

Bill No. CS for CS for CS for SB 1184

Amendment No. ____ Barcode 514098

CHAMBER ACTION

Senate

House

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Senator Campbell moved the following amendment:

Senate Amendment (with title amendment)

On page 24, between lines 30 and 31,

insert:

Section 15. Section 689.26, Florida Statutes, is transferred, renumbered as section 720.601, Florida Statutes, and amended to read:

720.601 ~~689.26~~ Prospective purchasers subject to association membership requirement; disclosure required; covenants; assessments; contract cancellation ~~voidability~~.--

(1)(a) A prospective parcel owner in a community must be presented a disclosure summary before executing the contract for sale. The disclosure summary must be in a form substantially similar to the following form:

DISCLOSURE SUMMARY

FOR

(NAME OF COMMUNITY)

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1 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU
2 ~~WILL(WILL)~~ ~~(WILL NOT)~~ BE OBLIGATED TO BE A MEMBER OF A
3 HOMEOWNERS' ASSOCIATION.

4 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE
5 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN
6 THIS COMMUNITY.

7 3. YOU ~~WILL(WILL)~~ ~~(WILL NOT)~~ BE OBLIGATED TO PAY
8 ASSESSMENTS TO THE ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO
9 PERIODIC CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS \$
10 PER . YOU WILL ALSO BE OBLIGATED TO PAY ANY SPECIAL
11 ASSESSMENTS IMPOSED BY THE ASSOCIATION. SUCH SPECIAL
12 ASSESSMENTS MAY BE SUBJECT TO CHANGE. IF APPLICABLE, THE
13 CURRENT AMOUNT IS \$ PER .

14 4. YOU ~~MAY(WILL)~~ ~~(WILL NOT)~~ BE OBLIGATED TO PAY
15 SPECIAL ASSESSMENTS TO THE RESPECTIVE MUNICIPALITY, COUNTY, OR
16 SPECIAL DISTRICT. ALL ASSESSMENTS ARE SUBJECT TO PERIODIC
17 CHANGE.

18 ~~5.4.~~ YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR
19 ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION
20 COULD RESULT IN A LIEN ON YOUR PROPERTY.

21 ~~6.5.~~ THERE ~~MAY BE~~ ~~(IS)~~ ~~(IS NOT)~~ AN OBLIGATION TO PAY
22 RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED
23 FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS'
24 ASSOCIATION. IF APPLICABLE, THE CURRENT AMOUNT IS \$ PER
25 ~~.(If such obligation exists, then the amount of the~~
26 ~~current obligation shall be set forth.)~~

27 ~~7.6.~~ THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE
28 RESTRICTIVE COVENANTS ~~(CAN)~~ ~~(CANNOT)~~ ~~BE AMENDED~~ WITHOUT THE
29 APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE
30 ~~IF NO MANDATORY ASSOCIATION EXISTS,~~ PARCEL OWNERS.

31 ~~8.7.~~ THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM

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1 ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER,
2 YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION
3 GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

4 ~~9.8.~~ THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC
5 RECORD AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE
6 COUNTY WHERE THE PROPERTY IS LOCATED, OR ARE NOT RECORDED AND
7 CAN BE OBTAINED FROM THE DEVELOPER.

8 DATE: PURCHASER:
9 PURCHASER:

10

11 The disclosure must be supplied by the developer, or by the
12 parcel owner if the sale is by an owner that is not the
13 developer. Any contract or agreement for sale shall refer to
14 and incorporate the disclosure summary and shall include, in
15 prominent language, a statement that the potential buyer
16 should not execute the contract or agreement until they have
17 received and read the disclosure summary required by this
18 section.

