

1 A bill to be entitled
2 An act relating to condominium and community
3 associations; amending s. 718.110, F.S.;
4 providing for the applicability of amendments
5 restricting certain rights of unit owners;
6 amending s. 718.111, F.S.; providing immunity
7 from liability for certain information provided
8 by associations to prospective purchasers or
9 lienholders under certain circumstances;
10 amending s. 768.1325, F.S.; providing immunity
11 from civil liability for community associations
12 that provide automated defibrillator devices
13 under certain circumstances; prohibiting
14 insurers from requiring associations to
15 purchase medical malpractice coverage as a
16 condition of issuing other coverage;
17 prohibiting insurers from excluding from
18 coverage under a general liability policy
19 damages resulting from the use of an automated
20 external defibrillator device; amending ss.
21 718.112 and 719.1055, F.S.; revising
22 notification and voting procedures with respect
23 to any vote to forego retrofitting of the
24 common areas of condominiums and cooperatives
25 with fire sprinkler systems; amending s.
26 718.503, F.S.; requiring unit owners who are
27 not developers to provide a specific question
28 and answer disclosure document to certain
29 prospective purchasers; creating s. 720.403,
30 F.S.; providing legislative intent relating to
31 the revival of governance of a community;

1 creating s. 720.404, F.S.; providing
2 eligibility to revive governance documents;
3 specifying prerequisites to reviving governance
4 documents; creating s. 720.405, F.S.; requiring
5 the formation of an organizing committee;
6 providing for membership; providing duties and
7 responsibilities of the organizing committee;
8 directing the organizing committee to prepare
9 certain documents; providing for the contents
10 of the documents; providing for a vote of the
11 eligible parcel owners; creating s. 720.406,
12 F.S.; directing the organizing committee to
13 file certain documents with the Department of
14 Community Affairs; specifies the content of the
15 submission to the department; requiring the
16 department to approve or disapprove the request
17 to revive the governance documents within a
18 specified time period; creating s. 720.407,
19 F.S.; requiring the organizing committee to
20 file and record certain documents within a
21 specified time period; directing the organizing
22 committee to give all affected parcel owners a
23 copy of the documents filed and recorded;
24 providing for judicial determination of the
25 effects of revived covenants on parcels;
26 providing for effects of such a judicial
27 determination; amending s. 718.103, F.S.;
28 providing that certain governmental entities
29 are not developers for certain purposes;
30 amending s. 720.301, F.S.; defining the terms
31 "department," "division," and "member";

1 | amending s. 720.302, F.S.; prescribing a
2 | legislative purpose of providing alternative
3 | dispute resolution procedures for disputes
4 | involving elections and recalls; providing acts
5 | that constitute crimes; providing penalties;
6 | amending s. 720.303, F.S.; prescribing the
7 | right of an association to enforce deed
8 | restrictions; prescribing rights of members and
9 | parcel owners to attend and address association
10 | board meetings and to have items placed on an
11 | agenda; prescribing additional requirements for
12 | notice of meetings; providing for additional
13 | materials to be maintained as records;
14 | providing additional requirements and
15 | limitations with respect to inspecting and
16 | copying records; providing requirements with
17 | respect to financial statements; providing
18 | procedures for recall of directors; amending s.
19 | 720.304, F.S.; prescribing owners' rights with
20 | respect to flag display; prohibiting certain
21 | lawsuits against parcel owners; providing
22 | penalties; allowing a parcel owner to construct
23 | a ramp for a parcel resident who has a medical
24 | need for a ramp; providing conditions; allowing
25 | the display of a security-services sign;
26 | amending s. 720.305, F.S.; providing that a
27 | fine by an association cannot become a lien
28 | against a parcel; providing for attorney's fees
29 | in actions to recover fines; creating s.
30 | 720.3055, F.S.; prescribing requirements for
31 | contracts for products and services; amending

1 s. 720.306, F.S.; providing for notice of and
2 right to speak at member meetings; requiring
3 election disputes between a member and an
4 association to be submitted to mandatory
5 binding arbitration; amending s. 720.311, F.S.;
6 expanding requirements and guidelines with
7 respect to alternative dispute resolution;
8 providing requirements for mediation and
9 arbitration; providing for training and
10 education programs; transferring, renumbering,
11 and amending s. 689.26, F.S.; modifying the
12 disclosure form that a prospective purchaser
13 must receive before a contract for sale;
14 providing that certain contracts are voidable
15 for a specified period; requiring that a
16 purchaser provide written notice of
17 cancellation; transferring and renumbering s.
18 689.265, F.S., relating to required financial
19 reports of certain residential subdivision
20 developers; amending s. 498.025, F.S., relating
21 to the disposition of subdivided lands;
22 conforming cross-references; creating s.
23 720.402, F.S.; providing remedies for
24 publication of false and misleading
25 information; amending s. 34.01, F.S.; providing
26 jurisdiction of disputes involving homeowners'
27 associations; amending ss. 316.00825, 558.002,
28 F.S.; conforming cross-references; providing
29 for internal organization of ch. 720, F.S.;
30 providing for severability; amending s.
31 190.012, F.S.; providing for the enforcement of

