

By Senator Campbell

32-306A-04

1                                   A bill to be entitled  
2           An act relating to community associations;  
3           amending s. 718.111, F.S.; providing immunity  
4           from liability for certain information provided  
5           by associations to prospective purchasers or  
6           lienholders under certain circumstances;  
7           amending s. 720.303, F.S.; requiring specific  
8           notice to be given to association members  
9           before certain assessments or rule changes may  
10          be considered at a meeting; amending s.  
11          768.1325, F.S.; providing immunity from civil  
12          liability for community associations that  
13          provide automated defibrillator devices under  
14          certain circumstances; prohibiting insurers  
15          from requiring associations to purchase medical  
16          malpractice coverage as a condition of issuing  
17          other coverage; providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21           Section 1. Paragraph (e) of subsection (12) of section  
22 718.111, Florida Statutes, is amended to read:

23           718.111 The association.--

24           (1) CORPORATE ENTITY.--

25           (12) OFFICIAL RECORDS.--

26           (e)1. The association or its authorized agent is ~~shall~~  
27 not ~~be~~ required to provide a prospective purchaser or  
28 lienholder with information about the condominium or the  
29 association other than information or documents required by  
30 this chapter to be made available or disclosed. The  
31 association or its authorized agent may ~~shall be entitled to~~

1 charge a reasonable fee to the prospective purchaser,  
2 lienholder, or the current unit owner for ~~its time in~~  
3 providing good faith responses to requests for information by  
4 or on behalf of a prospective purchaser or lienholder, other  
5 than that required by law, if the ~~provided that such~~ fee does  
6 ~~shall~~ not exceed \$150 plus the reasonable cost of photocopying  
7 and any attorney's fees incurred by the association in  
8 connection with the ~~association's~~ response.

9       2. An association and its authorized agent are not  
10 liable for providing such information in good faith pursuant  
11 to a written request if the person providing the information  
12 includes a written statement in substantially the following  
13 form: "The responses herein are made in good faith and to the  
14 best of my ability as to their accuracy."

15       Section 2. Subsection (2) of section 720.303, Florida  
16 Statutes, is amended to read:

17       720.303 Association powers and duties; meetings of  
18 board; official records; budgets; financial reporting.--

19       (2) BOARD MEETINGS.--A meeting of the board of  
20 directors of an association occurs whenever a quorum of the  
21 board gathers to conduct association business. All meetings  
22 of the board must be open to all members except for meetings  
23 between the board and its attorney with respect to proposed or  
24 pending litigation where the contents of the discussion would  
25 otherwise be governed by the attorney-client privilege.  
26 Notices of all board meetings must be posted in a conspicuous  
27 place in the community at least 48 hours in advance of a  
28 meeting, except in an emergency. In the alternative, if  
29 notice is not posted in a conspicuous place in the community,  
30 notice of each board meeting must be mailed or delivered to  
31 each member at least 7 days before the meeting, except in an

1 emergency. Notwithstanding this general notice requirement,  
2 for communities with more than 100 members, the bylaws may  
3 provide for a reasonable alternative to posting or mailing of  
4 notice for each board meeting, including publication of  
5 notice, provision of a schedule of board meetings, or the  
6 conspicuous posting and repeated broadcasting of the notice on  
7 a closed-circuit cable television system serving the  
8 homeowners' association. However, if broadcast notice is used  
9 in lieu of a notice posted physically in the community, the  
10 notice must be broadcast at least four times every broadcast  
11 hour of each day that a posted notice is otherwise required.  
12 When broadcast notice is provided, the notice and agenda must  
13 be broadcast in a manner and for a sufficient continuous  
14 length of time so as to allow an average reader to observe the  
15 notice and read and comprehend the entire content of the  
16 notice and the agenda. The bylaws or amended bylaws may  
17 provide for giving notice by electronic transmission in a  
18 manner authorized by law for meetings of the board of  
19 directors, committee meetings requiring notice under this  
20 section, and annual and special meetings of the members;  
21 however, a member must consent in writing to receiving notice  
22 by electronic transmission. An assessment may not be levied at  
23 a board meeting unless a written ~~the~~ notice of the meeting is  
24 provided to all members at least 14 days before the meeting,  
25 which notice includes a statement that assessments will be  
26 considered at the meeting and the nature of the assessments.  
27 Rules that regulate the use of parcels in the community may  
28 not be adopted, amended, or revoked at a board meeting unless  
29 a written meeting notice is provided to all members at least  
30 14 days before the meeting, which notice includes a statement  
31 that changes to the rules regarding the use of parcels will be

1 considered at the meeting. Directors may not vote by proxy or  
2 by secret ballot at board meetings, except that secret ballots  
3 may be used in the election of officers. This subsection also  
4 applies to the meetings of any committee or other similar  
5 body, when a final decision will be made regarding the  
6 expenditure of association funds, and to any body vested with  
7 the power to approve or disapprove architectural decisions  
8 with respect to a specific parcel of residential property  
9 owned by a member of the community.

10 Section 3. Present subsection (5) of section 768.1325,  
11 Florida Statutes, is redesignated as subsection (6), and a new  
12 subsection (5) is added to that section to read:

13 768.1325 Cardiac Arrest Survival Act; immunity from  
14 civil liability.--

15 (5)(a) A community association organized under chapter  
16 617, chapter 718, chapter 719, chapter 720, chapter 721, or  
17 chapter 723, Florida Statutes, which provides an automated  
18 defibrillator device primarily for the use of its members,  
19 guests, or invitees is immune from civil liability, pursuant  
20 to this section, for any damages that result from the use of  
21 such device if the association offers periodic training in the  
22 use of such device. The failure of any person who uses the  
23 device to take such training does not constitute a basis for  
24 liability against the association.

25 (b) An insurer may not require a community association  
26 to purchase medical malpractice liability coverage as a  
27 condition of issuing any other coverage carried by the  
28 association, and an insurer may not exclude damages resulting  
29 from the use of an automated defibrillator device from  
30 coverage under a general liability policy issued to an  
31 association.

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Section 4. This act shall take effect July 1, 2004.

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SENATE SUMMARY

Revises provisions relating to community associations. Provides immunity from liability for certain information provided by associations to prospective purchasers or lienholders under certain circumstances. Requires that a specific meeting notice be given to members before certain matters may be considered at a meeting. Provides immunity from civil liability for associations that provide automated defibrillator devices under certain circumstances. Prohibits insurers from requiring associations to purchase medical malpractice insurance.