

By the Committees on Judiciary; Health, Aging, and Long-Term Care; Comprehensive Planning; and Senators Campbell and Lynn

308-2394-04

1 A bill to be entitled
2 An act relating to condominium and community
3 associations; amending s. 718.111, F.S.;
4 providing immunity from liability for certain
5 information provided by associations to
6 prospective purchasers or lienholders under
7 certain circumstances; amending s. 720.303,
8 F.S.; requiring specific notice to be given to
9 association members before certain assessments
10 or rule changes may be considered at a meeting;
11 amending s. 768.1325, F.S.; providing immunity
12 from civil liability for community associations
13 that provide automated defibrillator devices
14 under certain circumstances; prohibiting
15 insurers from requiring associations to
16 purchase medical malpractice coverage as a
17 condition of issuing other coverage;
18 prohibiting insurers from excluding from
19 coverage under a general liability policy
20 damages resulting from the use of an automated
21 external defibrillator device; amending ss.
22 718.112 and 719.1055, F.S.; revising
23 notification and voting procedures with respect
24 to any vote to forego retrofitting of the
25 common areas of condominiums and cooperatives
26 with fire sprinkler systems; amending s.
27 718.503, F.S.; requiring unit owners who are
28 not developers to provide a specific question
29 and answer disclosure document to certain
30 prospective purchasers; creating s. 720.401,
31 F.S.; providing legislative intent relating to

1 the revival of governance of a community;
2 creating s. 720.402, F.S.; providing
3 eligibility to revive governance documents;
4 specifying prerequisites to reviving governance
5 documents; creating s. 720.403, F.S.; requiring
6 the formation of an organizing committee;
7 providing for membership; providing duties and
8 responsibilities of the organizing committee;
9 directing the organizing committee to prepare
10 certain documents; providing for the contents
11 of the documents; providing for a vote of the
12 eligible parcel owners; creating s. 720.404,
13 F.S.; directing the organizing committee to
14 file certain documents with the Department of
15 Community Affairs; specifies the content of the
16 submission to the department; requiring the
17 department to approve or disapprove the request
18 to revive the governance documents within a
19 specified time period; creating s. 720.405,
20 F.S.; requiring the organizing committee to
21 file and record certain documents within a
22 specified time period; directing the organizing
23 committee to give all affected parcel owners a
24 copy of the documents filed and recorded;
25 amending ss. 720.301 and 720.302, F.S.;
26 conforming provisions to changes made by the
27 act; amending s. 718.110, F.S.; restricting the
28 application of certain amendments restricting
29 owners' rental rights; providing an effective
30 date.
31

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

2
3 Section 1. Paragraph (e) of subsection (12) of section
4 718.111, Florida Statutes, is amended to read:

5 718.111 The association.--

6 (12) OFFICIAL RECORDS.--

7 (e)1. The association or its authorized agent is ~~shall~~
8 not ~~be~~ required to provide a prospective purchaser or
9 lienholder with information about the condominium or the
10 association other than information or documents required by
11 this chapter to be made available or disclosed. The
12 association or its authorized agent may ~~shall be entitled to~~
13 charge a reasonable fee to the prospective purchaser,
14 lienholder, or the current unit owner for ~~its time in~~
15 providing good faith responses to requests for information by
16 or on behalf of a prospective purchaser or lienholder, other
17 than that required by law, if the ~~provided that~~ such fee does
18 ~~shall~~ not exceed \$150 plus the reasonable cost of photocopying
19 and any attorney's fees incurred by the association in
20 connection with the ~~association's~~ response.

21 2. An association and its authorized agent are not
22 liable for providing such information in good faith pursuant
23 to a written request if the person providing the information
24 includes a written statement in substantially the following
25 form: "The responses herein are made in good faith and to the
26 best of my ability as to their accuracy."

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

29 720.303 Association powers and duties; meetings of
30 board; official records; budgets; financial reporting.--

