

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 providing for judicial determination of the
26 effects of revived covenants on parcels;
27 providing for effects of such a judicial
28 determination; amending ss. 720.301 and
29 720.302, F.S.; conforming provisions to changes
30 made by the act; providing definitions;
31 prescribing a legislative purpose of providing

1 alternative dispute resolution procedures for
2 disputes involving elections and recalls;
3 amending s. 720.303, F.S.; prescribing the
4 right of an association to enforce deed
5 restrictions; prescribing rights of members and
6 parcel owners to attend and address association
7 board meetings and to have items placed on an
8 agenda; prescribing additional requirements for
9 notice of meetings; providing for additional
10 materials to be maintained as records;
11 providing additional requirements and
12 limitations with respect to inspecting and
13 copying records; providing requirements with
14 respect to financial statements; providing
15 procedures for recall of directors; amending s.
16 720.304, F.S.; prescribing owners' rights with
17 respect to flag display; prohibiting certain
18 lawsuits against parcel owners; providing
19 penalties; allowing a parcel owner to construct
20 a ramp for a parcel resident who has a medical
21 need for a ramp; providing conditions; allowing
22 the display of a security-services sign;
23 amending s. 720.305, F.S.; providing that a
24 fine by an association cannot become a lien
25 against a parcel; providing for attorney's fees
26 in actions to recover fines; creating s.
27 720.3055, F.S.; prescribing requirements for
28 contracts for products and services; amending
29 s. 720.306, F.S.; providing for notice of and
30 right to speak at member meetings; requiring
31 election disputes between a member and an

1 association to be submitted to mandatory
2 binding arbitration; amending s. 720.311, F.S.;
3 expanding requirements and guidelines with
4 respect to alternative dispute resolution;
5 providing requirements for mediation and
6 arbitration; providing for training and
7 education programs; amending s. 718.110, F.S.;
8 restricting the application of certain
9 amendments restricting owners' rental rights;
10 transferring, renumbering, and amending s.
11 689.26, F.S.; modifying the disclosure form
12 that a prospective purchaser must receive
13 before a contract for sale; providing that
14 certain contracts are voidable for a specified
15 period; requiring that a purchaser provide
16 written notice of cancellation; transferring
17 and renumbering s. 689.265, F.S., relating to
18 required financial reports of certain
19 residential subdivision developers; amending s.
20 498.025, F.S., relating to the disposition of
21 subdivided lands; conforming cross-references;
22 creating s. 720.602, F.S.; providing remedies
23 for publication of false and misleading
24 information; amending s. 34.01, F.S.; providing
25 jurisdiction of disputes involving homeowners'
26 associations; amending ss. 316.00825, 558.002,
27 F.S.; conforming cross-references; providing
28 for internal organization of ch. 720, F.S.;
29 amending s. 190.012, F.S.; providing for the
30 enforcement of deed restrictions in certain
31 circumstances; amending s. 190.046, F.S.;

1 providing for additional dissolution
2 procedures; amending s. 190.006, F.S.;
3 specifying procedures for selecting a chair at
4 the initial landowners' meeting; specifying
5 requirements for proxy voting; requiring notice
6 of landowners' elections; specifying the terms
7 of certain supervisors; providing for
8 nonpartisan elections; specifying the time that
9 resident supervisors assume office; authorizing
10 the supervisor of elections to designate seat
11 numbers for resident supervisors of the board;
12 providing procedures for filing qualifying
13 papers; allowing candidates the option of
14 paying a filing fee to qualify for the
15 election; specifying payment requirements;
16 specifying the number of petition signatures
17 required to qualify for the election; requiring
18 the county canvassing board to certify the
19 results of resident elections; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraph (e) of subsection (12) of section
25 718.111, Florida Statutes, is amended to read:

26 718.111 The association.--

27 (12) OFFICIAL RECORDS.--

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

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

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

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

19 720.303 Association powers and duties; meetings of
20 board; official records; budgets; financial reporting.--

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

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

1 14 days before the meeting, which notice includes a statement
2 that changes to the rules regarding the use of parcels will be
3 considered at the meeting. Directors may not vote by proxy or
4 by secret ballot at board meetings, except that secret ballots
5 may be used in the election of officers. This subsection also
6 applies to the meetings of any committee or other similar
7 body, when a final decision will be made regarding the
8 expenditure of association funds, and to any body vested with
9 the power to approve or disapprove architectural decisions
10 with respect to a specific parcel of residential property
11 owned by a member of the community.

12 Section 3. Subsection (3) of section 768.1325, Florida
13 Statutes, is amended, and subsection (6) is added to that
14 section, to read:

15 768.1325 Cardiac Arrest Survival Act; immunity from
16 civil liability.--

17 (3) Notwithstanding any other provision of law to the
18 contrary, and except as provided in subsection (4), any person
19 who uses or attempts to use an automated external
20 defibrillator device on a victim of a perceived medical
21 emergency, without objection of the victim of the perceived
22 medical emergency, is immune from civil liability for any harm
23 resulting from the use or attempted use of such device. In
24 addition, any person who acquired the device, including, but
25 not limited to, a community association organized under
26 chapter 617, chapter 718, chapter 719, chapter 720, chapter
27 721, or chapter 723, is immune from such liability, if the
28 harm was not due to the failure of such acquirer of the device
29 to:

30 (a) Notify the local emergency medical services
31 medical director of the most recent placement of the device

1 within a reasonable period of time after the device was
2 placed;

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

4 (c) Provide appropriate training in the use of the
5 device to an employee or agent of the acquirer when the
6 employee or agent was the person who used the device on the
7 victim, except that such requirement of training does not
8 apply if:

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

11 2. The period of time elapsing between the engagement
12 of the person as an employee or agent and the occurrence of
13 the harm, or between the acquisition of the device and the
14 occurrence of the harm in any case in which the device was
15 acquired after engagement of the employee or agent, was not a
16 reasonably sufficient period in which to provide the training.

17 (6) An insurer may not require an acquirer of an
18 automated external defibrillator device which is a community
19 association organized under chapter 617, chapter 718, chapter
20 719, chapter 720, chapter 721, or chapter 723 to purchase
21 medical malpractice liability coverage as a condition of
22 issuing any other coverage carried by the association, and an
23 insurer may not exclude damages resulting from the use of an
24 automated external defibrillator device from coverage under a
25 general liability policy issued to an association.

26 Section 4. Paragraphs (f) and (1) of subsection (2) of
27 section 718.112, Florida Statutes, are amended to read:

28 718.112 Bylaws.--

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

1 (f) Annual budget.--

2 1. The proposed annual budget of common expenses shall
3 be detailed and shall show the amounts budgeted by accounts
4 and expense classifications, including, if applicable, but not
5 limited to, those expenses listed in s. 718.504(21). A
6 multicondominium association shall adopt a separate budget of
7 common expenses for each condominium the association operates
8 and shall adopt a separate budget of common expenses for the
9 association. In addition, if the association maintains limited
10 common elements with the cost to be shared only by those
11 entitled to use the limited common elements as provided for in
12 s. 718.113(1), the budget or a schedule attached thereto shall
13 show amounts budgeted therefor. If, after turnover of control
14 of the association to the unit owners, any of the expenses
15 listed in s. 718.504(21) are not applicable, they need not be
16 listed.

17 2. In addition to annual operating expenses, the
18 budget shall include reserve accounts for capital expenditures
19 and deferred maintenance. These accounts shall include, but
20 are not limited to, roof replacement, building painting, and
21 pavement resurfacing, regardless of the amount of deferred
22 maintenance expense or replacement cost, and for any other
23 item for which the deferred maintenance expense or replacement
24 cost exceeds \$10,000. The amount to be reserved shall be
25 computed by means of a formula which is based upon estimated
26 remaining useful life and estimated replacement cost or
27 deferred maintenance expense of each reserve item. The
28 association may adjust replacement reserve assessments
29 annually to take into account any changes in estimates or
30 extension of the useful life of a reserve item caused by
31 deferred maintenance. This subsection does not apply to an

1 adopted budget in which the members of an association have
2 determined, by a majority vote at a duly called meeting of the
3 association, to provide no reserves or less reserves than
4 required by this subsection. However, prior to turnover of
5 control of an association by a developer to unit owners other
6 than a developer pursuant to s. 718.301, the developer may
7 vote to waive the reserves or reduce the funding of reserves
8 for the first 2 fiscal years of the association's operation,
9 beginning with the fiscal year in which the initial
10 declaration is recorded, after which time reserves may be
11 waived or reduced only upon the vote of a majority of all
12 nondeveloper voting interests voting in person or by limited
13 proxy at a duly called meeting of the association. If a
14 meeting of the unit owners has been called to determine
15 whether to waive or reduce the funding of reserves, and no
16 such result is achieved or a quorum is not attained, the
17 reserves as included in the budget shall go into effect. After
18 the turnover, the developer may vote its voting interest to
19 waive or reduce the funding of reserves.

20 3. Reserve funds and any interest accruing thereon
21 shall remain in the reserve account or accounts, and shall be
22 used only for authorized reserve expenditures unless their use
23 for other purposes is approved in advance by a majority vote
24 at a duly called meeting of the association. Prior to turnover
25 of control of an association by a developer to unit owners
26 other than the developer pursuant to s. 718.301, the
27 developer-controlled association shall not vote to use
28 reserves for purposes other than that for which they were
29 intended without the approval of a majority of all
30 nondeveloper voting interests, voting in person or by limited
31 proxy at a duly called meeting of the association.

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

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 the applicable fire and life safety
12 code. Notwithstanding the provisions of chapter 633 or of any
13 other code, statute, ordinance, administrative rule, or
14 regulation, or any interpretation of the foregoing, an
15 association, condominium, or unit owner is not obligated to
16 retrofit the common elements or units of a residential
17 condominium with a fire sprinkler system or other engineered
18 lifesafety system in a building that has been certified for
19 occupancy by the applicable governmental entity, if the unit
20 owners have voted to forego such retrofitting and engineered
21 lifesafety system by the affirmative vote of two-thirds of all
22 voting interests in the affected condominium. However, a
23 condominium association may not vote to forego the
24 retrofitting with a fire sprinkler system of common areas in a
25 high-rise building. For purposes of this subsection, the term
26 "high-rise building" means a building that is greater than 75
27 feet in height where the building height is measured from the
28 lowest level of fire department access to the floor of the
29 highest occupiable story. For purposes of this subsection, the
30 term "common areas" means any enclosed hallway, corridor,
31 lobby, stairwell, or entryway. In no event shall the local

1 authority having jurisdiction require completion of
2 retrofitting of common areas with a sprinkler system before
3 the end of 2014.

