23 paragraph. The minimum damages shall be \$50 per calendar day
24 up to 10 days, the calculation to begin on the 11th working
25 day after receipt of the written request. The failure to
26 permit inspection of the association records as provided
27 herein entitles any person prevailing in an enforcement action
28 to recover reasonable attorney's fees from the person in
29 control of the records who, directly or indirectly, knowingly
30 denied access to the records for inspection. The association
31 shall maintain an adequate number of copies of the

1 declaration, articles of incorporation, bylaws, and rules, and
2 all amendments to each of the foregoing, as well as the
3 question and answer sheet provided for in s. 718.504 and
4 year-end financial information required in this section on the
5 condominium property to ensure their availability to unit
6 owners and prospective purchasers, and may charge its actual
7 costs for preparing and furnishing these documents to those
8 requesting the same. Notwithstanding the provisions of this
9 paragraph, the following records shall not be accessible to
10 unit owners:

11 1. Any record protected by the lawyer-client privilege
12 as described in s. 90.502; and any record protected by the
13 work-product privilege, including any record prepared by an
14 association attorney or prepared at the attorney's express
15 direction; which reflects a mental impression, conclusion,
16 litigation strategy, or legal theory of the attorney or the
17 association, and which was prepared exclusively for civil or
18 criminal litigation or for adversarial administrative
19 proceedings, or which was prepared in anticipation of imminent
20 civil or criminal litigation or imminent adversarial
21 administrative proceedings until the conclusion of the
22 litigation or adversarial administrative proceedings.

23 2. Information obtained by an association in
24 connection with the approval of the lease, sale, or other
25 transfer of a unit.

26 3. Medical records of unit owners.

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

30 (e) The association or its authorized agent shall not
31 be required to provide a prospective purchaser or lienholder

1 with information about the condominium or the association
2 other than information or documents required by this chapter
3 to be made available or disclosed.

4 1. If, for the convenience of the members, the
5 association elects to provide requested information not
6 required by law to be made available or disclosed to
7 prospective purchasers or lienholders, the association may do
8 so, and the association and its authorized agent shall be
9 immune from suit by any person or entity for information given
10 in good faith if the association or its authorized agent
11 accompanies such information with a written statement in
12 substantially the following form:

13
14 The information contained herein, to the extent not required
15 to be provided by the Florida Condominium Act, is provided
16 without warranty or certification of any sort. Reliance on
17 the accuracy of this information, if provided in good faith,
18 is at the sole risk of the person or entity choosing to rely
19 thereon. You are encouraged to review original documentation
20 that may be available rather than relying on summaries,
21 compilations, statements of opinion, or anecdotal information
22 that may be the source of our information. Florida law
23 provides immunity from suit for good faith information, even
24 if it is later determined to be inaccurate.

25 2. The association or its authorized agent shall be
26 entitled to charge a reasonable fee to the prospective
27 purchaser, lienholder, or the current unit owner for its time
28 in providing good faith responses to requests for information
29 by or on behalf of a prospective purchaser or lienholder,
30 other than that required by law, provided that such fee shall

31

1 not exceed \$150 plus the reasonable cost of photocopying and
2 any attorney's fees incurred by the association.

3 Section 3. In order to protect the safety, health, and
4 welfare of the people of this state and to ensure consistency
5 in the provision of insurance coverage to condominiums and
6 their unit owners, the amendments to paragraphs 718.111(11)(b)
7 and (c), Florida Statutes, are deemed to apply to every
8 condominium in the state regardless of the date of its
9 declaration of condominium.

10 Section 4. Paragraphs (b) and (1) of subsection (2) of
11 section 718.112, Florida Statutes, are amended to read:

12 718.112 Bylaws.--

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

16 (b) Quorum; voting requirements; proxies.--

17 1. Unless a lower number is provided in the bylaws,
18 the percentage of voting interests required to constitute a
19 quorum at a meeting of the members shall be a majority of the
20 voting interests. Unless otherwise provided in this chapter or
21 in the declaration, articles of incorporation, or bylaws, and
22 except as provided in subparagraph (d)3., decisions shall be
23 made by owners of a majority of the voting interests
24 represented at a meeting at which a quorum is present.

