

By Senator Fasano

11-676A-04

1 A bill to be entitled
2 An act relating to conveyances of land;
3 transferring, renumbering, and amending s.
4 689.26, F.S.; providing that certain contracts
5 are voidable for a specified period; requiring
6 that a purchaser provide written notice of
7 cancellation; transferring and renumbering s.
8 689.265, F.S., relating to required financial
9 reports of certain residential subdivision
10 developers; amending s. 498.025, F.S., relating
11 to the disposition of subdivided lands;
12 conforming cross-references; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Section 689.26, Florida Statutes, is
18 transferred, renumbered as section 720.3085, Florida Statutes,
19 and amended to read:

20 720.3085 ~~689.26~~ Prospective purchasers subject to
21 association membership requirement; disclosure required;
22 covenants; assessments; contract voidability.--

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

27
28 DISCLOSURE SUMMARY
29 FOR
30 (NAME OF COMMUNITY)

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

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

7 3. YOU (WILL) (WILL NOT) BE OBLIGATED TO PAY
8 ASSESSMENTS TO THE ASSOCIATION. YOU (WILL) (WILL NOT) BE
9 OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE RESPECTIVE
10 MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL ASSESSMENTS ARE
11 SUBJECT TO PERIODIC CHANGE.

12 4. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR
13 ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION
14 COULD RESULT IN A LIEN ON YOUR PROPERTY.

15 5. THERE (IS) (IS NOT) AN OBLIGATION TO PAY RENT OR
16 LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED
17 FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS'
18 ASSOCIATION. (If such obligation exists, then the amount of
19 the current obligation shall be set forth.)

20 6. THE RESTRICTIVE COVENANTS (CAN) (CANNOT) BE AMENDED
21 WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP OR, IF NO
22 MANDATORY ASSOCIATION EXISTS, PARCEL OWNERS.

23 7. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM
24 ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER,
25 YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION
26 GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

27 8. THESE DOCUMENTS ARE MATTERS OF PUBLIC RECORD AND
28 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE
29 PROPERTY IS LOCATED.

30 DATE:

PURCHASER:

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PURCHASER:

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2 The disclosure must be supplied by the developer, or by the
3 parcel owner if the sale is by an owner that is not the
4 developer. Any contract or agreement for sale shall refer to
5 and incorporate the disclosure summary and shall include, in
6 prominent language, a statement that the potential buyer
7 should not execute the contract or agreement until they have
8 received and read the disclosure summary required by this
9 section.

10 (b) Each contract entered into for the sale of
11 property governed by covenants subject to disclosure required
12 by this section must contain in conspicuous type a clause that
13 states:

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15 IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION
16 720.3085 ~~689.26~~, FLORIDA STATUTES, HAS NOT BEEN
17 PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE
18 EXECUTING THIS CONTRACT FOR SALE, THIS CONTRACT
19 IS VOIDABLE BY BUYER BY DELIVERING TO SELLER OR
20 SELLER'S AGENT OR REPRESENTATIVE WRITTEN NOTICE
21 OF THE BUYER'S INTENTION TO CANCEL WITHIN 3
22 DAYS AFTER RECEIPT OF THE DISCLOSURE SUMMARY OR
23 PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY
24 PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS
25 NO EFFECT. BUYER'S RIGHT TO VOID THIS CONTRACT
26 SHALL TERMINATE AT CLOSING.

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28 (c) If the disclosure summary is not provided to a
29 prospective purchaser before the purchaser executes a contract
30 for the sale of property governed by covenants that are
31 subject to disclosure pursuant to this section, the purchaser

1 may void the contract by delivering to the seller or the
2 seller's agent or representative written notice canceling the
3 contract within 3 days after receipt of the disclosure summary
4 or prior to closing, whichever occurs first. This right may
5 not be waived by the purchaser, but terminates at closing. A
6 ~~contract that does not conform to the requirements of this~~
7 ~~subsection is voidable at the option of the purchaser prior to~~
8 ~~closing.~~

9 (2) This section does not apply to any association
10 regulated under chapter 718, chapter 719, chapter 721, or
11 chapter 723 or to a subdivider registered under chapter 498;
12 and also does not apply if disclosure regarding the
13 association is otherwise made in connection with the
14 requirements of chapter 718, chapter 719, chapter 721, or
15 chapter 723.