4 1. 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 condominium 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. Within 30 days after the association's
17 opt-out vote, notice of the results of the opt-out vote shall
18 be mailed, delivered, or electronically transmitted to all
19 unit owners. Evidence of compliance with this 30-day notice
20 shall be made by an affidavit executed by the person providing
21 the notice and filed among the official records of the
22 association. After such notice is provided to each owner, a
23 copy of such notice shall be provided by the current owner to
24 a new owner prior to closing and shall be provided by a unit
25 owner to a renter prior to signing a lease.

26 2. As part of the information collected annually from
27 condominiums, the division shall require condominium
28 associations to report the membership vote and recording of a
29 certificate under this subsection and, if retrofitting has
30 been undertaken, the per-unit cost of such work. The division
31 shall annually report to the Division of State Fire Marshal of

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

3 Section 5. Paragraph (a) of subsection (5) of section
4 719.1055, Florida Statutes, is amended to read:

5 719.1055 Amendment of cooperative documents;
6 alteration and acquisition of property.--

7 (5) Notwithstanding the provisions of chapter 633 or
8 of any other code, statute, ordinance, administrative rule, or
9 regulation, or any interpretation of the foregoing, a
10 cooperative or unit owner is not obligated to retrofit the
11 common elements or units of a residential cooperative with a
12 fire sprinkler system or other engineered life safety system
13 in a building that has been certified for occupancy by the
14 applicable governmental entity, if the unit owners have voted
15 to forego such retrofitting and engineered life safety system
16 by the affirmative vote of two-thirds of all voting interests
17 in the affected cooperative. However, a cooperative may not
18 forego the retrofitting with a fire sprinkler system of common
19 areas in a high-rise building. For purposes of this
20 subsection, the term "high-rise building" means a building
21 that is greater than 75 feet in height where the building
22 height is measured from the lowest level of fire department
23 access to the floor of the highest occupiable story. For
24 purposes of this subsection, the term "common areas" means any
25 enclosed hallway, corridor, lobby, stairwell, or entryway. In
26 no event shall the local authority having jurisdiction require
27 completion of retrofitting of common areas with a sprinkler
28 system before the end of 2014.

29 (a) A vote to forego retrofitting may ~~not~~ be obtained
30 by ~~general proxy or limited proxy or by a ballot, but shall be~~
31 ~~obtained by a vote~~ personally cast at a duly called membership

1 meeting, or by execution of a written consent by the member,
2 and shall be effective upon the recording of a certificate
3 attesting to such vote in the public records of the county
4 where the cooperative is located. The association shall mail,
5 hand deliver, or electronically transmit to ~~provide~~ each unit
6 owner written notice at least 14 days prior to such membership
7 meeting in which ~~of~~ the vote to forego retrofitting of the
8 required fire sprinkler system is to take place, ~~in at least~~
9 ~~16 point bold type, by certified mail, within 20 days after~~
10 ~~the association's vote. Within 30 days after the association's~~
11 opt-out vote, notice of the results of the opt-out vote shall
12 be mailed, delivered, or electronically transmitted to all
13 unit owners. Evidence of compliance with this 30-day notice
14 shall be made by an affidavit executed by the person providing
15 the notice and filed among the official records of the
16 association. After such notice is provided to each owner, a
17 copy of such notice shall be provided by the current owner to
18 a new owner prior to closing and shall be provided by a unit
19 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~~7~~ 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~~7~~ 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~~7~~ 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;

31

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;

30
31

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. For purposes
28 of chapter 712, the association is deemed to be and shall be
29 indexed as the grantee in a title transaction and the parcel
30 owners named in the revived declaration are deemed to be and
31 shall be indexed as the grantors in the title transaction.

1 (4) Immediately after recording the documents, a
2 complete copy of all of the approved recorded documents must
3 be mailed or hand delivered to the owner of each affected
4 parcel. The revived declaration and other governing documents
5 shall be effective upon recordation in the public records with
6 respect to each affected parcel subject thereto, regardless of
7 whether the particular parcel owner approved the revived
8 declaration. Upon recordation, the revived declaration shall
9 replace and supersede the previous declaration with respect to
10 all affected parcels then governed by the previous declaration
11 and shall have the same record priority as the superseded
12 previous declaration. With respect to any affected parcels
13 that had ceased to be governed by the previous declaration as
14 of the recording date, the revived declaration may not have
15 retroactive effect with respect to the parcel and shall take
16 priority with respect to the parcel as of the recording date.

17 (5) With respect to any parcel that has ceased to be
18 governed by a previous declaration of covenants as of the
19 effective date of this act, the parcel owner may commence an
20 action within one year after the effective date of this act
21 for a judicial determination that the previous declaration did
22 not govern that parcel as of the effective date of this act
23 and that any revival of such declaration as to that parcel
24 would unconstitutionally deprive the parcel owner of rights or
25 property. A revived declaration that is implemented pursuant
26 to this act shall not apply to or affect the rights of the
27 respective parcel owner recognized by any court order or
28 judgment in any such action commenced within one year after
29 the effective date of this act, and any such rights so
30 recognized may not be subsequently altered by a revived

31

1 declaration implemented under this act without the consent of
2 the affected property owner.

3 Section 12. Section 720.301, Florida Statutes, is
4 amended to read:

5 720.301 Definitions.--As used in this chapter ~~ss.~~
6 ~~720.301-720.312~~, the term:

7 (1) "Assessment" or "amenity fee" means a sum or sums
8 of money payable to the association, to the developer or other
9 owner of common areas, or to recreational facilities and other
10 properties serving the parcels by the owners of one or more
11 parcels as authorized in the governing documents, which if not
12 paid by the owner of a parcel, can result in a lien against
13 the parcel.

14 (2) "Common area" means all real property within a
15 community which is owned or leased by an association or
16 dedicated for use or maintenance by the association or its
17 members, including, regardless of whether title has been
18 conveyed to the association:

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

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

23 (3) "Community" means the real property that is or
24 will be subject to a declaration of covenants which is
25 recorded in the county where the property is located. The
26 term "community" includes all real property, including
27 undeveloped phases, that is or was the subject of a
28 development-of-regional-impact development order, together
29 with any approved modification thereto.

30 (4) "Declaration of covenants," or "declaration,"
31 means a recorded written instrument in the nature of covenants

1 running with the land which subjects the land comprising the
2 community to the jurisdiction and control of an association or
3 associations in which the owners of the parcels, or their
4 association representatives, must be members.

5 (5) "Department" means the Department of Business and
6 Professional Regulation.

7 ~~(6)(5)~~ "Developer" means a person or entity that:

8 (a) Creates the community served by the association;

9 or

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

13 (7) "Division" means the Division of Florida Land
14 Sales, Condominiums, and Mobile Homes in the Department of
15 Business and Professional Regulation.

16 ~~(8)(6)~~ "Governing documents" means:

17 (a) The recorded declaration of covenants for a
18 community, and all duly adopted and recorded amendments,
19 supplements, and recorded exhibits thereto; and

20 (b) The articles of incorporation and bylaws of the
21 homeowners' association, and any duly adopted amendments
22 thereto.

23 ~~(9)(7)~~ "Homeowners' association" or "association"
24 means a Florida corporation responsible for the operation of a
25 community or a mobile home subdivision in which the voting
26 membership is made up of parcel owners or their agents, or a
27 combination thereof, and in which membership is a mandatory
28 condition of parcel ownership, and which is authorized to
29 impose assessments that, if unpaid, may become a lien on the
30 parcel. The term "homeowners' association" does not include a
31

1 community development district or other similar special taxing
2 district created pursuant to statute.

3 ~~(10)(8)~~ "Member" means a member of an association, and
4 may include, but is not limited to, a parcel owner or an
5 association representing parcel owners or a combination
6 thereof, and includes any person or entity obligated by the
7 governing documents to pay an assessment or amenity fee.

8 ~~(11)(9)~~ "Parcel" means a platted or unplatted lot,
9 tract, unit, or other subdivision of real property within a
10 community, as described in the declaration:

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

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

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

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

18 ~~(12)(10)~~ "Parcel owner" means the record owner of
19 legal title to a parcel.

20 ~~(13)(11)~~ "Voting interest" means the voting rights
21 distributed to the members of the homeowners' association,
22 pursuant to the governing documents.

23 Section 13. Subsections (1), (2), (3), and (4) of
24 section 720.302, are amended to read:

25 720.302 Purposes, scope, and application.--

26 (1) The purposes of this chapter ~~ss. 720.301-720.312~~
27 are to give statutory recognition to corporations not for
28 profit that operate residential communities in this state, to
29 provide procedures for operating homeowners' associations, and
30 to protect the rights of association members without unduly
31

1 | impairing the ability of such associations to perform their
2 | functions.

3 | (2) The Legislature recognizes that it is not in the
4 | best interest of homeowners' associations or the individual
5 | association members thereof to create or impose a bureau or
6 | other agency of state government to regulate the affairs of
7 | homeowners' associations. However, in accordance with s.
8 | 720.311, the Legislature finds that homeowners' associations
9 | and their individual members will benefit from an expedited
10 | alternative process for resolution of election and recall
11 | disputes and presuit mediation of other disputes involving
12 | covenant enforcement and authorizes the department to hear,
13 | administer, and determine these disputes as more fully set
14 | forth in this chapter. Further, the Legislature recognizes
15 | that certain contract rights have been created for the benefit
16 | of homeowners' associations and members thereof before the
17 | effective date of this act and that ss. 720.301-720.501 ~~ss.~~
18 | ~~720.301-720.312~~ are not intended to impair such contract
19 | rights, including, but not limited to, the rights of the
20 | developer to complete the community as initially contemplated.

21 | (3) This chapter does ~~Sections 720.301-720.312 do~~ not
22 | 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) This chapter does ~~Sections 720.301-720.312 do~~ not
30 | apply to any association that is subject to regulation under
31 |

1 chapter 718, chapter 719, or chapter 721; or to any
2 nonmandatory association formed under chapter 723.

3 Section 14. Section 720.303, Florida Statutes, is
4 amended to read:

5 720.303 Association powers and duties; meetings of
6 board; official records; budgets; financial reporting;
7 association funds; recalls.--

8 (1) POWERS AND DUTIES.--An association which operates
9 a community as defined in s. 720.301, must be operated by an
10 association that is a Florida corporation. After October 1,
11 1995, the association must be incorporated and the initial
12 governing documents must be recorded in the official records
13 of the county in which the community is located. An
14 association may operate more than one community. The officers
15 and directors of an association have a fiduciary relationship
16 to the members who are served by the association. The powers
17 and duties of an association include those set forth in this
18 chapter and, except as expressly limited or restricted in this
19 chapter, those set forth in the governing documents. After
20 control of the association is obtained by members ~~unit owners~~
21 other than the developer, the association may institute,
22 maintain, settle, or appeal actions or hearings in its name on
23 behalf of all members concerning matters of common interest to
24 the members, including, but not limited to, the common areas;
25 roof or structural components of a building, or other
26 improvements for which the association is responsible;
27 mechanical, electrical, or plumbing elements serving an
28 improvement or building for which the association is
29 responsible; representations of the developer pertaining to
30 any existing or proposed commonly used facility; and
31 protesting ad valorem taxes on commonly used facilities. The

1 association may defend actions in eminent domain or bring
2 inverse condemnation actions. Before commencing litigation
3 against any party in the name of the association involving
4 amounts in controversy in excess of \$100,000, the association
5 must obtain the affirmative approval of a majority of the
6 voting interests at a meeting of the membership at which a
7 quorum has been attained. This subsection does not limit any
8 statutory or common-law right of any individual member or
9 class of members to bring any action without participation by
10 the association. A member does not have authority to act for
11 the association by virtue of being a member. An association
12 may have more than one class of members and may issue
13 membership certificates. An association of 15 or fewer parcel
14 owners may enforce only the requirements of those deed
15 restrictions established prior to the purchase of each parcel
16 upon an affected parcel owner or owners.