25 2. Except as specifically otherwise provided herein,
26 after January 1, 1992, unit owners may not vote by general
27 proxy, but may vote by limited proxies substantially
28 conforming to a limited proxy form adopted by the division.
29 Limited proxies and general proxies may be used to establish a
30 quorum. Limited proxies shall be used for votes taken to waive
31 or reduce reserves in accordance with subparagraph (f)2.; for

1 votes taken to waive the financial reporting requirements of
2 s. 718.111(13);for votes taken to amend the declaration
3 pursuant to s. 718.110; for votes taken to amend the articles
4 of incorporation or bylaws pursuant to this section; and for
5 any other matter for which this chapter requires or permits a
6 vote of the unit owners. Except as provided in paragraph (d),
7 after January 1, 1992, no proxy, limited or general, shall be
8 used in the election of board members. General proxies may be
9 used for other matters for which limited proxies are not
10 required, and may also be used in voting for nonsubstantive
11 changes to items for which a limited proxy is required and
12 given. Notwithstanding the provisions of this subparagraph,
13 unit owners may vote in person at unit owner meetings. Nothing
14 contained herein shall limit the use of general proxies or
15 require the use of limited proxies for any agenda item or
16 election at any meeting of a timeshare condominium
17 association.

18 3. Any proxy given shall be effective only for the
19 specific meeting for which originally given and any lawfully
20 adjourned meetings thereof. In no event shall any proxy be
21 valid for a period longer than 90 days after the date of the
22 first meeting for which it was given. Every proxy is revocable
23 at any time at the pleasure of the unit owner executing it.

24 4. A member of the board of administration or a
25 committee may submit in writing his or her agreement or
26 disagreement with any action taken at a meeting that the
27 member did not attend. This agreement or disagreement may not
28 be used as a vote for or against the action taken and may not
29 be used for the purposes of creating a quorum.

30 5. When any of the board or committee members meet by
31 telephone conference, those board or committee members

1 attending by telephone conference may be counted toward
2 obtaining a quorum and may vote by telephone. A telephone
3 speaker must be used so that the conversation of those board
4 or committee members attending by telephone may be heard by
5 the board or committee members attending in person as well as
6 by any unit owners present at a meeting.

7 (1) Certificate of compliance.--There shall be a
8 provision that a certificate of compliance from a licensed
9 electrical contractor or electrician may be accepted by the
10 association's board as evidence of compliance of the
11 condominium units with ~~to~~ the applicable fire and life safety
12 code. Notwithstanding the provisions of chapter 633 or of any
13 other statute, ordinance, administrative rule or regulation,
14 or any interpretation of the foregoing, no association,
15 condominium, or unit owner shall be obligated to retrofit the
16 common elements or units of a residential condominium with a
17 fire sprinkler system or other enhanced fire protection system
18 in a building that has been certified for occupancy by the
19 applicable governmental entity, provided that the unit owners
20 have voted to forego such retrofitting by the affirmative vote
21 of two-thirds of all voting interests. Such vote may be taken
22 at a duly noticed meeting, or by written consent without a
23 meeting, and shall be effective upon the recording of a duly
24 executed certificate attesting to such vote in the public
25 records of the county where the condominium is located. As
26 part of the information collected annually from condominiums,
27 the division shall require condominium associations to report
28 the membership vote and recording of a certificate under this
29 subsection and, if retrofitting has been undertaken, the
30 per-unit cost of such work. The division shall annually report
31 to the Department of Insurance, State Fire Marshal's Office,

1 the number of condominiums that have elected to forego
2 retrofitting.

3 Section 5. Subsection (1) of section 718.303, Florida
4 Statutes, is amended to read:

5 718.303 Obligations of owners; waiver; levy of fine
6 against unit by association.--

7 (1) Each unit owner, each tenant and other invitee,
8 and each association shall be governed by, and shall comply
9 with the provisions of, this chapter, the declaration, the
10 documents creating the association, and the association bylaws
11 and the provisions thereof shall be deemed expressly
12 incorporated into any lease of a unit. Actions for damages or
13 for injunctive relief, or both, for failure to comply with
14 these provisions may be brought by the association or by a
15 unit owner against:

16 (a) The association.

17 (b) A unit owner.

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

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

23 (e) Any tenant leasing a unit, and any other invitee
24 occupying a unit.

25
26 The prevailing party in any such action or in any action in
27 which the purchaser claims a right of voidability based upon
28 contractual provisions as required in s. 718.503(1)(a) is
29 entitled to recover reasonable attorney's fees. A unit owner
30 prevailing in an action between the association and the unit
31 owner under this section, in addition to recovering his or her

1 reasonable attorney's fees, may recover additional amounts as
2 determined by the court to be necessary to reimburse the unit
3 owner for his or her share of assessments levied by the
4 association to fund its expenses of the litigation. This
5 relief does not exclude other remedies provided by law.
6 Actions arising under this subsection shall not be deemed to
7 be actions for specific performance.