31

1 (2) BOARD MEETINGS.--A meeting of the board of
2 directors of an association occurs whenever a quorum of the
3 board gathers to conduct association business. All meetings
4 of the board must be open to all members except for meetings
5 between the board and its attorney with respect to proposed or
6 pending litigation where the contents of the discussion would
7 otherwise be governed by the attorney-client privilege.
8 Notices of all board meetings must be posted in a conspicuous
9 place in the community at least 48 hours in advance of a
10 meeting, except in an emergency. In the alternative, if
11 notice is not posted in a conspicuous place in the community,
12 notice of each board meeting must be mailed or delivered to
13 each member at least 7 days before the meeting, except in an
14 emergency. Notwithstanding this general notice requirement,
15 for communities with more than 100 members, the bylaws may
16 provide for a reasonable alternative to posting or mailing of
17 notice for each board meeting, including publication of
18 notice, provision of a schedule of board meetings, or the
19 conspicuous posting and repeated broadcasting of the notice on
20 a closed-circuit cable television system serving the
21 homeowners' association. However, if broadcast notice is used
22 in lieu of a notice posted physically in the community, the
23 notice must be broadcast at least four times every broadcast
24 hour of each day that a posted notice is otherwise required.
25 When broadcast notice is provided, the notice and agenda must
26 be broadcast in a manner and for a sufficient continuous
27 length of time so as to allow an average reader to observe the
28 notice and read and comprehend the entire content of the
29 notice and the agenda. The bylaws or amended bylaws may
30 provide for giving notice by electronic transmission in a
31 manner authorized by law for meetings of the board of

1 directors, committee meetings requiring notice under this
2 section, and annual and special meetings of the members;
3 however, a member must consent in writing to receiving notice
4 by electronic transmission. An assessment may not be levied at
5 a board meeting unless a written ~~the~~ notice of the meeting is
6 provided to all members at least 14 days before the meeting,
7 which notice includes a statement that assessments will be
8 considered at the meeting and the nature of the assessments.
9 Rules that regulate the use of parcels in the community may
10 not be adopted, amended, or revoked at a board meeting unless
11 a written meeting notice is provided to all members at least
12 14 days before the meeting, which notice includes a statement
13 that changes to the rules regarding the use of parcels will be
14 considered at the meeting. Directors may not vote by proxy or
15 by secret ballot at board meetings, except that secret ballots
16 may be used in the election of officers. This subsection also
17 applies to the meetings of any committee or other similar
18 body, when a final decision will be made regarding the
19 expenditure of association funds, and to any body vested with
20 the power to approve or disapprove architectural decisions
21 with respect to a specific parcel of residential property
22 owned by a member of the community.

23 Section 3. Subsection (3) of section 768.1325, Florida
24 Statutes, is amended, and subsection (6) is added to that
25 section, to read:

26 768.1325 Cardiac Arrest Survival Act; immunity from
27 civil liability.--

28 (3) Notwithstanding any other provision of law to the
29 contrary, and except as provided in subsection (4), any person
30 who uses or attempts to use an automated external
31 defibrillator device on a victim of a perceived medical

1 emergency, without objection of the victim of the perceived
2 medical emergency, is immune from civil liability for any harm
3 resulting from the use or attempted use of such device. In
4 addition, any person who acquired the device, including, but
5 not limited to, a community association organized under
6 chapter 617, chapter 718, chapter 719, chapter 720, chapter
7 721, or chapter 723, is immune from such liability, if the
8 harm was not due to the failure of such acquirer of the device
9 to:

10 (a) Notify the local emergency medical services
11 medical director of the most recent placement of the device
12 within a reasonable period of time after the device was
13 placed;

14 (b) Properly maintain and test the device; or

15 (c) Provide appropriate training in the use of the
16 device to an employee or agent of the acquirer when the
17 employee or agent was the person who used the device on the
18 victim, except that such requirement of training does not
19 apply if:

20 1. The employee or agent was not an employee or agent
21 who would have been reasonably expected to use the device; or

22 2. The period of time elapsing between the engagement
23 of the person as an employee or agent and the occurrence of
24 the harm, or between the acquisition of the device and the
25 occurrence of the harm in any case in which the device was
26 acquired after engagement of the employee or agent, was not a
27 reasonably sufficient period in which to provide the training.

28 (6) An insurer may not require an acquirer of an
29 automated external defibrillator device which is a community
30 association organized under chapter 617, chapter 718, chapter
31 719, chapter 720, chapter 721, or chapter 723 to purchase

1 medical malpractice liability coverage as a condition of
2 issuing any other coverage carried by the association, and an
3 insurer may not exclude damages resulting from the use of an
4 automated external defibrillator device from coverage under a
5 general liability policy issued to an association.