17 (2) BOARD MEETINGS.--

18 (a) A meeting of the board of directors of an
19 association occurs whenever a quorum of the board gathers to
20 conduct association business. All meetings of the board must
21 be open to all members except for meetings between the board
22 and its attorney with respect to proposed or pending
23 litigation where the contents of the discussion would
24 otherwise be governed by the attorney-client privilege.

25 (b) Members have the right to attend all meetings of
26 the board and to speak on any matter placed on the agenda by
27 petition of the voting interests for at least 3 minutes. The
28 association may adopt written reasonable rules expanding the
29 right of members to speak and governing the frequency,
30 duration, and other manner of member statements, which rules
31 must be consistent with this paragraph and may include a

1 sign-up sheet for members wishing to speak. Notwithstanding
2 any other law, the requirement that board meetings and
3 committee meetings be open to the members is inapplicable to
4 meetings between the board or a committee and the
5 association's attorney, with respect to meetings of the board
6 held for the purpose of discussing personnel matters.

7 (c) The bylaws shall provide for giving notice to
8 parcel owners and members of all board meetings and, if they
9 do not do so, shall be deemed to provide the following:

10 1. Notices of all board meetings must be posted in a
11 conspicuous place in the community at least 48 hours in
12 advance of a meeting, except in an emergency. In the
13 alternative, if notice is not posted in a conspicuous place in
14 the community, notice of each board meeting must be mailed or
15 delivered to each member at least 7 days before the meeting,
16 except in an emergency. Notwithstanding this general notice
17 requirement, for communities with more than 100 members, the
18 bylaws may provide for a reasonable alternative to posting or
19 mailing of notice for each board meeting, including
20 publication of notice, provision of a schedule of board
21 meetings, or the conspicuous posting and repeated broadcasting
22 of the notice on a closed-circuit cable television system
23 serving the homeowners' association. However, if broadcast
24 notice is used in lieu of a notice posted physically in the
25 community, the notice must be broadcast at least four times
26 every broadcast hour of each day that a posted notice is
27 otherwise required. When broadcast notice is provided, the
28 notice and agenda must be broadcast in a manner and for a
29 sufficient continuous length of time so as to allow an average
30 reader to observe the notice and read and comprehend the
31 entire content of the notice and the agenda. The bylaws or

1 amended bylaws may provide for giving notice by electronic
2 transmission in a manner authorized by law for meetings of the
3 board of directors, committee meetings requiring notice under
4 this section, and annual and special meetings of the members;
5 however, a member must consent in writing to receiving notice
6 by electronic transmission.

7 2. An assessment may not be levied at a board meeting
8 unless the notice of the meeting includes a statement that
9 assessments will be considered and the nature of the
10 assessments. Written notice of any meeting at which special
11 assessments will be considered or at which amendments to rules
12 regarding parcel use will be considered must be mailed,
13 delivered, or electronically transmitted to the members and
14 parcel owners and posted conspicuously on the property or
15 broadcast on closed-circuit cable television not less than 14
16 days before the meeting.

17 3. Directors may not vote by proxy or by secret ballot
18 at board meetings, except that secret ballots may be used in
19 the election of officers. This subsection also applies to the
20 meetings of any committee or other similar body, when a final
21 decision will be made regarding the expenditure of association
22 funds, and to any body vested with the power to approve or
23 disapprove architectural decisions with respect to a specific
24 parcel of residential property owned by a member of the
25 community.

26 (d) If 20 percent of the total voting interests
27 petition the board to address an item of business, the board
28 shall at its next regular board meeting or at a special
29 meeting of the board, but not later than 60 days after the
30 receipt of the petition, take the petitioned item up on an
31 agenda. The board shall give all members notice of the meeting

1 at which the petitioned item shall be addressed in accordance
2 with the 14-day notice requirement pursuant to subparagraph 2.
3 Each member shall have the right to speak for at least 3
4 minutes on each matter placed on the agenda by petition,
5 provided that the member signs the sign-up sheet, if one is
6 provided, or submits a written request to speak prior to the
7 meeting. Other than addressing the petitioned item at the
8 meeting, the board is not obligated to take any other action
9 requested by the petition.

10 (3) MINUTES.--Minutes of all meetings of the members
11 of an association and of the board of directors of an
12 association must be maintained in written form or in another
13 form that can be converted into written form within a
14 reasonable time. A vote or abstention from voting on each
15 matter voted upon for each director present at a board meeting
16 must be recorded in the minutes.

17 (4) OFFICIAL RECORDS.--The association shall maintain
18 each of the following items, when applicable, which constitute
19 the official records of the association:

20 (a) Copies of any plans, specifications, permits, and
21 warranties related to improvements constructed on the common
22 areas or other property that the association is obligated to
23 maintain, repair, or replace.

24 (b) A copy of the bylaws of the association and of
25 each amendment to the bylaws.

26 (c) A copy of the articles of incorporation of the
27 association and of each amendment thereto.

28 (d) A copy of the declaration of covenants and a copy
29 of each amendment thereto.

30 (e) A copy of the current rules of the homeowners'
31 association.

1 (f) The minutes of all meetings of the board of
2 directors and of the members, which minutes must be retained
3 for at least 7 years.

4 (g) A current roster of all members and their mailing
5 addresses and parcel identifications. The association shall
6 also maintain the electronic mailing addresses and the numbers
7 designated by members for receiving notice sent by electronic
8 transmission of those members consenting to receive notice by
9 electronic transmission. The electronic mailing addresses and
10 numbers provided by unit owners to receive notice by
11 electronic transmission shall be removed from association
12 records when consent to receive notice by electronic
13 transmission is revoked. However, the association is not
14 liable for an erroneous disclosure of the electronic mail
15 address or the number for receiving electronic transmission of
16 notices.

17 (h) All of the association's insurance policies or a
18 copy thereof, which policies must be retained for at least 7
19 years.

20 (i) A current copy of all contracts to which the
21 association is a party, including, without limitation, any
22 management agreement, lease, or other contract under which the
23 association has any obligation or responsibility. Bids
24 received by the association for work to be performed must also
25 be considered official records and must be kept for a period
26 of 1 year.

27 (j) The financial and accounting records of the
28 association, kept according to good accounting practices. All
29 financial and accounting records must be maintained for a
30 period of at least 7 years. The financial and accounting
31 records must include:

- 1 1. Accurate, itemized, and detailed records of all
2 receipts and expenditures.
- 3 2. A current account and a periodic statement of the
4 account for each member, designating the name and current
5 address of each member who is obligated to pay assessments,
6 the due date and amount of each assessment or other charge
7 against the member, the date and amount of each payment on the
8 account, and the balance due.
- 9 3. All tax returns, financial statements, and
10 financial reports of the association.
- 11 4. Any other records that identify, measure, record,
12 or communicate financial information.
- 13 (k) A copy of the disclosure summary described in s.
14 720.401(2).
- 15 (l) All other written records of the association not
16 specifically included in the foregoing which are related to
17 the operation of the association.
- 18 (5) INSPECTION AND COPYING OF RECORDS.--The official
19 records shall be maintained within the state and must be open
20 to inspection and available for photocopying by members or
21 their authorized agents at reasonable times and places within
22 10 business days after receipt of a written request for
23 access. This subsection may be complied with by having a copy
24 of the official records available for inspection or copying in
25 the community. If the association has a photocopy machine
26 available where the records are maintained, it must provide
27 parcel owners with copies on request during the inspection if
28 the entire request is limited to no more than 25 pages.
- 29 (a) The failure of an association to provide access to
30 the records within 10 business days after receipt of a written
31

1 request creates a rebuttable presumption that the association
2 willfully failed to comply with this subsection.

3 (b) A member who is denied access to official records
4 is entitled to the actual damages or minimum damages for the
5 association's willful failure to comply with this subsection.
6 The minimum damages are to be \$50 per calendar day up to 10
7 days, the calculation to begin on the 11th business day after
8 receipt of the written request.

9 (c) The association may adopt reasonable written rules
10 governing the frequency, time, location, notice, records to be
11 inspected, and manner of inspections, but may not impose a
12 requirement that a parcel owner demonstrate any proper purpose
13 for the inspection, state any reason for the inspection, or
14 limit a parcel owner's right to inspect records to less than
15 one 8-hour business day per month. The association ~~and~~ may
16 impose fees to cover the costs of providing copies of the
17 official records, including, without limitation, the costs of
18 copying. The association may charge up to 50 cents per page
19 for copies made on the association's photocopier. If the
20 association does not have a photocopy machine available where
21 the records are kept, or if the records requested to be copied
22 exceed 25 pages in length, the association may have copies
23 made by an outside vendor and may charge the actual cost of
24 copying. The association shall maintain an adequate number of
25 copies of the recorded governing documents, to ensure their
26 availability to members and prospective members, ~~and may~~
27 ~~charge only its actual costs for reproducing and furnishing~~
28 ~~these documents to those persons who are entitled to receive~~
29 ~~them.~~ Notwithstanding the provisions of this paragraph, the
30 following records shall not be accessible to members or parcel
31 owners:

1 1. Any record protected by the lawyer-client privilege
2 as described in s. 90.502 and any record protected by the
3 work-product privilege, including, but not limited to, any
4 record prepared by an association attorney or prepared at the
5 attorney's express direction which reflects a mental
6 impression, conclusion, litigation strategy, or legal theory
7 of the attorney or the association and was prepared
8 exclusively for civil or criminal litigation or for
9 adversarial administrative proceedings or which was prepared
10 in anticipation of imminent civil or criminal litigation or
11 imminent adversarial administrative proceedings until the
12 conclusion of the litigation or adversarial administrative
13 proceedings.

14 2. Information obtained by an association in
15 connection with the approval of the lease, sale, or other
16 transfer of a parcel.

17 3. Disciplinary, health, insurance, and personnel
18 records of the association's employees.