19 (b) Each contract entered into for the sale of
20 property governed by covenants subject to disclosure required
21 by this section must contain in conspicuous type a clause that
22 states:

23

24 IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION
25 720.601 ~~689.26~~, FLORIDA STATUTES, HAS NOT BEEN
26 PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE
27 EXECUTING THIS CONTRACT FOR SALE, THIS CONTRACT
28 IS VOIDABLE BY BUYER BY DELIVERING TO SELLER OR
29 SELLER'S AGENT OR REPRESENTATIVE WRITTEN NOTICE
30 OF THE BUYER'S INTENTION TO CANCEL WITHIN 3
31 DAYS AFTER RECEIPT OF THE DISCLOSURE SUMMARY OR

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1 PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY
2 PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS
3 NO EFFECT. BUYER'S RIGHT TO VOID THIS CONTRACT
4 SHALL TERMINATE AT CLOSING.
5

6 (c) If the disclosure summary is not provided to a
7 prospective purchaser before the purchaser executes a contract
8 for the sale of property governed by covenants that are
9 subject to disclosure pursuant to this section, the purchaser
10 may void the contract by delivering to the seller or the
11 seller's agent or representative written notice canceling the
12 contract within 3 days after receipt of the disclosure summary
13 or prior to closing, whichever occurs first. This right may
14 not be waived by the purchaser but terminates at closing. A
15 ~~contract that does not conform to the requirements of this~~
16 ~~subsection is voidable at the option of the purchaser prior to~~
17 ~~closing.~~

18 (2) This section does not apply to any association
19 regulated under chapter 718, chapter 719, chapter 721, or
20 chapter 723 or to a subdivider registered under chapter 498;
21 and also does not apply if disclosure regarding the
22 association is otherwise made in connection with the
23 requirements of chapter 718, chapter 719, chapter 721, or
24 chapter 723.

25 Section 16. Section 689.265, Florida Statutes, is
26 transferred and renumbered as section 720.3086, Florida
27 Statutes, to read:

28 720.3086 ~~689.265~~ Financial report.--In a residential
29 subdivision in which the owners of lots or parcels must pay
30 mandatory maintenance or amenity fees to the subdivision
31 developer or to the owners of the common areas, recreational

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1 facilities, and other properties serving the lots or parcels,
2 the developer or owner of such areas, facilities, or
3 properties shall make public, within 60 days following the end
4 of each fiscal year, a complete financial report of the
5 actual, total receipts of mandatory maintenance or amenity
6 fees received by it, and an itemized listing of the
7 expenditures made by it from such fees, for that year. Such
8 report shall be made public by mailing it to each lot or
9 parcel owner in the subdivision, by publishing it in a
10 publication regularly distributed within the subdivision, or
11 by posting it in prominent locations in the subdivision. This
12 section does not apply to amounts paid to homeowner
13 associations pursuant to chapter 617, chapter 718, chapter
14 719, chapter 721, or chapter 723, or to amounts paid to local
15 governmental entities, including special districts.

16 Section 17. Paragraphs (g) and (h) of subsection (2)
17 of section 498.025, Florida Statutes, are amended to read:

18 498.025 Exemptions.--

19 (2) Except as provided in s. 498.022, the provisions
20 of this chapter do not apply to offers or dispositions of
21 interests in lots, parcels, or units contained in a recorded
22 subdivision plat, or resulting from the subdivision of land in
23 accordance with applicable local land development laws and
24 regulations pursuant to part II of chapter 163, including
25 lots, parcels, units, or interest vested under such part, if
26 all of the following conditions exist:

27 (g) The contract for purchase or lease contains, and
28 the subdivider complies with, the following provisions:

29 1. The purchaser must inspect the subdivided land
30 prior to the execution of the contract or lease.

31 2. The purchaser shall have an absolute right to

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1 | cancel the contract or lease for any reason whatsoever for a
2 | period of 7 business days following the date on which the
3 | contract or lease was executed by the purchaser.

4 | 3. In the event the purchaser elects to cancel within
5 | the period provided, all funds or other property paid by the
6 | purchaser shall be refunded without penalty or obligation
7 | within 20 days of the receipt of the notice of cancellation by
8 | the developer.

9 | 4. All funds or property paid by the purchaser shall
10 | be put in escrow until closing has occurred and the lease or
11 | deed has been recorded.

12 | 5. Unless otherwise timely canceled, closing shall
13 | occur within 180 days of the date of execution of the contract
14 | by the purchaser.

15 | 6. When title is conveyed, said title shall be
16 | conveyed by statutory warranty deed unencumbered by any lien
17 | or mortgage except for any first purchase money mortgage given
18 | by the purchaser and restrictions, covenants, or easements of
19 | record.

20 | 7. The subdivider presents to the purchaser the
21 | disclosure required by s. 720.601 ~~s. 689.26~~ prior to the
22 | execution of the contract or lease.