6 Section 4. Paragraphs (f) and (l) of subsection (2) of
7 section 718.112, Florida Statutes, are amended to read:

8 718.112 Bylaws.--

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

12 (f) Annual budget.--

13 1. The proposed annual budget of common expenses shall
14 be detailed and shall show the amounts budgeted by accounts
15 and expense classifications, including, if applicable, but not
16 limited to, those expenses listed in s. 718.504(21). A
17 multicondominium association shall adopt a separate budget of
18 common expenses for each condominium the association operates
19 and shall adopt a separate budget of common expenses for the
20 association. In addition, if the association maintains limited
21 common elements with the cost to be shared only by those
22 entitled to use the limited common elements as provided for in
23 s. 718.113(1), the budget or a schedule attached thereto shall
24 show amounts budgeted therefor. If, after turnover of control
25 of the association to the unit owners, any of the expenses
26 listed in s. 718.504(21) are not applicable, they need not be
27 listed.

28 2. In addition to annual operating expenses, the
29 budget shall include reserve accounts for capital expenditures
30 and deferred maintenance. These accounts shall include, but
31 are not limited to, roof replacement, building painting, and

1 pavement resurfacing, regardless of the amount of deferred
2 maintenance expense or replacement cost, and for any other
3 item for which the deferred maintenance expense or replacement
4 cost exceeds \$10,000. The amount to be reserved shall be
5 computed by means of a formula which is based upon estimated
6 remaining useful life and estimated replacement cost or
7 deferred maintenance expense of each reserve item. The
8 association may adjust replacement reserve assessments
9 annually to take into account any changes in estimates or
10 extension of the useful life of a reserve item caused by
11 deferred maintenance. This subsection does not apply to an
12 adopted budget in which the members of an association have
13 determined, by a majority vote at a duly called meeting of the
14 association, to provide no reserves or less reserves than
15 required by this subsection. However, prior to turnover of
16 control of an association by a developer to unit owners other
17 than a developer pursuant to s. 718.301, the developer may
18 vote to waive the reserves or reduce the funding of reserves
19 for the first 2 fiscal years of the association's operation,
20 beginning with the fiscal year in which the initial
21 declaration is recorded, after which time reserves may be
22 waived or reduced only upon the vote of a majority of all
23 nondeveloper voting interests voting in person or by limited
24 proxy at a duly called meeting of the association. If a
25 meeting of the unit owners has been called to determine
26 whether to waive or reduce the funding of reserves, and no
27 such result is achieved or a quorum is not attained, the
28 reserves as included in the budget shall go into effect. After
29 the turnover, the developer may vote its voting interest to
30 waive or reduce the funding of reserves.
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1 3. Reserve funds and any interest accruing thereon
2 shall remain in the reserve account or accounts, and shall be
3 used only for authorized reserve expenditures unless their use
4 for other purposes is approved in advance by a majority vote
5 at a duly called meeting of the association. Prior to turnover
6 of control of an association by a developer to unit owners
7 other than the developer pursuant to s. 718.301, the
8 developer-controlled association shall not vote to use
9 reserves for purposes other than that for which they were
10 intended without the approval of a majority of all
11 nondeveloper voting interests, voting in person or by limited
12 proxy at a duly called meeting of the association.

13 4. ~~In a multicondominium association,~~The only voting
14 interests which are eligible to vote on questions that involve
15 waiving or reducing the funding of reserves, or using existing
16 reserve funds for purposes other than purposes for which the
17 reserves were intended, are the voting interests of the units
18 subject to assessment to fund the reserves in question.

19 (1) Certificate of compliance.--There shall be a
20 provision that a certificate of compliance from a licensed
21 electrical contractor or electrician may be accepted by the
22 association's board as evidence of compliance of the
23 condominium units with the applicable fire and life safety
24 code. Notwithstanding the provisions of chapter 633 or of any
25 other code, statute, ordinance, administrative rule, or
26 regulation, or any interpretation of the foregoing, an
27 association, condominium, or unit owner is not obligated to
28 retrofit the common elements or units of a residential
29 condominium with a fire sprinkler system or other engineered
30 lifesafety system in a building that has been certified for
31 occupancy by the applicable governmental entity, if the unit

1 owners have voted to forego such retrofitting and engineered
2 lifesafety system by the affirmative vote of two-thirds of all
3 voting interests in the affected condominium. However, a
4 condominium association may not vote to forego the
5 retrofitting with a fire sprinkler system of common areas in a
6 high-rise building. For purposes of this subsection, the term
7 "high-rise building" means a building that is greater than 75
8 feet in height where the building height is measured from the
9 lowest level of fire department access to the floor of the
10 highest occupiable story. For purposes of this subsection, the
11 term "common areas" means any enclosed hallway, corridor,
12 lobby, stairwell, or entryway. In no event shall the local
13 authority having jurisdiction require completion of
14 retrofitting of common areas with a sprinkler system before
15 the end of 2014.