19 4. Medical records of parcel owners or community
20 residents.

21 (6) BUDGETS.--The association shall prepare an annual
22 budget. The budget must reflect the estimated revenues and
23 expenses for that year and the estimated surplus or deficit as
24 of the end of the current year. The budget must set out
25 separately all fees or charges for recreational amenities,
26 whether owned by the association, the developer, or another
27 person. The association shall provide each member with a copy
28 of the annual budget or a written notice that a copy of the
29 budget is available upon request at no charge to the member.
30 The copy must be provided to the member within the time limits
31 set forth in subsection (5).

1 (7) FINANCIAL REPORTING.--The association shall
2 prepare an annual financial report within 60 days after the
3 close of the fiscal year. The association shall, within the
4 time limits set forth in subsection (5), provide each member
5 with a copy of the annual financial report or a written notice
6 that a copy of the financial report is available upon request
7 at no charge to the member. Financial reports shall be
8 prepared as follows ~~The financial report must consist of~~
9 ~~either:~~

10 (a) An association that meets the criteria of this
11 paragraph shall prepare or cause to be prepared a complete set
12 of financial statements in accordance with generally accepted
13 accounting principles. The financial statements shall be based
14 upon the association's total annual revenues, as follows:

15 1. An association with total annual revenues of
16 \$100,000 or more, but less than \$200,000, shall prepare
17 compiled financial statements.

18 2. An association with total annual revenues of at
19 least \$200,000, but less than \$400,000, shall prepare reviewed
20 financial statements.

21 3. An association with total annual revenues of
22 \$400,000 or more shall prepare audited financial statements.
23 ~~Financial statements presented in conformity with generally~~
24 ~~accepted accounting principles; or~~

25 (b) ~~A financial report of actual receipts and~~
26 ~~expenditures, cash basis, which report must show:~~

27 1. An association with total annual revenues of less
28 than \$100,000 shall prepare a report of cash receipts and
29 expenditures. The amount of receipts and expenditures by
30 classification; and
31

1 2. An association in a community of fewer than 50
2 parcels, regardless of the association's annual revenues, may
3 prepare a report of cash receipts and expenditures in lieu of
4 financial statements required by paragraph (a) unless the
5 governing documents provide otherwise. ~~The beginning and~~
6 ~~ending cash balances of the association.~~

7 3. A report of cash receipts and disbursement must
8 disclose the amount of receipts by accounts and receipt
9 classifications and the amount of expenses by accounts and
10 expense classifications, including, but not limited to, the
11 following, as applicable: costs for security, professional,
12 and management fees and expenses; taxes; costs for recreation
13 facilities; expenses for refuse collection and utility
14 services; expenses for lawn care; costs for building
15 maintenance and repair; insurance costs; administration and
16 salary expenses; and reserves if maintained by the
17 association.

18 (c) If 20 percent of the parcel owners petition the
19 board for a level of financial reporting higher than that
20 required by this section, the association shall duly notice
21 and hold a meeting of members within 30 days of receipt of the
22 petition for the purpose of voting on raising the level of
23 reporting for that fiscal year. Upon approval of a majority of
24 the total voting interests of the parcel owners, the
25 association shall prepare or cause to be prepared, shall amend
26 the budget or adopt a special assessment to pay for the
27 financial report regardless of any provision to the contrary
28 in the governing documents, and shall provide within 90 days
29 of the meeting or the end of the fiscal year, whichever occurs
30 later:

31

1 1. Compiled, reviewed, or audited financial
2 statements, if the association is otherwise required to
3 prepare a report of cash receipts and expenditures;

4 2. Reviewed or audited financial statements, if the
5 association is otherwise required to prepare compiled
6 financial statements; or

7 3. Audited financial statements if the association is
8 otherwise required to prepare reviewed financial statements.

9 (d) If approved by a majority of the voting interests
10 present at a properly called meeting of the association, an
11 association may prepare or cause to be prepared:

12 1. A report of cash receipts and expenditures in lieu
13 of a compiled, reviewed, or audited financial statement;

14 2. A report of cash receipts and expenditures or a
15 compiled financial statement in lieu of a reviewed or audited
16 financial statement; or

17 3. A report of cash receipts and expenditures, a
18 compiled financial statement, or a reviewed financial
19 statement in lieu of an audited financial statement.

20 (8) ASSOCIATION FUNDS; COMMINGLING.--

21 (a) All association funds held by a developer shall be
22 maintained separately in the association's name. Reserve and
23 operating funds of the association shall not be commingled
24 prior to turnover except the association may jointly invest
25 reserve funds; however, such jointly invested funds must be
26 accounted for separately.

27 (b) No developer in control of a homeowners'
28 association shall commingle any association funds with his or
29 her funds or with the funds of any other homeowners'
30 association or community association.

31

1 (c) Association funds may not be used by a developer
2 to defend a civil or criminal action, administrative
3 proceeding, or arbitration proceeding that has been filed
4 against the developer or directors appointed to the
5 association board by the developer, even when the subject of
6 the action or proceeding concerns the operation of the
7 developer-controlled association.

8 (9) APPLICABILITY.--Sections 617.1601-617.1604 do not
9 apply to a homeowners' association in which the members have
10 the inspection and copying rights set forth in this section.

11 (10) RECALL OF DIRECTORS.--

12 (a)1. Regardless of any provision to the contrary
13 contained in the governing documents, subject to the
14 provisions of s. 720.307 regarding transition of association
15 control, any member of the board or directors may be recalled
16 and removed from office with or without cause by a majority of
17 the total voting interests.

18 2. When the governing documents, including the
19 declaration, articles of incorporation, or bylaws, provide
20 that only a specific class of members is entitled to elect a
21 board director or directors, only that class of members may
22 vote to recall those board directors so elected.

23 (b)1. Board directors may be recalled by an agreement
24 in writing or by written ballot without a membership meeting.
25 The agreement in writing or the written ballots, or a copy
26 thereof, shall be served on the association by certified mail
27 or by personal service in the manner authorized by chapter 48
28 and the Florida Rules of Civil Procedure.

29 2. The board shall duly notice and hold a meeting of
30 the board within 5 full business days after receipt of the
31 agreement in writing or written ballots. At the meeting, the

1 board shall either certify the written ballots or written
2 agreement to recall a director or directors of the board, in
3 which case such director or directors shall be recalled
4 effective immediately and shall turn over to the board within
5 5 full business days any and all records and property of the
6 association in their possession, or proceed as described in
7 paragraph (d).

8 3. When it is determined by the department pursuant to
9 binding arbitration proceedings that an initial recall effort
10 was defective, written recall agreements or written ballots
11 used in the first recall effort and not found to be defective
12 may be reused in one subsequent recall effort. However, in no
13 event is a written agreement or written ballot valid for more
14 than 120 days after it has been signed by the member.

15 4. Any rescission or revocation of a member's written
16 recall ballot or agreement must be in writing and, in order to
17 be effective, must be delivered to the association before the
18 association is served with the written recall agreements or
19 ballots.

20 5. The agreement in writing or ballot shall list at
21 least as many possible replacement directors as there are
22 directors subject to the recall, when at least a majority of
23 the board is sought to be recalled; the person executing the
24 recall instrument may vote for as many replacement candidates
25 as there are directors subject to the recall.

26 (c)1. If the declaration, articles of incorporation,
27 or bylaws specifically provide, the members may also recall
28 and remove a board director or directors by a vote taken at a
29 meeting. If so provided in the governing documents, a special
30 meeting of the members to recall a director or directors of
31 the board of administration may be called by 10 percent of the

1 voting interests giving notice of the meeting as required for
2 a meeting of members, and the notice shall state the purpose
3 of the meeting. Electronic transmission may not be used as a
4 method of giving notice of a meeting called in whole or in
5 part for this purpose.

6 2. The board shall duly notice and hold a board
7 meeting within 5 full business days after the adjournment of
8 the member meeting to recall one or more directors. At the
9 meeting, the board shall certify the recall, in which case
10 such member or members shall be recalled effective immediately
11 and shall turn over to the board within 5 full business days
12 any and all records and property of the association in their
13 possession, or shall proceed as set forth in subparagraph (d).

14 (d) If the board determines not to certify the written
15 agreement or written ballots to recall a director or directors
16 of the board or does not certify the recall by a vote at a
17 meeting, the board shall, within 5 full business days after
18 the meeting, file with the department a petition for binding
19 arbitration pursuant to the applicable procedures in ss.
20 718.1255 and 718.112(2)(j) and the rules adopted thereunder.
21 For the purposes of this section, the members who voted at the
22 meeting or who executed the agreement in writing shall
23 constitute one party under the petition for arbitration. If
24 the arbitrator certifies the recall as to any director or
25 directors of the board, the recall will be effective upon
26 mailing of the final order of arbitration to the association.
27 The director or directors so recalled shall deliver to the
28 board any and all records of the association in their
29 possession within 5 full business days after the effective
30 date of the recall.

31

1 (e) If a vacancy occurs on the board as a result of a
2 recall and less than a majority of the board directors are
3 removed, the vacancy may be filled by the affirmative vote of
4 a majority of the remaining directors, notwithstanding any
5 provision to the contrary contained in this subsection or in
6 the association documents. If vacancies occur on the board as
7 a result of a recall and a majority or more of the board
8 directors are removed, the vacancies shall be filled by
9 members voting in favor of the recall; if removal is at a
10 meeting, any vacancies shall be filled by the members at the
11 meeting. If the recall occurred by agreement in writing or by
12 written ballot, members may vote for replacement directors in
13 the same instrument in accordance with procedural rules
14 adopted by the division, which rules need not be consistent
15 with this subsection.

16 (f) If the board fails to duly notice and hold a board
17 meeting within 5 full business days after service of an
18 agreement in writing or within 5 full business days after the
19 adjournment of the member recall meeting, the recall shall be
20 deemed effective and the board directors so recalled shall
21 immediately turn over to the board all records and property of
22 the association.

23 (g) If a director who is removed fails to relinquish
24 his or her office or turn over records as required under this
25 section, the circuit court in the county where the association
26 maintains its principal office may, upon the petition of the
27 association, summarily order the director to relinquish his or
28 her office and turn over all association records upon
29 application of the association.

30 (h) The minutes of the board meeting at which the
31 board decides whether to certify the recall are an official

1 association record. The minutes must record the date and time
2 of the meeting, the decision of the board, and the vote count
3 taken on each board member subject to the recall. In addition,
4 when the board decides not to certify the recall, as to each
5 vote rejected, the minutes must identify the parcel number and
6 the specific reason for each such rejection.

7 (i) When the recall of more than one board director is
8 sought, the written agreement, ballot, or vote at a meeting
9 shall provide for a separate vote for each board director
10 sought to be recalled.