8 Section 6. Subsection (2) of section 719.104, Florida
9 Statutes, is amended to read:

10 719.104 Cooperatives; access to units; records;
11 financial reports; assessments; purchase of leases.--

12 (2) OFFICIAL RECORDS.--

13 (a) From the inception of the association, the
14 association shall maintain a copy of each of the following,
15 where applicable, which shall constitute the official records
16 of the association:

17 1. The plans, permits, warranties, and other items
18 provided by the developer pursuant to s. 719.301(4).

19 2. A photocopy of the cooperative documents.

20 3. A copy of the current rules of the association.

21 4. A book or books containing the minutes of all
22 meetings of the association, of the board of directors, and of
23 the unit owners, which minutes shall be retained for a period
24 of not less than 7 years.

25 5. A current roster of all unit owners and their
26 mailing addresses, unit identifications, voting
27 certifications, and, if known, telephone numbers.

28 6. All current insurance policies of the association.

29 7. A current copy of any management agreement, lease,
30 or other contract to which the association is a party or under
31

1 which the association or the unit owners have an obligation or
2 responsibility.

3 8. Bills of sale or transfer for all property owned by
4 the association.

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

10 a. Accurate, itemized, and detailed records of all
11 receipts and expenditures.

12 b. A current account and a monthly, bimonthly, or
13 quarterly statement of the account for each unit designating
14 the name of the unit owner, the due date and amount of each
15 assessment, the amount paid upon the account, and the balance
16 due.

17 c. All audits, reviews, accounting statements, and
18 financial reports of the association.

19 d. All contracts for work to be performed. Bids for
20 work to be performed shall also be considered official records
21 and shall be maintained for a period of 1 year.

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

26 11. All rental records where the association is acting
27 as agent for the rental of units.

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

30
31

1 13. All other records of the association not
2 specifically included in the foregoing which are related to
3 the operation of the association.

4 (b) The official records of the association shall be
5 maintained within the state. The records of the association
6 shall be made available to a unit owner within 5 working days
7 after receipt of written request by the board or its designee.
8 This paragraph may be complied with by having a copy of the
9 official records available for inspection or copying on the
10 cooperative property.

11 (c) The official records of the association shall be
12 open to inspection by any association member or the authorized
13 representative of such member at all reasonable times. Failure
14 to permit inspection of the association records as provided
15 herein entitles any person prevailing in an enforcement action
16 to recover reasonable attorney's fees from the person in
17 control of the records who, directly or indirectly, knowingly
18 denies access to the records for inspection. The right to
19 inspect the records includes the right to make or obtain
20 copies, at the reasonable expense, if any, of the association
21 member. The association may adopt reasonable rules regarding
22 the frequency, time, location, notice, and manner of record
23 inspections and copying. The failure of an association to
24 provide the records within 10 working days after receipt of a
25 written request creates a rebuttable presumption that the
26 association willfully failed to comply with this paragraph. A
27 unit owner who is denied access to official records is
28 entitled to the actual damages or minimum damages for the
29 association's willful failure to comply with this paragraph.
30 The minimum damages shall be \$50 per calendar day up to 10
31 days, the calculation to begin on the 11th day after receipt

1 of the written request. The association shall maintain an
2 adequate number of copies of the declaration, articles of
3 incorporation, bylaws, and rules, and all amendments to each
4 of the foregoing, as well as the question and answer sheet
5 provided for in s. 719.504, on the cooperative property to
6 ensure their availability to unit owners and prospective
7 purchasers, and may charge its actual costs for preparing and
8 furnishing these documents to those requesting the same.

9 Notwithstanding the provisions of this paragraph, the
10 following records shall not be accessible to unit owners:

11 1. A record that was prepared by an association
12 attorney or prepared at the attorney's express direction; that
13 reflects a mental impression, conclusion, litigation strategy,
14 or legal theory of the attorney or the association; or that
15 was prepared exclusively for civil or criminal litigation or
16 for adversarial administrative proceedings or in anticipation
17 of imminent civil or criminal litigation or imminent
18 adversarial administrative proceedings, until the conclusion
19 of the litigation or adversarial administrative proceedings.