16 1. A vote to forego retrofitting may ~~not~~ be obtained
17 by ~~general proxy or limited proxy or by a ballot, but shall be~~
18 ~~obtained by a vote~~ personally cast at a duly called membership
19 meeting, or by execution of a written consent by the member,
20 and shall be effective upon the recording of a certificate
21 attesting to such vote in the public records of the county
22 where the condominium is located. The association shall mail,
23 hand deliver, or electronically transmit to ~~provide~~ each unit
24 owner written notice at least 14 days prior to such membership
25 meeting in which ~~of~~ the vote to forego retrofitting of the
26 required fire sprinkler system is to take place, ~~in at least~~
27 ~~16-point bold type, by certified mail, within 20 days after~~
28 ~~the association's vote. After such notice is provided to each~~
29 ~~owner, a copy of such notice shall be provided by the current~~
30 ~~owner to a new owner prior to closing and shall be provided by~~
31 ~~a unit owner to a renter prior to signing a lease.~~

1 2. As part of the information collected annually from
2 condominiums, the division shall require condominium
3 associations to report the membership vote and recording of a
4 certificate under this subsection and, if retrofitting has
5 been undertaken, the per-unit cost of such work. The division
6 shall annually report to the Division of State Fire Marshal of
7 the Department of Financial Services the number of
8 condominiums that have elected to forego retrofitting.

9 Section 5. Paragraph (a) of subsection (5) of section
10 719.1055, Florida Statutes, is amended to read:

11 719.1055 Amendment of cooperative documents;
12 alteration and acquisition of property.--

13 (5) Notwithstanding the provisions of chapter 633 or
14 of any other code, statute, ordinance, administrative rule, or
15 regulation, or any interpretation of the foregoing, a
16 cooperative or unit owner is not obligated to retrofit the
17 common elements or units of a residential cooperative with a
18 fire sprinkler system or other engineered life safety system
19 in a building that has been certified for occupancy by the
20 applicable governmental entity, if the unit owners have voted
21 to forego such retrofitting and engineered life safety system
22 by the affirmative vote of two-thirds of all voting interests
23 in the affected cooperative. However, a cooperative may not
24 forego the retrofitting with a fire sprinkler system of common
25 areas in a high-rise building. For purposes of this
26 subsection, the term "high-rise building" means a building
27 that is greater than 75 feet in height where the building
28 height is measured from the lowest level of fire department
29 access to the floor of the highest occupiable story. For
30 purposes of this subsection, the term "common areas" means any
31 enclosed hallway, corridor, lobby, stairwell, or entryway. In

1 no event shall the local authority having jurisdiction require
2 completion of retrofitting of common areas with a sprinkler
3 system before the end of 2014.

4 (a) A vote to forego retrofitting may ~~not~~ be obtained
5 by ~~general proxy or limited proxy or by a ballot, but shall be~~
6 ~~obtained by a vote~~ personally cast at a duly called membership
7 meeting, or by execution of a written consent by the member,
8 and shall be effective upon the recording of a certificate
9 attesting to such vote in the public records of the county
10 where the cooperative is located. The association shall mail,
11 hand deliver, or electronically transmit to provide each unit
12 owner written notice at least 14 days prior to such membership
13 meeting in which ~~of~~ the vote to forego retrofitting of the
14 required fire sprinkler system is to take place, in at least
15 ~~16-point bold type, by certified mail, within 20 days after~~
16 ~~the association's vote. After such notice is provided to each~~
17 ~~owner, a copy of such notice shall be provided by the current~~
18 ~~owner to a new owner prior to closing and shall be provided by~~
19 ~~a unit owner to a renter prior to signing a lease.~~

20 Section 6. Subsection (2) of section 718.503, Florida
21 Statutes, is amended to read:

22 718.503 Developer disclosure prior to sale;
23 nondeveloper unit owner disclosure prior to sale;
24 voidability.--

25 (2) NONDEVELOPER DISCLOSURE.--

26 (a) Each unit owner who is not a developer as defined
27 by this chapter shall comply with the provisions of this
28 subsection prior to the sale of his or her unit. Each
29 prospective purchaser who has entered into a contract for the
30 purchase of a condominium unit is entitled, at the seller's
31 expense, to a current copy of the declaration of condominium,

1 articles of incorporation of the association, bylaws, and
2 rules of the association, ~~and a copy of the financial~~
3 information required by s. 718.111, and the document entitled
4 "Frequently Asked Questions and Answers" required by s.
5 718.504.