11 Section 15. Section 720.304, Florida Statutes, is
12 amended to read:

13 720.304 Right of owners to peaceably assemble; display
14 of flag; SLAPP suits prohibited.--

15 (1) All common areas and recreational facilities
16 serving any homeowners' association shall be available to
17 parcel owners in the homeowners' association served thereby
18 and their invited guests for the use intended for such common
19 areas and recreational facilities. The entity or entities
20 responsible for the operation of the common areas and
21 recreational facilities may adopt reasonable rules and
22 regulations pertaining to the use of such common areas and
23 recreational facilities. No entity or entities shall
24 unreasonably restrict any parcel owner's right to peaceably
25 assemble or right to invite public officers or candidates for
26 public office to appear and speak in common areas and
27 recreational facilities.

28 (2) Any homeowner may display one portable, removable
29 United States flag or official flag of the State of Florida in
30 a respectful manner, and on Armed Forces Day, Memorial Day,
31 Flag Day, Independence Day, and Veterans Day may display in a

1 respectful manner portable, removable official flags, not
2 larger than 4 1/2 feet by 6 feet, which represents the United
3 States Army, Navy, Air Force, Marine Corps, or Coast Guard,
4 regardless of any declaration rules or requirements dealing
5 with flags or decorations.

6 (3) Any owner prevented from exercising rights
7 guaranteed by subsection (1) or subsection (2) may bring an
8 action in the appropriate court of the county in which the
9 alleged infringement occurred, and, upon favorable
10 adjudication, the court shall enjoin the enforcement of any
11 provision contained in any homeowners' association document or
12 rule that operates to deprive the owner of such rights.

13 (4) It is the intent of the Legislature to protect the
14 right of parcel owners to exercise their rights to instruct
15 their representatives and petition for redress of grievances
16 before the various governmental entities of this state as
17 protected by the First Amendment to the United States
18 Constitution and s. 5, Art. I of the State Constitution. The
19 Legislature recognizes that "Strategic Lawsuits Against Public
20 Participation" or "SLAPP" suits, as they are typically called,
21 have occurred when members are sued by individuals, business
22 entities, or governmental entities arising out of a parcel
23 owner's appearance and presentation before a governmental
24 entity on matters related to the homeowners' association.
25 However, it is the public policy of this state that government
26 entities, business organizations, and individuals not engage
27 in SLAPP suits because such actions are inconsistent with the
28 right of parcel owners to participate in the state's
29 institutions of government. Therefore, the Legislature finds
30 and declares that prohibiting such lawsuits by governmental
31 entities, business entities, and individuals against parcel

1 owners who address matters concerning their homeowners'
2 association will preserve this fundamental state policy,
3 preserve the constitutional rights of parcel owners, and
4 assure the continuation of representative government in this
5 state. It is the intent of the Legislature that such lawsuits
6 be expeditiously disposed of by the courts.

7 (a) As used in this subsection, the term "governmental
8 entity" means the state, including the executive, legislative,
9 and judicial branches of government, the independent
10 establishments of the state, counties, municipalities,
11 districts, authorities, boards, or commissions, or any
12 agencies of these branches which are subject to chapter 286.

13 (b) A governmental entity, business organization, or
14 individual in this state may not file or cause to be filed
15 through its employees or agents any lawsuit, cause of action,
16 claim, cross-claim, or counterclaim against a parcel owner
17 without merit and solely because such parcel owner has
18 exercised the right to instruct his or her representatives or
19 the right to petition for redress of grievances before the
20 various governmental entities of this state, as protected by
21 the First Amendment to the United States Constitution and s.
22 5, Art. I of the State Constitution.

23 (c) A parcel owner sued by a governmental entity,
24 business organization, or individual in violation of this
25 section has a right to an expeditious resolution of a claim
26 that the suit is in violation of this section. A parcel owner
27 may petition the court for an order dismissing the action or
28 granting final judgment in favor of that parcel owner. The
29 petitioner may file a motion for summary judgment, together
30 with supplemental affidavits, seeking a determination that the
31 governmental entity's, business organization's, or

1 individual's lawsuit has been brought in violation of this
2 section. The governmental entity, business organization, or
3 individual shall thereafter file its response and any
4 supplemental affidavits. As soon as practicable, the court
5 shall set a hearing on the petitioner's motion, which shall be
6 held at the earliest possible time after the filing of the
7 governmental entity's, business organization's or individual's
8 response. The court may award the parcel owner sued by the
9 governmental entity, business organization, or individual
10 actual damages arising from the governmental entity's,
11 individual's, or business organization's violation of this
12 section. A court may treble the damages awarded to a
13 prevailing parcel owner and shall state the basis for the
14 treble damages award in its judgment. The court shall award
15 the prevailing party reasonable attorney's fees and costs
16 incurred in connection with a claim that an action was filed
17 in violation of this section.

18 (d) Homeowners' associations may not expend
19 association funds in prosecuting a SLAPP suit against a parcel
20 owner.

21 (5)(a) Any parcel owner may construct an access ramp
22 if a resident or occupant of the parcel has a medical
23 necessity or disability that requires a ramp for egress and
24 ingress under the following conditions:

25 1. The ramp must be as unobtrusive as possible, be
26 designed to blend in aesthetically as practicable, and be
27 reasonably sized to fit the intended use.

28 2. Plans for the ramp must be submitted in advance to
29 the homeowners' association. The association may make
30 reasonable requests to modify the design to achieve
31

1 architectural consistency with surrounding structures and
2 surfaces.

3 (b) The parcel owner must submit to the association an
4 affidavit from a physician attesting to the medical necessity
5 or disability of the resident or occupant of the parcel
6 requiring the access ramp. Certification used for s. 320.0848
7 shall be sufficient to meet the affidavit requirement.

8 (6) Any parcel owner may display a sign of reasonable
9 size provided by a contractor for security services within 10
10 feet of any entrance to the home.

11 Section 16. Subsection (2) of section 720.305, Florida
12 Statutes, is amended to read:

13 720.305 Obligations of members; remedies at law or in
14 equity; levy of fines and suspension of use rights; failure to
15 fill sufficient number of vacancies on board of directors to
16 constitute a quorum; appointment of receiver upon petition of
17 any member.--

18 (2) If the governing documents so provide, an
19 association may suspend, for a reasonable period of time, the
20 rights of a member or a member's tenants, guests, or invitees,
21 or both, to use common areas and facilities and may levy
22 reasonable fines, not to exceed \$100 per violation, against
23 any member or any tenant, guest, or invitee. A fine may be
24 levied on the basis of each day of a continuing violation,
25 with a single notice and opportunity for hearing, except that
26 no such fine shall exceed \$1,000 in the aggregate unless
27 otherwise provided in the governing documents. A fine shall
28 not become a lien against a parcel. In any action to recover a
29 fine, the prevailing party is entitled to collect its
30 reasonable attorney's fees and costs from the nonprevailing
31 party as determined by the court.

1 (a) A fine or suspension may not be imposed without
2 notice of at least 14 days to the person sought to be fined or
3 suspended and an opportunity for a hearing before a committee
4 of at least three members appointed by the board who are not
5 officers, directors, or employees of the association, or the
6 spouse, parent, child, brother, or sister of an officer,
7 director, or employee. If the committee, by majority vote,
8 does not approve a proposed fine or suspension, it may not be
9 imposed.

10 (b) The requirements of this subsection do not apply
11 to the imposition of suspensions or fines upon any member
12 because of the failure of the member to pay assessments or
13 other charges when due if such action is authorized by the
14 governing documents.

15 (c) Suspension of common-area-use rights shall not
16 impair the right of an owner or tenant of a parcel to have
17 vehicular and pedestrian ingress to and egress from the
18 parcel, including, but not limited to, the right to park.

19 Section 17. Section 720.3055, Florida Statutes, is
20 created to read:

21 720.3055 Contracts for products and services; in
22 writing; bids; exceptions.--

23 (1) All contracts as further described in this section
24 or any contract that is not to be fully performed within 1
25 year after the making thereof for the purchase, lease, or
26 renting of materials or equipment to be used by the
27 association in accomplishing its purposes under this chapter
28 or the governing documents, and all contracts for the
29 provision of services, shall be in writing. If a contract for
30 the purchase, lease, or renting of materials or equipment, or
31 for the provision of services, requires payment by the

1 association that exceeds 10 percent of the total annual budget
2 of the association, including reserves, the association must
3 obtain competitive bids for the materials, equipment, or
4 services. Nothing contained in this section shall be construed
5 to require the association to accept the lowest bid.

6 (2)(a)1. Notwithstanding the foregoing, contracts with
7 employees of the association, and contracts for attorney,
8 accountant, architect, community association manager,
9 engineering, and landscape architect services are not subject
10 to the provisions of this section.

11 2. A contract executed before October 1, 2004, and any
12 renewal thereof, is not subject to the competitive bid
13 requirements of this section. If a contract was awarded under
14 the competitive bid procedures of this section, any renewal of
15 that contract is not subject to such competitive bid
16 requirements if the contract contains a provision that allows
17 the board to cancel the contract on 30 days' notice.
18 Materials, equipment, or services provided to an association
19 under a local government franchise agreement by a franchise
20 holder are not subject to the competitive bid requirements of
21 this section. A contract with a manager, if made by a
22 competitive bid, may be made for up to 3 years. An association
23 whose declaration or bylaws provide for competitive bidding
24 for services may operate under the provisions of that
25 declaration or bylaws in lieu of this section if those
26 provisions are not less stringent than the requirements of
27 this section.

28 (b) Nothing contained in this section is intended to
29 limit the ability of an association to obtain needed products
30 and services in an emergency.

31

1 (c) This section does not apply if the business entity
2 with which the association desires to enter into a contract is
3 the only source of supply within the county serving the
4 association.

5 (d) Nothing contained in this section shall excuse a
6 party contracting to provide maintenance or management
7 services from compliance with s. 720.309.

8 Section 18. Present subsections (5) through (8) of
9 section 720.306, Florida Statutes, are renumbered as
10 subsections (7) through (10), respectively, present subsection
11 (7) is amended, and new subsections (5) and (6) are added to
12 that section to read:

13 720.306 Meetings of members; voting and election
14 procedures; amendments.--

15 (5) NOTICE OF MEETINGS.--The bylaws shall provide for
16 giving notice to members of all member meetings, and if they
17 do not do so shall be deemed to provide the following: The
18 association shall give all parcel owners and members actual
19 notice of all membership meetings, which shall be mailed,
20 delivered, or electronically transmitted to the members not
21 less than 14 days prior to the meeting. Evidence of compliance
22 with this 14-day notice shall be made by an affidavit executed
23 by the person providing the notice and filed upon execution
24 among the official records of the association. In addition to
25 mailing, delivering, or electronically transmitting the notice
26 of any meeting, the association may, by reasonable rule, adopt
27 a procedure for conspicuously posting and repeatedly
28 broadcasting the notice and the agenda on a closed-circuit
29 cable television system serving the association. When
30 broadcast notice is provided, the notice and agenda must be
31 broadcast in a manner and for a sufficient continuous length

1 of time so as to allow an average reader to observe the notice
2 and read and comprehend the entire content of the notice and
3 the agenda.

