



HB 0861

2003

1 A bill to be entitled

2 An act relating to homeowners' associations; amending s.  
3 720.303, F.S.; providing powers for associations  
4 controlled by unit owners other than the developer;  
5 amending s. 720.306, F.S.; prohibiting certain amendments  
6 to bylaws of the associations; providing an effective  
7 date.

8  
9 Be It Enacted by the Legislature of the State of Florida:

10  
11 Section 1. Subsection (1) of section 720.303, Florida  
12 Statutes, is amended to read:

13 720.303 Association powers and duties; meetings of board;  
14 official records; budgets; financial reporting.--

15 (1) POWERS AND DUTIES.--An association which operates a  
16 community as defined in s. 720.301, must be operated by an  
17 association that is a Florida corporation. After October 1,  
18 1995, the association must be incorporated and the initial  
19 governing documents must be recorded in the official records of  
20 the county in which the community is located. An association  
21 may operate more than one community. The officers and directors  
22 of an association have a fiduciary relationship to the members  
23 who are served by the association. The powers and duties of an  
24 association include those set forth in this chapter and, except  
25 as expressly limited or restricted in this chapter, those set  
26 forth in the governing documents. After control of the  
27 association is obtained by unit owners other than the developer,  
28 the association may institute, maintain, settle, or appeal  
29 actions or hearings in its name on behalf of all members  
30 concerning matters of common interest to the members, including,



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31 but not limited to, the common areas; roof or structural  
32 components of a building, or other improvements for which the  
33 association is responsible; mechanical, electrical, or plumbing  
34 elements serving an improvement or building for which the  
35 association is responsible; representations of the developer  
36 pertaining to any existing or proposed commonly used facility;  
37 and protesting ad valorem taxes on commonly used facilities. The  
38 association may defend actions in eminent domain or bring  
39 inverse condemnation actions. If the association has the  
40 authority to maintain a class action, it may be joined in an  
41 action as a representative of that class with reference to  
42 litigation and disputes involving the matters for which the  
43 association could bring a class action. This subsection does not  
44 limit any statutory or common-law right of any individual member  
45 or class of members to bring any action without participation by  
46 the association. A member does not have authority to act for the  
47 association by virtue of being a member. An association may  
48 have more than one class of members and may issue membership  
49 certificates.

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

52 720.306 Meetings of members; voting and election  
53 procedures; amendments.--

54 (1) QUORUM; AMENDMENTS.--

55 (a) Unless a lower number is provided in the bylaws, the  
56 percentage of voting interests required to constitute a quorum  
57 at a meeting of the members shall be 30 percent of the total  
58 voting interests. Unless otherwise provided in this chapter or  
59 in the articles of incorporation or bylaws, decisions that  
60 require a vote of the members must be made by the concurrence of



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61 at least a majority of the voting interests present, in person  
62 or by proxy, at a meeting at which a quorum has been attained.

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

68 (c) Unless otherwise provided in the governing documents  
69 as originally recorded or permitted by this chapter or chapter  
70 617, an amendment may not materially and adversely alter the  
71 proportionate voting interest appurtenant to a parcel or  
72 increase the proportion or percentage by which a parcel shares  
73 in the common expenses of the association ~~affect vested rights~~  
74 unless the record parcel owner ~~of the affected parcel~~ and all  
75 record owners of liens on the ~~affected~~ parcels join in the  
76 execution of the amendment. For purposes of this section, a  
77 change in quorum requirements is not an alteration of voting  
78 interests.

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