6 (b) If a person licensed under part I of chapter 475
7 provides to or otherwise obtains for a prospective purchaser
8 the documents described in this subsection, the person is not
9 liable for any error or inaccuracy contained in the documents.

10 (c) Each contract entered into after July 1, 1992, for
11 the resale of a residential unit shall contain in conspicuous
12 type either:

13 1. A clause which states: THE BUYER HEREBY
14 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF
15 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF
16 THE ASSOCIATION, BYLAWS ~~AND~~ RULES OF THE ASSOCIATION, AND A
17 COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND
18 FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT MORE THAN 3
19 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR
20 TO EXECUTION OF THIS CONTRACT; or

21 2. A clause which states: THIS AGREEMENT IS VOIDABLE
22 BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION
23 TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND
24 LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT
25 BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE
26 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS
27 AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT
28 YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS
29 AND ANSWERS DOCUMENT IF SO REQUESTED IN WRITING. ANY PURPORTED
30 WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT.
31 BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE

1 THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS,
2 AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF
3 INCORPORATION, BYLAWS, AND RULES OF THE ASSOCIATION, AND A
4 COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND
5 FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF REQUESTED
6 IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL
7 TERMINATE AT CLOSING.

8
9 A contract that does not conform to the requirements of this
10 paragraph is voidable at the option of the purchaser prior to
11 closing.

12 Section 7. Section 720.401, Florida Statutes, is
13 created to read:

14 720.401 Preservation of residential communities;
15 revival of declaration of covenants.--

16 (1) Consistent with required and optional elements of
17 local comprehensive plans and other applicable provisions of
18 the Local Government Comprehensive Planning and Land
19 Development Regulation Act, homeowners are encouraged to
20 preserve existing residential communities, promote available
21 and affordable housing, protect structural and aesthetic
22 elements of their residential community, and, as applicable,
23 maintain roads and streets, easements, water and sewer
24 systems, utilities, drainage improvements, conservation and
25 open areas, recreational amenities, and other infrastructure
26 and common areas that serve and support the residential
27 community by the revival of a previous declaration of
28 covenants and other governing documents that may have ceased
29 to govern some or all parcels in the community.

30 (2) In order to preserve a residential community and
31 the associated infrastructure and common areas for the

1 purposes described in this section, the parcel owners in a
2 community that was previously subject to a declaration of
3 covenants that has ceased to govern one or more parcels in the
4 community may revive the declaration and the homeowners'
5 association for the community upon approval by the parcel
6 owners to be governed thereby as provided in this act, and
7 upon approval of the declaration and the other governing
8 documents for the association by the Department of Community
9 Affairs in a manner consistent with this act.

10 Section 8. Section 720.402, Florida Statutes, is
11 created to read:

12 720.402 Eligible residential communities; requirements
13 for revival of declaration.--Parcel owners in a community are
14 eligible to seek approval from the Department of Community
15 Affairs to revive a declaration of covenants under this act if
16 all of the following requirements are met:

17 (1) All parcels to be governed by the revived
18 declaration must have been once governed by a previous
19 declaration that has ceased to govern some or all of the
20 parcels in the community;

21 (2) The revived declaration must be approved in the
22 manner provided in s. 720.403(6); and

23 (3) The revived declaration may not contain covenants
24 that are more restrictive on the parcel owners than the
25 covenants contained in the previous declaration, except that
26 the declaration may:

27 (a) Have an effective term of longer duration than the
28 term of the previous declaration;

29 (b) Omit restrictions contained in the previous
30 declaration;

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1 (c) Govern fewer than all of the parcels governed by
2 the previous declaration;

3 (d) Provide for amendments to the declaration and
4 other governing documents; and

5 (e) Contain provisions required by this chapter for
6 new declarations that were not contained in the previous
7 declaration.

8 Section 9. Section 720.403, Florida Statutes, is
9 created to read:

10 720.403 Organizing committee; parcel owner approval.--

11 (1) The proposal to revive a declaration of covenants
12 and a homeowners' association for a community under the terms
13 of this act shall be initiated by an organizing committee
14 consisting of not less than three parcel owners located in the
15 community that is proposed to be governed by the revived
16 declaration. The name, address, and telephone number of each
17 member of the organizing committee must be included in any
18 notice or other document provided by the committee to parcel
19 owners to be affected by the proposed revived declaration.