4 (6) RIGHT TO SPEAK.--Members and parcel owners have
5 the right to attend all membership meetings and to speak at
6 any meeting with reference to all items opened for discussion
7 or included on the agenda. Notwithstanding any provision to
8 the contrary in the governing documents or any rules adopted
9 by the board or by the membership, a member and a parcel owner
10 have the right to speak for at least 3 minutes on any item,
11 provided that the member or parcel owner submits a written
12 request to speak prior to the meeting. The association may
13 adopt written reasonable rules governing the frequency,
14 duration, and other manner of member and parcel owner
15 statements, which rules must be consistent with this
16 paragraph.

17 (9)(7) ELECTIONS.--Elections of directors must be
18 conducted in accordance with the procedures set forth in the
19 governing documents of the association. All members of the
20 association shall be eligible to serve on the board of
21 directors, and a member may nominate himself or herself as a
22 candidate for the board at a meeting where the election is to
23 be held. Except as otherwise provided in the governing
24 documents, boards of directors must be elected by a plurality
25 of the votes cast by eligible voters. Any election dispute
26 between a member and an association must be submitted to
27 mandatory binding arbitration with the division. Such
28 proceedings shall be conducted in the manner provided by s.
29 718.1255 and the procedural rules adopted by the division.

30 Section 19. Section 720.311, Florida Statutes, is
31 amended to read:

1 720.311 Dispute resolution.--

2 (1) The Legislature finds that alternative dispute
3 resolution has made progress in reducing court dockets and
4 trials and in offering a more efficient, cost-effective option
5 to litigation. The filing of any petition for mediation or
6 arbitration provided for in this section shall toll the
7 applicable statute of limitations. Any recall dispute filed
8 with the department pursuant to s. 720.303(10) shall be
9 conducted by the department in accordance with the provisions
10 of ss. 718.1255 and 718.112(2)(j) and the rules adopted by the
11 division. In addition, the department shall conduct mandatory
12 binding arbitration of election disputes between a member and
13 an association pursuant to s. 718.1255 and rules adopted by
14 the division. Neither election disputes nor recall disputes
15 are eligible for mediation; these disputes shall be arbitrated
16 by the department. At the conclusion of the proceeding, the
17 department shall charge the parties a fee in an amount
18 adequate to cover all costs and expenses incurred by the
19 department in conducting the proceeding. Initially, the
20 petitioner shall remit a filing fee of at least \$200 to the
21 department. The fees paid to the department shall become a
22 recoverable cost in the arbitration proceeding and the
23 prevailing party in an arbitration proceeding shall recover
24 its reasonable costs and attorney's fees in an amount found
25 reasonable by the arbitrator. The department shall adopt rules
26 to effectuate the purposes of this section.

27 (2)(a) Disputes between an association and a parcel
28 owner regarding use of or changes to the parcel or the common
29 areas and other covenant enforcement disputes, disputes
30 regarding amendments to the association documents, disputes
31 regarding meetings of the board and committees appointed by

1 the board, membership meetings not including election
2 meetings, and access to the official records of the
3 association shall be filed with the department for mandatory
4 mediation before the dispute is filed in court. Mediation
5 proceedings must be conducted in accordance with the
6 applicable Florida Rules of Civil Procedure, and these
7 proceedings are privileged and confidential to the same extent
8 as court-ordered mediation. An arbitrator or judge may not
9 consider any information or evidence arising from the
10 mediation proceeding except in a proceeding to impose
11 sanctions for failure to attend a mediation session. Persons
12 who are not parties to the dispute may not attend the
13 mediation conference without the consent of all parties,
14 except for counsel for the parties and a corporate
15 representative designated by the association. When mediation
16 is attended by a quorum of the board, such mediation is not a
17 board meeting for purposes of notice and participation set
18 forth in s. 720.303. The department shall conduct the
19 proceedings through the use of department mediators or refer
20 the disputes to private mediators who have been duly certified
21 by the department as provided in paragraph (c). The parties
22 shall share the costs of mediation equally, including the fee
23 charged by the mediator, if any, unless the parties agree
24 otherwise. If a department mediator is used, the department
25 may charge such fee as is necessary to pay expenses of the
26 mediation, including, but not limited to, the salary and
27 benefits of the mediator and any travel expenses incurred. The
28 petitioner shall initially file with the department upon
29 filing the disputes, a filing fee of \$200, which shall be used
30 to defray the costs of the mediation. At the conclusion of the
31 mediation, the department shall charge to the parties, to be

1 shared equally unless otherwise agreed by the parties, such
2 further fees as are necessary to fully reimburse the
3 department for all expenses incurred in the mediation.

4 (b) If mediation as described in paragraph (a) is not
5 successful in resolving all issues between the parties, the
6 parties may file the unresolved dispute in a court of
7 competent jurisdiction or elect to enter into binding or
8 nonbinding arbitration pursuant to the procedures set forth in
9 s. 718.1255 and rules adopted by the division, with the
10 arbitration proceeding to be conducted by a department
11 arbitrator or by a private arbitrator certified by the
12 department. If all parties do not agree to arbitration
13 proceedings following an unsuccessful mediation, any party may
14 file the dispute in court. A final order resulting from
15 nonbinding arbitration is final and enforceable in the courts
16 if a complaint for trial de novo is not filed in a court of
17 competent jurisdiction within 30 days after entry of the
18 order.

19 (c) The department shall develop a certification and
20 training program for private mediators and private arbitrators
21 which shall emphasize experience and expertise in the area of
22 the operation of community associations. A mediator or
23 arbitrator shall be certified by the department only if he or
24 she has attended at least 20 hours of training in mediation or
25 arbitration, as appropriate, and only if the applicant has
26 mediated or arbitrated at least 10 disputes involving
27 community associations within 5 years prior to the date of the
28 application, or has mediated or arbitrated 10 disputes in any
29 area within 5 years prior to the date of application and has
30 completed 20 hours of training in community association
31 disputes. In order to be certified by the department, any

1 mediator must also be certified by the Florida Supreme Court.
2 The department may conduct the training and certification
3 program within the department or may contract with an outside
4 vendor to perform the training or certification. The expenses
5 of operating the training and certification and training
6 program shall be paid by the moneys and filing fees generated
7 by the arbitration of recall and election disputes and by the
8 mediation of those disputes referred to in this subsection and
9 by the training fees.

10 (d) The mediation procedures provided by this
11 subsection may be used by a Florida corporation responsible
12 for the operation of a community in which the voting members
13 are parcel owners or their representatives, in which
14 membership in the corporation is not a mandatory condition of
15 parcel ownership, or which is not authorized to impose an
16 assessment that may become a lien on the parcel.

17 (3) The department shall develop an education program
18 to assist homeowners, associations, board members, and
19 managers in understanding and increasing awareness of the
20 operation of homeowners' associations pursuant to chapter 720
21 and in understanding the use of alternative dispute resolution
22 techniques in resolving disputes between parcel owners and
23 associations or between owners. Such education program may
24 include the development of pamphlets and other written
25 instructional guides, the holding of classes and meetings by
26 department employees or outside vendors, as the department
27 determines, and the creation and maintenance of a website
28 containing instructional materials. The expenses of operating
29 the education program shall be initially paid by the moneys
30 and filing fees generated by the arbitration of recall and
31 election disputes and by the mediation of those disputes

1 ~~referred to in this subsection. At any time after the filing~~
 2 ~~in a court of competent jurisdiction of a complaint relating~~
 3 ~~to a dispute under ss. 720.301-720.312, the court may order~~
 4 ~~that the parties enter mediation or arbitration procedures.~~

5 Section 20. Subsection (13) is added to section
 6 718.110, Florida Statutes, to read:

7 718.110 Amendment of declaration; correction of error
 8 or omission in declaration by circuit court.--

9 (13) Any amendment restricting unit owners' rights
 10 relating to the rental of units applies only to unit owners
 11 who consent to the amendment and unit owners who purchase
 12 their units after the effective date of that amendment.

13 Section 21. Section 689.26, Florida Statutes, is
 14 transferred, renumbered as section 720.601, Florida Statutes,
 15 and amended to read:

16 720.601 ~~689.26~~ Prospective purchasers subject to
 17 association membership requirement; disclosure required;
 18 covenants; assessments; contract cancellation ~~voidability~~.--

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

23
 24 DISCLOSURE SUMMARY
 25 FOR
 26 (NAME OF COMMUNITY)
 27

28 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU
 29 ~~WILL (WILL) (WILL NOT)~~ BE OBLIGATED TO BE A MEMBER OF A
 30 HOMEOWNERS' ASSOCIATION.
 31

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

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

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

15 ~~5.4.~~ YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR
16 ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION
17 COULD RESULT IN A LIEN ON YOUR PROPERTY.

18 ~~6.5.~~ THERE MAY BE(~~IS~~) (~~IS NOT~~) AN OBLIGATION TO PAY
19 RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED
20 FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS'
21 ASSOCIATION. IF APPLICABLE, THE CURRENT AMOUNT IS \$ PER
22 ~~.(If such obligation exists, then the amount of the~~
23 ~~current obligation shall be set forth.)~~

24 ~~7.6.~~ THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE
25 RESTRICTIVE COVENANTS(~~CAN~~) (~~CANNOT~~) ~~BE AMENDED~~ WITHOUT THE
26 APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE
27 ~~IF NO MANDATORY ASSOCIATION EXISTS,~~ PARCEL OWNERS.

28 ~~8.7.~~ THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM
29 ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER,
30 YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION
31 GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

1 NO EFFECT. BUYER'S RIGHT TO VOID THIS CONTRACT
2 SHALL TERMINATE AT CLOSING.

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

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

23 Section 22. Section 689.265, Florida Statutes, is
24 transferred and renumbered as section 720.3086, Florida
25 Statutes, to read:

26 720.3086 ~~689.265~~ Financial report.--In a residential
27 subdivision in which the owners of lots or parcels must pay
28 mandatory maintenance or amenity fees to the subdivision
29 developer or to the owners of the common areas, recreational
30 facilities, and other properties serving the lots or parcels,
31 the developer or owner of such areas, facilities, or

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

14 | Section 23. Paragraphs (g) and (h) of subsection (2)
15 | of section 498.025, Florida Statutes, are amended to read:

16 | 498.025 Exemptions.--

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

25 | (g) The contract for purchase or lease contains, and
26 | the subdivider complies with, the following provisions:

27 | 1. The purchaser must inspect the subdivided land
28 | prior to the execution of the contract or lease.