16 Section 2. Section 689.265, Florida Statutes, is
17 transferred and renumbered as section 720.3086, Florida
18 Statutes, to read:

19 720.3086 ~~689.265~~ Financial report.--In a residential
20 subdivision in which the owners of lots or parcels must pay
21 mandatory maintenance or amenity fees to the subdivision
22 developer or to the owners of the common areas, recreational
23 facilities, and other properties serving the lots or parcels,
24 the developer or owner of such areas, facilities, or
25 properties shall make public, within 60 days following the end
26 of each fiscal year, a complete financial report of the
27 actual, total receipts of mandatory maintenance or amenity
28 fees received by it, and an itemized listing of the
29 expenditures made by it from such fees, for that year. Such
30 report shall be made public by mailing it to each lot or
31 parcel owner in the subdivision, by publishing it in a

1 publication regularly distributed within the subdivision, or
2 by posting it in prominent locations in the subdivision. This
3 section does not apply to amounts paid to homeowner
4 associations pursuant to chapter 617, chapter 718, chapter
5 719, chapter 721, or chapter 723, or to amounts paid to local
6 governmental entities, including special districts.

7 Section 3. Paragraphs (g) and (h) of subsection (2) of
8 section 498.025, Florida Statutes, are amended to read:

9 498.025 Exemptions.--

10 (2) Except as provided in s. 498.022, the provisions
11 of this chapter do not apply to offers or dispositions of
12 interests in lots, parcels, or units contained in a recorded
13 subdivision plat, or resulting from the subdivision of land in
14 accordance with applicable local land development laws and
15 regulations pursuant to part II of chapter 163, including
16 lots, parcels, units, or interest vested under such part, if
17 all of the following conditions exist:

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

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

22 2. The purchaser shall have an absolute right to
23 cancel the contract or lease for any reason whatsoever for a
24 period of 7 business days following the date on which the
25 contract or lease was executed by the purchaser.

26 3. In the event the purchaser elects to cancel within
27 the period provided, all funds or other property paid by the
28 purchaser shall be refunded without penalty or obligation
29 within 20 days of the receipt of the notice of cancellation by
30 the developer.

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1 4. All funds or ~~for~~ property paid by the purchaser
2 shall be put in escrow until closing has occurred and the
3 lease or deed has been recorded.

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

7 6. When title is conveyed, said title shall be
8 conveyed by statutory warranty deed unencumbered by any lien
9 or mortgage except for any first purchase money mortgage given
10 by the purchaser and restrictions, covenants, or easements of
11 record.

12 7. The subdivider presents to the purchaser the
13 disclosure required by s. 720.3085 ~~s. 689.26~~ prior to the
14 execution of the contract or lease.

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

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

19 2. The purchaser shall have an absolute right to
20 cancel the agreement for deed for any reason whatsoever for a
21 period of 7 business days following the date on which the
22 agreement for deed was executed by the purchaser.

23 3. If the purchaser elects to cancel within the period
24 provided, all funds or other property paid by the purchaser
25 shall be refunded without penalty or obligation within 20 days
26 after the receipt of the notice of cancellation by the
27 developer.

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

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1 5. Unless otherwise timely canceled, the agreement for
2 deed shall be recorded within 180 days after its execution by
3 the purchaser.

4 6. Sale of lots in the subdivision shall be restricted
5 solely to residents of the state.

6 7. The underlying mortgage or other ancillary
7 documents shall contain release provisions for the individual
8 lot purchased.

9 8. The subdivider presents to the purchaser the
10 disclosure required by s. 720.3085 ~~s. 689.26~~ prior to the
11 execution of the agreement for deed.

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

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15 SENATE SUMMARY

16 Transfers and renumbers two provisions relating to
17 community associations. Provides a 3-day grace period
18 during which a prospective purchase contract for property
in a community is voidable. (See bill for details.)

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