20 (2) The organizing committee shall prepare or cause to
21 be prepared the complete text of the proposed revised
22 declaration of covenants to be submitted to the parcel owners
23 for approval. The proposed revived documents must identify
24 each parcel that is to be subject to the governing documents
25 by its legal description, and by the name of the parcel owner
26 or the person in whose name the parcel is assessed on the last
27 completed tax assessment roll of the county at the time when
28 the proposed revived declaration is submitted for approval by
29 the parcel owners.

30 (3) The organizing committee shall prepare the full
31 text of the proposed articles of incorporation and bylaws of

1 the revived homeowners' association to be submitted to the
2 parcel owners for approval, unless the association is then an
3 existing corporation, in which case the organizing committee
4 shall prepare the existing articles of incorporation and
5 bylaws to be submitted to the parcel owners.

6 (4) The proposed revived declaration and other
7 governing documents for the community shall:

8 (a) Provide that the voting interest of each parcel
9 owner shall be the same as the voting interest of the parcel
10 owner under the previous governing documents;

11 (b) Provide that the proportional-assessment
12 obligations of each parcel owner shall be the same as
13 proportional-assessment obligations of the parcel owner under
14 the previous governing documents;

15 (c) Contain the same respective amendment provisions
16 as the previous governing documents or, if there were no
17 amendment provisions in the previous governing document,
18 amendment provisions that require approval of not less than
19 two-thirds of the affected parcel owners;

20 (d) Contain no covenants that are more restrictive on
21 the affected parcel owners than the covenants contained in the
22 previous governing documents, except as permitted under s.
23 720.402(3); and

24 (e) Comply with the other requirements for a
25 declaration of covenants and other governing documents as
26 specified in this chapter.

27 (5) A copy of the complete text of the proposed
28 revised declaration of covenants, the proposed new or existing
29 articles of incorporation and bylaws of the homeowners'
30 association, and a graphic depiction of the property to be
31 governed by the revived declaration shall be presented to all

1 of the affected parcel owners by mail or hand delivery not
2 less than 14 days before the time that the consent of the
3 affected parcel owners to the proposed governing documents is
4 sought by the organizing committee.

5 (6) A majority of the affected parcel owners must
6 agree in writing to the revived declaration of covenants and
7 governing documents of the homeowners' association or approve
8 the revived declaration and governing documents by a vote at a
9 meeting of the affected parcel owners noticed and conducted in
10 the manner prescribed by s. 720.306. Proof of notice of the
11 meeting to all affected owners of the meeting and the minutes
12 of the meeting recording the votes of the property owners
13 shall be certified by a court reporter or an attorney licensed
14 to practice in the state.

15 Section 10. Section 720.404, Florida Statutes, is
16 created to read:

17 720.404 Department of Community Affairs; submission;
18 review and determination.--

19 (1) No later than 60 days after the date the proposed
20 revived declaration and other governing documents are approved
21 by the affected parcel owners, the organizing committee or its
22 designee must submit the proposed revived governing documents
23 and supporting materials to the Department of Community
24 Affairs to review and determine whether to approve or
25 disapprove of the proposal to preserve the residential
26 community. The submission to the department must include:

27 (a) The full text of the proposed revived declaration
28 of covenants and articles of incorporation and bylaws of the
29 homeowners' association;

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1 (b) A verified copy of the previous declaration of
2 covenants and other previous governing documents for the
3 community, including any amendments thereto;

4 (c) The legal description of each parcel to be subject
5 to the revived declaration and other governing documents and a
6 plat or other graphic depiction of the affected properties in
7 the community;

8 (d) A verified copy of the written consents of the
9 requisite number of the affected parcel owners approving the
10 revived declaration and other governing documents or, if
11 approval was obtained by a vote at a meeting of affected
12 parcel owners, verified copies of the notice of the meeting,
13 attendance, and voting results;

14 (e) An affidavit by a current or former officer of the
15 association or by a member of the organizing committee
16 verifying that the requirements for the revived declaration
17 set forth in s. 720.402 have been satisfied; and

18 (f) Such other documentation that the organizing
19 committee believes is supportive of the policy of preserving
20 the residential community and operating, managing, and
21 maintaining the infrastructure, aesthetic character, and
22 common areas serving the residential community.

23 (2) No later than 60 days after receiving the
24 submission, the department must determine whether the proposed
25 revived declaration of covenants and other governing documents
26 comply with the requirements of this act.

27 (a) If the department determines that the proposed
28 revived declaration and other governing documents comply with
29 the act and have been approved by the parcel owners as
30 required by this act, the department shall notify the
31 organizing committee in writing of its approval.