29 | 2. The purchaser shall have an absolute right to
30 | cancel the contract or lease for any reason whatsoever for a
31 |

1 period of 7 business days following the date on which the
2 contract or lease was executed by the purchaser.

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

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

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

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

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

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

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

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

30 3. If the purchaser elects to cancel within the period
31 provided, all funds or other property paid by the purchaser

1 shall be refunded without penalty or obligation within 20 days
2 after the receipt of the notice of cancellation by the
3 developer.

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

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

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

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

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

18 Section 24. Section 720.602, Florida Statutes, is
19 created to read:

20 720.602 Publication of false and misleading
21 information.--

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

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

6 (a) The closing of the transaction;

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

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

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

30
31

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 25. 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 26. Paragraph (a) of subsection (1) of section
29 316.00825, Florida Statutes, is amended to read:

30
31

1 316.00825 Closing and abandonment of roads; optional
2 conveyance to homeowners' association; traffic control
3 jurisdiction.--

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

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

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

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

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

1 operation, maintenance, and repair and the periodic
 2 reconstruction or replacement of the roads, drainage, street
 3 lighting, and sidewalks in the subdivision after the
 4 abandonment by the county.

5 Section 27. Subsection (2) of section 558.002, Florida
 6 Statutes, is amended to read:

7 558.002 Definitions.--As used in this act, the term:

8 (2) "Association" has the same meaning as in s.
 9 718.103(2), s. 719.103(2), s. 720.301(8) ~~s. 720.301(7)~~, or s.
 10 723.025.

11 Section 28. The Division of Statutory Revision is
 12 requested to designate sections 720.301-720.312, Florida
 13 Statutes, as part I of chapter 720, Florida Statutes; to
 14 designate sections 720.401-720.405, Florida Statutes, as part
 15 II of chapter 720, Florida Statutes, and entitle that part as
 16 "Covenant Revitalization;" to designate sections 720.601 and
 17 720.602, Florida Statutes, as part III of chapter 720, Florida
 18 Statutes, and entitle that part "DISCLOSURE PRIOR TO SALE OF
 19 RESIDENTIAL PARCELS"; and to designate section 720.501,
 20 Florida Statutes, as part IV of chapter 720, Florida Statutes,
 21 and entitle that part "RIGHTS AND OBLIGATIONS OF DEVELOPERS."

22 Section 29. Subsection (4) is added to section
 23 190.012, Florida Statutes, to read:

24 190.012 Special powers; public improvements and
 25 community facilities.--The district shall have, and the board
 26 may exercise, subject to the regulatory jurisdiction and
 27 permitting authority of all applicable governmental bodies,
 28 agencies, and special districts having authority with respect
 29 to any area included therein, any or all of the following
 30 special powers relating to public improvements and community
 31 facilities authorized by this act:

1 (4)(a) To adopt rules necessary for the district to
2 enforce certain deed restrictions pertaining to the use and
3 operation of real property within the district. For the
4 purpose of this subsection, "deed restrictions" are those
5 covenants, conditions, and restrictions contained in any
6 applicable declarations of covenants and restrictions that
7 govern the use and operation of real property within the
8 district and, for which covenants, conditions, and
9 restrictions, there is no homeowners' association or property
10 owner's association having respective enforcement powers. The
11 district may adopt by rule all or certain portions of the deed
12 restrictions that:

13 1. Relate to limitations or prohibitions that apply
14 only to external structures and are deemed by the district to
15 be generally beneficial for the district's landowners and for
16 which enforcement by the district is appropriate, as
17 determined by the district's board of supervisors; or
18 2. Are consistent with the requirements of a
19 development order or regulatory agency permit.

20 (b) The board may vote to adopt such rules only when
21 all of the following conditions exist:

22 1. The district's geographic area contains no
23 homeowners' associations as defined in s. 720.301(7);

24 2. The district was in existence on the effective date
25 of this subsection, or is located within a development that
26 consists of multiple developments of regional impact and a
27 Florida Quality Development;

28 3. The majority of the board has been elected by
29 qualified electors pursuant to the provisions of s. 190.006;
30 and

31

1 4. The declarant in any applicable declarations of
2 covenants and restrictions has provided the board with a
3 written agreement that such rules may be adopted. A memorandum
4 of the agreement shall be recorded in the public records.

5 (c) Within 60 days after such rules taking effect, the
6 district shall record a notice of rule adoption stating
7 generally what rules were adopted and where a copy of the
8 rules may be obtained. Districts may impose fines for
9 violations of such rules and enforce such rules and fines in
10 circuit court through injunctive relief.

11 Section 30. Section 190.046, Florida Statutes, is
12 amended to read:

13 190.046 Termination, contraction, or expansion of
14 district.--

15 (1) The board may petition to contract or expand the
16 boundaries of a community development district in the
17 following manner:

18 (a) The petition shall contain the same information
19 required by s. 190.005(1)(a)1. and 8. In addition, if the
20 petitioner seeks to expand the district, the petition shall
21 describe the proposed timetable for construction of any
22 district services to the area, the estimated cost of
23 constructing the proposed services, and the designation of the
24 future general distribution, location, and extent of public
25 and private uses of land proposed for the area by the future
26 land use plan element of the adopted local government local
27 comprehensive plan. If the petitioner seeks to contract the
28 district, the petition shall describe what services and
29 facilities are currently provided by the district to the area
30 being removed, and the designation of the future general
31 distribution, location, and extent of public and private uses

1 of land proposed for the area by the future land element of
2 the adopted local government comprehensive plan.

3 (b) For those districts initially established by
4 county ordinance, the petition for ordinance amendment shall
5 be filed with the county commission. If the land to be
6 included or excluded is, in whole or in part, within the
7 boundaries of a municipality, then the county commission shall
8 not amend the ordinance without municipal approval. A public
9 hearing shall be held in the same manner and with the same
10 public notice as other ordinance amendments. The county
11 commission shall consider the record of the public hearing and
12 the factors set forth in s. 190.005(1)(e) in making its
13 determination to grant or deny the petition for ordinance
14 amendment.

15 (c) For those districts initially established by
16 municipal ordinance pursuant to s. 190.005(2)(e), the
17 municipality shall assume the duties of the county commission
18 set forth in paragraph (b); however, if any of the land to be
19 included or excluded, in whole or in part, is outside the
20 boundaries of the municipality, then the municipality shall
21 not amend its ordinance without county commission approval.

22 (d)1. For those districts initially established by
23 administrative rule pursuant to s. 190.005(1), the petition
24 shall be filed with the Florida Land and Water Adjudicatory
25 Commission.

26 2. Prior to filing the petition, the petitioner shall
27 pay a filing fee of \$1,500 to the county and to each
28 municipality the boundaries of which are contiguous with or
29 contain all or a portion of the land within the district or
30 the proposed amendment, and submit a copy of the petition to
31 the county and to each such municipality. In addition, if the

1 district is not the petitioner, the petitioner shall file the
2 petition with the district board of supervisors.

3 3. The county and each municipality shall have the
4 option of holding a public hearing as provided by s.
5 190.005(1)(c). However, such public hearing shall be limited
6 to consideration of the contents of the petition and whether
7 the petition for amendment should be supported by the county
8 or municipality.

9 4. The district board of supervisors shall, in lieu of
10 a hearing officer, hold the local public hearing provided for
11 by s. 190.005(1)(d). This local public hearing shall be
12 noticed in the same manner as provided in s. 190.005(1)(d).
13 Within 45 days of the conclusion of the hearing, the district
14 board of supervisors shall transmit to the Florida Land and
15 Water Adjudicatory Commission the full record of the local
16 hearing, the transcript of the hearing, any resolutions
17 adopted by the local general-purpose governments, and its
18 recommendation whether to grant the petition for amendment.
19 The commission shall then proceed in accordance with s.
20 190.005(1)(e).

21 5. A rule amending a district boundary shall describe
22 the land to be added or deleted.

23 (e) In all cases, written consent of all the
24 landowners whose land is to be added to or deleted from the
25 district shall be required. The filing of the petition for
26 expansion or contraction by the district board of supervisors
27 shall constitute consent of the landowners within the district
28 other than of landowners whose land is proposed to be added to
29 or removed from the district.

30 (f)1. During the existence of a district initially
31 established by administrative rule, petitions to amend the

1 boundaries of the district pursuant to paragraphs (a)-(e)
2 shall be limited to a cumulative total of no more than 10
3 percent of the land in the initial district, and in no event
4 shall all such petitions to amend the boundaries ever
5 encompass more than a total of 250 acres.

6 2. For districts initially established by county or
7 municipal ordinance, the limitation provided by this paragraph
8 shall be a cumulative total of no more than 50 percent of the
9 land in the initial district, and in no event shall all such
10 petitions to amend the boundaries ever encompass more than a
11 total of 500 acres.

12 3. Boundary expansions for districts initially
13 established by county or municipal ordinance shall follow the
14 procedure set forth in paragraph (b) or paragraph (c).

15 (g) Petitions to amend the boundaries of the district
16 which exceed the amount of land specified in paragraph (f)
17 shall be considered petitions to establish a new district and
18 shall follow all of the procedures specified in s. 190.005.

19 (2) The district shall remain in existence unless:

20 (a) The district is merged with another district as
21 provided in subsection (3);

22 (b) All of the specific community development systems,
23 facilities, and services that it is authorized to perform have
24 been transferred to a general-purpose unit of local government
25 in the manner provided in subsections (4), (5), and (6); or

26 (c) The district is dissolved as provided in
27 subsection (7), ~~or~~ subsection (8), or subsection (9).

28 (3) The district may merge with other community
29 development districts upon filing a petition for establishment
30 of a community development district pursuant to s. 190.005 or
31 may merge with any other special districts upon filing a

1 petition for establishment of a community development district
2 pursuant to s. 190.005. The government formed by a merger
3 involving a community development district pursuant to this
4 section shall assume all indebtedness of, and receive title
5 to, all property owned by the preexisting special districts.
6 Prior to filing said petition, the districts desiring to merge
7 shall enter into a merger agreement and shall provide for the
8 proper allocation of the indebtedness so assumed and the
9 manner in which said debt shall be retired. The approval of
10 the merger agreement by the board of supervisors elected by
11 the electors of the district shall constitute consent of the
12 landowners within the district.

13 (4) The local general-purpose government within the
14 geographical boundaries of which the district lies may adopt a
15 nonemergency ordinance providing for a plan for the transfer
16 of a specific community development service from a district to
17 the local general-purpose government. The plan must provide
18 for the assumption and guarantee of the district debt that is
19 related to the service by the local general-purpose government
20 and must demonstrate the ability of the local general-purpose
21 government to provide such service:

22 (a) As efficiently as the district.

23 (b) At a level of quality equal to or higher than the
24 level of quality actually delivered by the district to the
25 users of the service.

26 (c) At a charge equal to or lower than the actual
27 charge by the district to the users of the service.

