

By the Committee on Regulated Industries; and Senator Fasano

315-2298-04

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.; modifying the disclosure form  
5           that a prospective purchaser must receive  
6           before a contract for sale; providing that  
7           certain contracts are voidable for a specified  
8           period; requiring that a purchaser provide  
9           written notice of cancellation; transferring  
10          and renumbering s. 689.265, F.S., relating to  
11          required financial reports of certain  
12          residential subdivision developers; amending s.  
13          498.025, F.S., relating to the disposition of  
14          subdivided lands; conforming cross-references;  
15          providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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

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

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

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30                                   DISCLOSURE SUMMARY  
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(NAME OF COMMUNITY)

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

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

3. YOU MAY ~~(WILL)~~ ~~(WILL NOT)~~ BE OBLIGATED TO PAY ASSESSMENTS TO THE ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_.

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

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

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

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

~~8.7.~~ THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER,

1 YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION  
2 GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

3 ~~9.8.~~ THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC  
4 RECORD AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE  
5 COUNTY WHERE THE PROPERTY IS LOCATED, OR ARE NOT RECORDED AND  
6 CAN BE OBTAINED FROM THE DEVELOPER.

7 DATE: PURCHASER:

8 PURCHASER:

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

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

22  
23 IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION  
24 720.3085 ~~689.26~~, FLORIDA STATUTES, HAS NOT BEEN  
25 PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE  
26 EXECUTING THIS CONTRACT FOR SALE, THIS CONTRACT  
27 IS VOIDABLE BY BUYER BY DELIVERING TO SELLER OR  
28 SELLER'S AGENT OR REPRESENTATIVE WRITTEN NOTICE  
29 OF THE BUYER'S INTENTION TO CANCEL WITHIN 3  
30 DAYS AFTER RECEIPT OF THE DISCLOSURE SUMMARY OR  
31 PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY

1 PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS  
2 NO EFFECT. BUYER'S RIGHT TO VOID THIS CONTRACT  
3 SHALL TERMINATE AT CLOSING.  
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5 (c) If the disclosure summary is not provided to a  
6 prospective purchaser before the purchaser executes a contract  
7 for the sale of property governed by covenants that are  
8 subject to disclosure pursuant to this section, the purchaser  
9 may void the contract by delivering to the seller or the  
10 seller's agent or representative written notice canceling the  
11 contract within 3 days after receipt of the disclosure summary  
12 or prior to closing, whichever occurs first. This right may  
13 not be waived by the purchaser, but terminates at closing. A  
14 ~~contract that does not conform to the requirements of this~~  
15 ~~subsection is voidable at the option of the purchaser prior to~~  
16 ~~closing.~~

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

24 Section 2. Section 689.265, Florida Statutes, is  
25 transferred and renumbered as section 720.3086, Florida  
26 Statutes, to read:

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

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

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

17 498.025 Exemptions.--

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

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

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

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

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 ~~for~~ property paid by the purchaser  
9 shall be put in escrow until closing has occurred and the  
10 lease or 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. 720.3085 ~~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. 720.3085 ~~s. 689.26~~ prior to the  
17 execution of the agreement for deed.

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

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20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
21 COMMITTEE SUBSTITUTE FOR  
22 Senate Bill 1402

23

24 The committee substitute amends the disclosure form in s.  
25 720.3085, F.S.

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