1 **(b) If the department determines that the proposed**
2 **revived declaration and other governing documents do not**
3 **comply with this act or have not been approved as required by**
4 **this act, the department shall notify the organizing committee**
5 **in writing that it does not approve the governing documents**
6 **and shall state the reasons for the disapproval.**

7 Section 11. Section 720.405, Florida Statutes, is
8 created to read:

9 **720.405 Recording; notice of recording; applicability**
10 **and effective date.--**

11 **(1) No later than 30 days after receiving approval**
12 **from the department, the organizing committee shall file the**
13 **articles of incorporation of the association with the Division**
14 **of Corporations of the Department of State if the articles**
15 **have not been previously filed with the division.**

16 **(2) No later than 30 days after receiving approval**
17 **from the division, the president and secretary of the**
18 **association shall execute the revived declaration and other**
19 **governing documents approved by the department in the name of**
20 **the association and have the documents recorded with the clerk**
21 **of the circuit court in the county where the affected parcels**
22 **are located.**

23 **(3) The recorded documents shall include the full text**
24 **of the approved declaration of covenants, the articles of**
25 **incorporation and bylaws of the homeowners' association, the**
26 **letter of approval by the department, and the legal**
27 **description of each affected parcel of property.**

28 **(4) Immediately after recording the documents, a**
29 **complete copy of all of the approved recorded documents must**
30 **be mailed or hand delivered to the owner of each affected**
31 **parcel. The revived declaration and other governing documents**

1 shall be effective upon recordation in the public records with
2 respect to each affected parcel subject thereto, regardless of
3 whether the particular parcel owner approved the revived
4 declaration. Upon recordation, the revived declaration shall
5 replace and supersede the previous declaration with respect to
6 all affected parcels then governed by the previous declaration
7 and shall have the same record priority as the superseded
8 previous declaration. With respect to any affected parcels
9 that had ceased to be governed by the previous declaration as
10 of the recording date, the revived declaration may not have
11 retroactive effect with respect to the parcel and shall take
12 priority with respect to the parcel as of the recording date.

13 Section 12. Section 720.301, Florida Statutes, is
14 amended to read:

15 720.301 Definitions.--As used in this chapter ~~ss.~~
16 ~~720.301-720.312~~, the term:

17 (1) "Assessment" or "amenity fee" means a sum or sums
18 of money payable to the association, to the developer or other
19 owner of common areas, or to recreational facilities and other
20 properties serving the parcels by the owners of one or more
21 parcels as authorized in the governing documents, which if not
22 paid by the owner of a parcel, can result in a lien against
23 the parcel.

24 (2) "Common area" means all real property within a
25 community which is owned or leased by an association or
26 dedicated for use or maintenance by the association or its
27 members, including, regardless of whether title has been
28 conveyed to the association:

29 (a) Real property the use of which is dedicated to the
30 association or its members by a recorded plat; or

31

1 (b) Real property committed by a declaration of
2 covenants to be leased or conveyed to the association.

3 (3) "Community" means the real property that is or
4 will be subject to a declaration of covenants which is
5 recorded in the county where the property is located. The
6 term "community" includes all real property, including
7 undeveloped phases, that is or was the subject of a
8 development-of-regional-impact development order, together
9 with any approved modification thereto.

10 (4) "Declaration of covenants," or "declaration,"
11 means a recorded written instrument in the nature of covenants
12 running with the land which subjects the land comprising the
13 community to the jurisdiction and control of an association or
14 associations in which the owners of the parcels, or their
15 association representatives, must be members.

16 (5) "Developer" means a person or entity that:

17 (a) Creates the community served by the association;
18 or

19 (b) Succeeds to the rights and liabilities of the
20 person or entity that created the community served by the
21 association, provided that such is evidenced in writing.

22 (6) "Governing documents" means:

23 (a) The recorded declaration of covenants for a
24 community, and all duly adopted and recorded amendments,
25 supplements, and recorded exhibits thereto; and

26 (b) The articles of incorporation and bylaws of the
27 homeowners' association, and any duly adopted amendments
28 thereto.

29 (7) "Homeowners' association" or "association" means a
30 Florida corporation responsible for the operation of a
31 community or a mobile home subdivision in which the voting

1 membership is made up of parcel owners or their agents, or a
2 combination thereof, and in which membership is a mandatory
3 condition of parcel ownership, and which is authorized to
4 impose assessments that, if unpaid, may become a lien on the
5 parcel. The term "homeowners' association" does not include a
6 community development district or other similar special taxing
7 district created pursuant to statute.