28 (5) No later than 30 days following the adoption of a
29 transfer plan ordinance, the board of supervisors may file, in
30 the circuit court for the county in which the local
31 general-purpose government that adopted the ordinance is

1 located, a petition seeking review by certiorari of the
2 factual and legal basis for the adoption of the transfer plan
3 ordinance.

4 (6) Upon the transfer of all of the community
5 development services of the district to a general-purpose unit
6 of local government, the district shall be terminated in
7 accordance with a plan of termination which shall be adopted
8 by the board of supervisors and filed with the clerk of the
9 circuit court.

10 (7) If, within 5 years after the effective date of the
11 rule or ordinance establishing ~~creating~~ the district, a
12 landowner has not received a development permit, as defined in
13 chapter 380, on some part or all of the area covered by the
14 district, then the district will be automatically dissolved
15 and a judge of the circuit court shall cause a statement to
16 that effect to be filed in the public records.

17 (8) In the event the district has become inactive
18 pursuant to s. 189.4044, the respective board of county
19 commissioners or city commission shall be informed and it
20 shall take appropriate action.

21 (9) If a district has no outstanding financial
22 obligations and no operating or maintenance responsibilities,
23 upon the petition of the district, the district may be
24 dissolved by a nonemergency ordinance of the general-purpose
25 local governmental entity that established the district or, if
26 the district was established by rule of the Florida Land and
27 Water Adjudicatory Commission, the district may be dissolved
28 by repeal of such rule of the commission.

29 Section 31. Section 190.006, Florida Statutes, is
30 amended to read:

31 190.006 Board of supervisors; members and meetings.--

1 (1) The board of the district shall exercise the
2 powers granted to the district pursuant to this act. The board
3 shall consist of five members; except as otherwise provided
4 herein, each member shall hold office for a term of 2 years or
5 4 years, as provided in this section, and until a successor is
6 chosen and qualifies. The members of the board must be
7 residents of the state and citizens of the United States.

8 (2)(a) Within 90 days following the effective date of
9 the rule or ordinance establishing the district, there shall
10 be held a meeting of the landowners of the district for the
11 purpose of electing five supervisors for the district. Notice
12 of the landowners' meeting shall be published once a week for
13 2 consecutive weeks in a newspaper which is in general
14 circulation in the area of the district, the last day of such
15 publication to be not fewer than 14 days or more than 28 days
16 before the date of the election. The landowners, when
17 assembled at such meeting, shall organize by electing a chair
18 who shall conduct the meeting. The chair may be any person
19 present at the meeting. If the chair is a landowner or proxy
20 holder of a landowner, he or she may nominate candidates and
21 make and second motions.

22 (b) At such meeting, each landowner shall be entitled
23 to cast one vote per acre of land owned by him or her and
24 located within the district for each person to be elected. A
25 landowner may vote in person or by proxy in writing. Each
26 proxy must be signed by one of the legal owners of the
27 property for which the vote is cast and must contain the typed
28 or printed name of the individual who signed the proxy; the
29 street address, legal description of the property, or tax
30 parcel identification number; and the number of authorized
31 votes. If the proxy authorizes more than one vote, each

1 property must be listed and the number of acres of each
2 property must be included. The signature on a proxy need not
3 be notarized. A fraction of an acre shall be treated as 1
4 acre, entitling the landowner to one vote with respect
5 thereto. The two candidates receiving the highest number of
6 votes shall be elected for a period of 4 years, and the three
7 candidates receiving the next largest number of votes shall be
8 elected for a period of 2 years, with the term of office for
9 each successful candidate commencing upon election. The
10 members of the first board elected by landowners shall serve
11 their respective 4-year or 2-year terms; however, the next
12 election by landowners shall be held on the first Tuesday in
13 November. Thereafter, there shall be an election of
14 supervisors for the district every 2 years in November on a
15 date established by the board and noticed pursuant to
16 paragraph (a). The second and subsequent landowners' election
17 shall be announced at a public meeting of the board at least
18 90 days prior to the date of the landowners' meeting and shall
19 also be noticed pursuant to paragraph (a). Instructions on how
20 all landowners may participate in the election, along with
21 sample proxies, shall be provided during the board meeting
22 that announces the landowners' meeting. The two candidates
23 receiving the highest number of votes shall be elected to
24 serve for a 4-year period, and the remaining candidate elected
25 shall serve for a 2-year period.

26 (3)(a)1. If the board proposes to exercise the ad
27 valorem taxing power authorized by s. 190.021, the district
28 board shall call an election at which the members of the board
29 of supervisors will be elected. Such election shall be held
30 in conjunction with a primary or general election unless the
31 district bears the cost of a special election. Each member

1 shall be elected by the qualified electors of the district for
2 a term of 4 years, except that, at the first such election,
3 three members shall be elected for a period of 4 years and two
4 members shall be elected for a period of 2 years. All elected
5 board members must be qualified electors of the district.

6 2.a. Regardless of whether a district has proposed to
7 levy ad valorem taxes, commencing 6 years after the initial
8 appointment of members or, for a district exceeding 5,000
9 acres in area, 10 years after the initial appointment of
10 members, the position of each member whose term has expired
11 shall be filled by a qualified elector of the district,
12 elected by the qualified electors of the district. However,
13 for those districts established after June 21, 1991, and for
14 those existing districts established after December 31, 1983,
15 which have less than 50 qualified electors on June 21, 1991,
16 sub-subparagraphs b. and d. ~~e.~~ shall apply.

17 ~~b. For those districts to which this sub-subparagraph~~
18 ~~applies~~ If, in the 6th year after the initial appointment of
19 members, or 10 years after such initial appointment for
20 districts exceeding 5,000 acres in area, there are not at
21 least 250 qualified electors in the district, or for a
22 district exceeding 5,000 acres, there are not at least 500
23 qualified electors, members of the board shall continue to be
24 elected by landowners.

25 b. After the 6th or 10th year, once a district reaches
26 250 or 500 qualified electors, respectively, then the
27 positions ~~position~~ of two board members whose terms are
28 expiring shall be filled by qualified electors of the
29 district, elected by the qualified electors of the district
30 for 4-year terms. ~~One of these board members shall serve a~~
31 ~~2-year term, and the other a 4-year term.~~ The remaining board

1 member whose term is expiring shall be elected for a 4-year
2 term by the landowners and is not required to be a qualified
3 elector. Thereafter, as terms expire, board members shall be
4 qualified electors elected by qualified electors of the
5 district for a term of 4 years.

6 c. Once a district qualifies to have any of its board
7 members elected by the qualified electors of the district, the
8 initial and all subsequent elections by the qualified electors
9 of the district shall be held at the general election in
10 November. The board shall adopt a resolution if necessary to
11 implement this requirement when the board determines the
12 number of qualified electors as required by sub-subparagraph
13 d., to extend or reduce the terms of current board members.

14 d.e. On or before June 1 ~~July 15~~ of each year, the
15 board shall determine the number of qualified electors in the
16 district as of the immediately preceding April 15 ~~June 1~~. The
17 board shall use and rely upon the official records maintained
18 by the supervisor of elections and property appraiser or tax
19 collector in each county in making this determination. Such
20 determination shall be made at a properly noticed meeting of
21 the board and shall become a part of the official minutes of
22 the district.

23 (b) Elections of board members by qualified electors
24 held pursuant to this subsection shall be nonpartisan and
25 shall be conducted in the manner prescribed by law for holding
26 general elections. Board members shall assume the office on
27 the second Tuesday following their election.

28 (c) Candidates seeking election to office by qualified
29 electors under this subsection shall conduct their campaigns
30 in accordance with the provisions of chapter 106 and shall
31 file qualifying papers and qualify for individual seats in

1 accordance with s. 99.061. Candidates shall pay a qualifying
2 fee, which shall consist of a filing fee and an election
3 assessment or, as an alternative, shall file a petition signed
4 by not less than 1 percent of the registered voters of the
5 district. Candidates shall file petitions, and take the oath
6 required in s. 99.021, with the supervisor of elections in the
7 county affected by such candidacy. The amount of the filing
8 fee is 3 percent of \$4,800; however, if the electors have
9 provided for compensation pursuant to subsection (8), the
10 amount of the filing fee is 3 percent of the maximum annual
11 compensation so provided. The amount of the election
12 assessment is 1 percent of \$4,800; however, if the electors
13 have provided for compensation pursuant to subsection (8), the
14 amount of the election assessment is 1 percent of the maximum
15 annual compensation so provided. The filing fee and election
16 assessment shall be distributed as provided in s. 105.031(3).

17 (d) The supervisor of elections shall appoint the
18 inspectors and clerks of elections, prepare and furnish the
19 ballots, designate polling places, and canvass the returns of
20 the election of board members by qualified electors. The
21 county canvassing board of county commissioners shall declare
22 and certify the results of the election.

23 (4) Members of the board shall be known as supervisors
24 and, upon entering into office, shall take and subscribe to
25 the oath of office as prescribed by s. 876.05. They shall
26 hold office for the terms for which they were elected or
27 appointed and until their successors are chosen and qualified.
28 If, during the term of office, a vacancy occurs, the remaining
29 members of the board shall fill the vacancy by an appointment
30 for the remainder of the unexpired term.

31

1 (5) A majority of the members of the board constitutes
2 a quorum for the purposes of conducting its business and
3 exercising its powers and for all other purposes. Action
4 taken by the district shall be upon a vote of a majority of
5 the members present unless general law or a rule of the
6 district requires a greater number.

7 (6) As soon as practicable after each election or
8 appointment, the board shall organize by electing one of its
9 members as chair and by electing a secretary, who need not be
10 a member of the board, and such other officers as the board
11 may deem necessary.

12 (7) The board shall keep a permanent record book
13 entitled "Record of Proceedings of ...(name of district)...
14 Community Development District," in which shall be recorded
15 minutes of all meetings, resolutions, proceedings,
16 certificates, bonds given by all employees, and any and all
17 corporate acts. The record book shall at reasonable times be
18 opened to inspection in the same manner as state, county, and
19 municipal records pursuant to chapter 119. The record book
20 shall be kept at the office or other regular place of business
21 maintained by the board in the county or municipality in which
22 the district is located or within the boundaries of a
23 development of regional impact or Florida Quality Development,
24 or combination of a development of regional impact and Florida
25 Quality Development, which includes the district.

26 (8) Each supervisor shall be entitled to receive for
27 his or her services an amount not to exceed \$200 per meeting
28 of the board of supervisors, not to exceed \$4,800 per year per
29 supervisor, or an amount established by the electors at
30 referendum. In addition, each supervisor shall receive travel
31 and per diem expenses as set forth in s. 112.061.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(9) All meetings of the board shall be open to the public and governed by the provisions of chapter 286. Section 32. This act shall take effect October 1, 2004.