23 | (h) The agreement for deed contains, and the
24 | subdivider complies with, the following provisions:

25 | 1. The purchaser must inspect the subdivided land
26 | prior to the execution of the agreement for deed.

27 | 2. The purchaser shall have an absolute right to
28 | cancel the agreement for deed for any reason whatsoever for a
29 | period of 7 business days following the date on which the
30 | agreement for deed was executed by the purchaser.

31 | 3. If the purchaser elects to cancel within the period

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1 provided, all funds or other property paid by the purchaser
2 shall be refunded without penalty or obligation within 20 days
3 after the receipt of the notice of cancellation by the
4 developer.

5 4. All funds or ~~for~~ property paid by the purchaser
6 shall be put in escrow until the agreement for deed has been
7 recorded in the county in which the subdivision is located.

8 5. Unless otherwise timely canceled, the agreement for
9 deed shall be recorded within 180 days after its execution by
10 the purchaser.

11 6. Sale of lots in the subdivision shall be restricted
12 solely to residents of the state.

13 7. The underlying mortgage or other ancillary
14 documents shall contain release provisions for the individual
15 lot purchased.

16 8. The subdivider presents to the purchaser the
17 disclosure required by s. 720.601 ~~s. 689.26~~ prior to the
18 execution of the agreement for deed.

19 Section 18. Section 720.602, Florida Statutes, is
20 created to read:

21 720.602 Publication of false and misleading
22 information.--

23 (1) Any person who, in reasonable reliance upon any
24 material statement or information that is false or misleading
25 and published by or under authority from the developer in
26 advertising and promotional materials, including, but not
27 limited to, a contract of purchaser, the declaration of
28 covenants, exhibits to a declaration of covenants, brochures,
29 and newspaper advertising, pays anything of value toward the
30 purchase of a parcel in a community located in this state has
31 a cause of action to rescind the contract or collect damages

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1 from the developer for his or her loss before the closing of
2 the transaction. After the closing of the transaction, the
3 purchaser has a cause of action against the developer for
4 damages under this section from the time of closing until 1
5 year after the date upon which the last of the events
6 described in paragraphs (a) through (d) occur:

7 (a) The closing of the transaction;
8 (b) The issuance by the applicable governmental
9 authority of a certificate of occupancy or other evidence of
10 sufficient completion of construction of the purchaser's
11 residence to allow lawful occupancy of the residence by the
12 purchaser. In counties or municipalities in which certificates
13 of occupancy or other evidences of completion sufficient to
14 allow lawful occupancy are not customarily issued, for the
15 purpose of this section, evidence of lawful occupancy shall be
16 deemed to be given or issued upon the date that such lawful
17 occupancy of the residence may be allowed under prevailing
18 applicable laws, ordinances, or statutes;

19 (c) The completion by the developer of the common
20 areas and such recreational facilities, whether or not the
21 same are common areas, which the developer is obligated to
22 complete or provide under the terms of the written contract,
23 governing documents, or written agreement for purchase or
24 lease of the parcel; or

25 (d) In the event there is not a written contract or
26 agreement for sale or lease of the parcel, then the completion
27 by the developer of the common areas and such recreational
28 facilities, whether or not they are common areas, which the
29 developer would be obligated to complete under any rule of law
30 applicable to the developer's obligation.

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1 Under no circumstances may a cause of action created or
2 recognized under this section survive for a period of more
3 than 5 years after the closing of the transaction.

4 (2) In any action for relief under this section, the
5 prevailing party may recover reasonable attorney's fees. A
6 developer may not expend association funds in the defense of
7 any suit under this section.

8 Section 19. Subsection (1) of section 34.01, Florida
9 Statutes, is amended to read:

10 34.01 Jurisdiction of county court.--

11 (1) County courts shall have original jurisdiction:

12 (a) In all misdemeanor cases not cognizable by the
13 circuit courts;

14 (b) Of all violations of municipal and county
15 ordinances; ~~and~~

16 (c) Of all actions at law in which the matter in
17 controversy does not exceed the sum of \$15,000, exclusive of
18 interest, costs, and attorney's fees, except those within the
19 exclusive jurisdiction of the circuit courts. The party
20 instituting any civil action, suit, or proceeding pursuant to
21 this paragraph where the amount in controversy is in excess of
22 \$5,000 shall pay to the clerk of the county court the filing
23 fees and service charges in the same amounts and in the same
24 manner as provided in s. 28.241; ~~and~~.