20 2. Information obtained by an association in
21 connection with the approval of the lease, sale, or other
22 transfer of a unit.

23 3. Medical records of unit owners.

24 (d) The association or its authorized agent shall not
25 be required to provide a prospective purchaser or lienholder
26 with information about the cooperative or association other
27 than the information or documents required by this chapter to
28 be made available or disclosed.

29 1. If, for the convenience of the members, the
30 association elects to provide requested information not
31 required by law to be made available or disclosed to

1 prospective purchasers or lienholders, the association may do
2 so, and the association and its authorized agent shall be
3 immune from suit by any person or entity for information given
4 in good faith if the association or its authorized agent
5 accompanies such information with a written statement in
6 substantially the following form:

7
8 The information contained herein, to the extent not required
9 to be provided by the Florida Cooperative Act, is provided
10 without warranty or certification of any sort. Reliance on the
11 accuracy of this information, if provided in good faith, is at
12 the sole risk of the person or entity choosing to rely
13 thereon. You are encouraged to review original documentation
14 that may be available rather than relying on summaries,
15 compilations, statements of opinion, or anecdotal information
16 that may be the source of our information. Florida law
17 provides immunity from suit for good faith information, even
18 if it is later determined to be inaccurate.

19 2. The association or its authorized agent shall be
20 entitled to charge a reasonable fee to the prospective
21 purchaser, lienholder, or the current unit owner for its time
22 in providing good faith responses to requests for information
23 by or on behalf of a prospective purchaser or lienholder,
24 other than that required by law, provided that such fee shall
25 not exceed \$150 plus the reasonable cost of photocopying and
26 any attorney's fees incurred by the association.

27 Section 7. Subsection (1) of section 719.303, Florida
28 Statutes, is amended to read:

29 719.303 Obligations of owners.--

30 (1) Each unit owner, each tenant and other invitee,
31 and each association shall be governed by, and shall comply

1 with the provisions of, this chapter, the cooperative
2 documents, the documents creating the association, and the
3 association bylaws, and the provisions thereof shall be deemed
4 expressly incorporated into any lease of a unit. Actions for
5 damages or for injunctive relief, or both, for failure to
6 comply with these provisions may be brought by the association
7 or by a unit owner against:

8 (a) The association.

9 (b) A unit owner.

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

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

15 (e) Any tenant leasing a unit, and any other invitee
16 occupying a unit.

17
18 The prevailing party in any such action or in any action in
19 which the purchaser claims a right of voidability based upon
20 contractual provisions as required in s. 719.503(1)(a) is
21 entitled to recover reasonable attorney' s fees. A unit owner
22 prevailing in an action between the association and the unit
23 owner under this section, in addition to recovering his or her
24 reasonable attorney's fees, may recover additional amounts as
25 determined by the court to be necessary to reimburse the unit
26 owner for his or her share of assessments levied by the
27 association to fund its expenses of the litigation. This
28 relief does not exclude other remedies provided by law.
29 Actions arising under this subsection shall not be deemed to
30 be actions for specific performance.

31

1 Section 8. Section 720.302, Florida Statutes, is
2 amended to read:

3 720.302 Purposes, scope, and application.--

4 (1) The purposes of ss. 720.301-720.312 are to give
5 statutory recognition to corporations not for profit that
6 operate residential communities in this state, to provide
7 procedures for operating homeowners' associations, and to
8 protect the rights of association members without unduly
9 impairing the ability of such associations to perform their
10 functions.

11 (2) The Legislature recognizes that it is not in the
12 best interest of homeowners' associations or the individual
13 association members thereof to create or impose a bureau or
14 other agency of state government to regulate the affairs of
15 homeowners' associations. Further, the Legislature recognizes
16 that certain contract rights have been created for the benefit
17 of homeowners' associations and members thereof before the
18 effective date of this act and that ss. 720.301-720.312 are
19 not intended to impair such contract rights, including, but
20 not limited to, the rights of the developer to complete the
21 community as initially contemplated.

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

23 (a) A community that is composed of property primarily
24 intended for commercial, industrial, or other nonresidential
25 use; or

26 (b) The commercial or industrial parcels in a
27 community that contains both residential parcels and parcels
28 intended for commercial or industrial use.

29 (4) Sections 720.301-720.312 do not apply to any
30 association that is subject to regulation under chapter 718,
31

1 chapter 719, or chapter 721; or to any nonmandatory
2 association formed under chapter 723.

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

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

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31