8 (8) "Member" means a member of an association, and may
9 include, but is not limited to, a parcel owner or an
10 association representing parcel owners or a combination
11 thereof.

12 (9) "Parcel" means a platted or unplatted lot, tract,
13 unit, or other subdivision of real property within a
14 community, as described in the declaration:

15 (a) Which is capable of separate conveyance; and

16 (b) Of which the parcel owner, or an association in
17 which the parcel owner must be a member, is obligated:

18 1. By the governing documents to be a member of an
19 association that serves the community; and

20 2. To pay to the homeowners' association assessments
21 that, if not paid, may result in a lien.

22 (10) "Parcel owner" means the record owner of legal
23 title to a parcel.

24 (11) "Voting interest" means the voting rights
25 distributed to the members of the homeowners' association,
26 pursuant to the governing documents.

27 Section 13. Subsections (1), (3), and (4) of section
28 720.302, are amended to read:

29 720.302 Purposes, scope, and application.--

30 (1) The purposes of this chapter ~~ss. 720.301-720.312~~
31 are to give statutory recognition to corporations not for

1 profit that operate residential communities in this state, to
2 provide procedures for operating homeowners' associations, and
3 to protect the rights of association members without unduly
4 impairing the ability of such associations to perform their
5 functions.

6 (3) This chapter does ~~Sections 720.301-720.312~~ do not
7 apply to:

8 (a) A community that is composed of property primarily
9 intended for commercial, industrial, or other nonresidential
10 use; or

11 (b) The commercial or industrial parcels in a
12 community that contains both residential parcels and parcels
13 intended for commercial or industrial use.

14 (4) This chapter does ~~Sections 720.301-720.312~~ do not
15 apply to any association that is subject to regulation under
16 chapter 718, chapter 719, or chapter 721; or to any
17 nonmandatory association formed under chapter 723.

18 Section 14. Subsection (13) is added to section
19 718.110, Florida Statutes, to read:

20 718.110 Amendment of declaration; correction of error
21 or omission in declaration by circuit court.--

22 (13) Unless expressly stated in the amendment, any
23 amendment restricting unit owners' rights relating to the
24 rental of units applies only to unit owners who consent to the
25 amendment and unit owners who purchase their units after the
26 effective date of that amendment. Notwithstanding any other
27 provision of law or of the declaration or bylaws, if an
28 amendment expressly restricts the rental rights of
29 nonconsenting unit owners, it must be approved by not less
30 than three-fourths of the voting interests.

31 Section 15. This act shall take effect July 1, 2004.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS CS Senate Bill 1184

4 The bill adds several additional provisions to the prior
5 version of the bill as follows:

6 Condominiums

- 7 - Provide immunity from liability to condominium
8 associations and their agents for providing information
9 to prospective purchasers that is not required to be
10 provided by law;
- 11 - Require nondeveloper sellers of condominium units to
12 provide prospective purchasers with a document titled
13 "Frequently Asked Questions and Answers";
- 14 - Require condominium associations to provide written
15 notice to all members 14 days before a meeting of the
16 board of the association that will consider assessments
17 and rules regulating the use of parcels;
- 18 - Provide that the only voting interests entitled to vote
19 on reducing the funding of reserves or using the reserves
20 for a purpose for which the reserves were not intended
21 are the voting interests that funded the reserves;
- 22 - Provide that an amendment to a declaration of condominium
23 that restricts the rental rights of a unit owners applies
24 only to a unit owners that consent to the restriction and
25 to unit owners who purchase their units after the
26 effective date of the amendment, unless expressly stated
27 to the contrary in the amendment;
- 28 - Require an amendment to a declaration of condominium that
29 restricts the rental rights of nonconsenting condominium
30 unit owners to be approved by at least three-fourths of
31 the voting interests in the association;

32 Firesafety

- 33 - Authorize voting by limited proxy on votes to forego
34 retrofitting a condominium or cooperative with a fire
35 sprinkler system;
- 36 - Require condominium unit owners or cooperative members to
37 be provided with 14-days notice before votes to forego
38 retrofitting with a fire sprinkler system;

39 Homeowners' Associations

- 40 - Provide a method for the revival of a homeowners'
41 associations expired declarations of covenants;

42 Automated External Defibrillators

- 43 - Provide immunity from liability under certain
44 circumstances to community associations for damages
45 caused by the use of an automated external defibrillator

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