25 (d) Of disputes occurring in the homeowners'
26 associations as described in s. 720.311(2)(a), which shall be
27 concurrent with jurisdiction of the circuit courts.

28 Section 20. Paragraph (a) of subsection (1) of section
29 316.00825, Florida Statutes, is amended to read:

30 316.00825 Closing and abandonment of roads; optional
31 conveyance to homeowners' association; traffic control

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1 jurisdiction.--

2 (1)(a) In addition to the authority provided in s.
3 336.12, the governing body of the county may abandon the roads
4 and rights-of-way dedicated in a recorded residential
5 subdivision plat and simultaneously convey the county's
6 interest in such roads, rights-of-way, and appurtenant
7 drainage facilities to a homeowners' association for the
8 subdivision, if the following conditions have been met:

9 1. The homeowners' association has requested the
10 abandonment and conveyance in writing for the purpose of
11 converting the subdivision to a gated neighborhood with
12 restricted public access.

13 2. No fewer than four-fifths of the owners of record
14 of property located in the subdivision have consented in
15 writing to the abandonment and simultaneous conveyance to the
16 homeowners' association.

17 3. The homeowners' association is both a corporation
18 not for profit organized and in good standing under chapter
19 617, and a "homeowners' association" as defined in s.
20 720.301(8) ~~s. 720.301(7)~~ with the power to levy and collect
21 assessments for routine and periodic major maintenance and
22 operation of street lighting, drainage, sidewalks, and
23 pavement in the subdivision.

24 4. The homeowners' association has entered into and
25 executed such agreements, covenants, warranties, and other
26 instruments; has provided, or has provided assurance of, such
27 funds, reserve funds, and funding sources; and has satisfied
28 such other requirements and conditions as may be established
29 or imposed by the county with respect to the ongoing
30 operation, maintenance, and repair and the periodic
31 reconstruction or replacement of the roads, drainage, street

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1 lighting, and sidewalks in the subdivision after the
2 abandonment by the county.

3 Section 21. Subsection (2) of section 558.002, Florida
4 Statutes, is amended to read:

5 558.002 Definitions.--As used in this act, the term:

6 (2) "Association" has the same meaning as in s.
7 718.103(2), s. 719.103(2), s. 720.301(8) ~~s. 720.301(7)~~, or s.
8 723.025.

9 Section 22. The Division of Statutory Revision is
10 requested to designate sections 720.301-720.312, Florida
11 Statutes, as part I of chapter 720, Florida Statutes; to
12 designate sections 720.401-720.405, Florida Statutes, as part
13 II of chapter 720, Florida Statutes, and entitle that part as
14 "Covenant Revitalization;" to designate sections 720.601 and
15 720.602, Florida Statutes, as part III of chapter 720, Florida
16 Statutes, and entitle that part "DISCLOSURE PRIOR TO SALE OF
17 RESIDENTIAL PARCELS"; and to designate section 720.501,
18 Florida Statutes, as part IV of chapter 720, Florida Statutes,
19 and entitle that part "RIGHTS AND OBLIGATIONS OF DEVELOPERS."

20
21 (Redesignate subsequent sections.)

22
23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 On page 2, line 29, after the semicolon,

27
28 insert:

29 transferring, renumbering, and amending s.
30 689.26, F.S.; modifying the disclosure form
31 that a prospective purchaser must receive

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1 before a contract for sale; providing that
2 certain contracts are voidable for a specified
3 period; requiring that a purchaser provide
4 written notice of cancellation; transferring
5 and renumbering s. 689.265, F.S., relating to
6 required financial reports of certain
7 residential subdivision developers; amending s.
8 498.025, F.S., relating to the disposition of
9 subdivided lands; conforming cross-references;
10 creating s. 720.602, F.S.; providing remedies
11 for publication of false and misleading
12 information; amending s. 34.01, F.S.; providing
13 jurisdiction of disputes involving homeowners'
14 associations; amending ss. 316.00825, 558.002,
15 F.S.; conforming cross-references; providing
16 for internal organization of ch. 720, F.S.;

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