1 deed restrictions in certain circumstances;
2 amending s. 190.046, F.S.; providing for
3 additional dissolution procedures; amending s.
4 190.006, F.S.; specifying procedures for
5 selecting a chair at the initial landowners'
6 meeting; specifying requirements for proxy
7 voting; requiring notice of landowners'
8 elections; specifying the terms of certain
9 supervisors; providing for nonpartisan
10 elections; specifying the time that resident
11 supervisors assume office; authorizing the
12 supervisor of elections to designate seat
13 numbers for resident supervisors of the board;
14 providing procedures for filing qualifying
15 papers; allowing candidates the option of
16 paying a filing fee to qualify for the
17 election; specifying payment requirements;
18 specifying the number of petition signatures
19 required to qualify for the election; requiring
20 the county canvassing board to certify the
21 results of resident elections; providing
22 effective dates.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (13) is added to section
27 718.110, Florida Statutes, to read:

28 718.110 Amendment of declaration; correction of error
29 or omission in declaration by circuit court.--

30 (13) Any amendment restricting unit owners' rights
31 relating to the rental of units applies only to unit owners

1 who consent to the amendment and unit owners who purchase
2 their units after the effective date of that amendment.

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

5 718.111 The association.--

6 (12) OFFICIAL RECORDS.--

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

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

27 Section 3. Subsection (3) of section 768.1325, Florida
28 Statutes, is amended, and subsection (6) is added to that
29 section, to read:

30 768.1325 Cardiac Arrest Survival Act; immunity from
31 civil liability.--

1 (3) Notwithstanding any other provision of law to the
2 contrary, and except as provided in subsection (4), any person
3 who uses or attempts to use an automated external
4 defibrillator device on a victim of a perceived medical
5 emergency, without objection of the victim of the perceived
6 medical emergency, is immune from civil liability for any harm
7 resulting from the use or attempted use of such device. In
8 addition, any person who acquired the device, including, but
9 not limited to, a community association organized under
10 chapter 617, chapter 718, chapter 719, chapter 720, chapter
11 721, or chapter 723, is immune from such liability, if the
12 harm was not due to the failure of such acquirer of the device
13 to:

14 (a) Notify the local emergency medical services
15 medical director of the most recent placement of the device
16 within a reasonable period of time after the device was
17 placed;

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

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

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

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

1 (6) An insurer may not require an acquirer of an
2 automated external defibrillator device which is a community
3 association organized under chapter 617, chapter 718, chapter
4 719, chapter 720, chapter 721, or chapter 723 to purchase
5 medical malpractice liability coverage as a condition of
6 issuing any other coverage carried by the association, and an
7 insurer may not exclude damages resulting from the use of an
8 automated external defibrillator device from coverage under a
9 general liability policy issued to an association.

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

12 718.112 Bylaws.--

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

16 (f) Annual budget.--

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

1 2. In addition to annual operating expenses, the
2 budget shall include reserve accounts for capital expenditures
3 and deferred maintenance. These accounts shall include, but
4 are not limited to, roof replacement, building painting, and
5 pavement resurfacing, regardless of the amount of deferred
6 maintenance expense or replacement cost, and for any other
7 item for which the deferred maintenance expense or replacement
8 cost exceeds \$10,000. The amount to be reserved shall be
9 computed by means of a formula which is based upon estimated
10 remaining useful life and estimated replacement cost or
11 deferred maintenance expense of each reserve item. The
12 association may adjust replacement reserve assessments
13 annually to take into account any changes in estimates or
14 extension of the useful life of a reserve item caused by
15 deferred maintenance. This subsection does not apply to an
16 adopted budget in which the members of an association have
17 determined, by a majority vote at a duly called meeting of the
18 association, to provide no reserves or less reserves than
19 required by this subsection. However, prior to turnover of
20 control of an association by a developer to unit owners other
21 than a developer pursuant to s. 718.301, the developer may
22 vote to waive the reserves or reduce the funding of reserves
23 for the first 2 fiscal years of the association's operation,
24 beginning with the fiscal year in which the initial
25 declaration is recorded, after which time reserves may be
26 waived or reduced only upon the vote of a majority of all
27 nondeveloper voting interests voting in person or by limited
28 proxy at a duly called meeting of the association. If a
29 meeting of the unit owners has been called to determine
30 whether to waive or reduce the funding of reserves, and no
31 such result is achieved or a quorum is not attained, the

1 reserves as included in the budget shall go into effect. After
2 the turnover, the developer may vote its voting interest to
3 waive or reduce the funding of reserves.

4 3. Reserve funds and any interest accruing thereon
5 shall remain in the reserve account or accounts, and shall be
6 used only for authorized reserve expenditures unless their use
7 for other purposes is approved in advance by a majority vote
8 at a duly called meeting of the association. Prior to turnover
9 of control of an association by a developer to unit owners
10 other than the developer pursuant to s. 718.301, the
11 developer-controlled association shall not vote to use
12 reserves for purposes other than that for which they were
13 intended without the approval of a majority of all
14 nondeveloper voting interests, voting in person or by limited
15 proxy at a duly called meeting of the association.

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

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

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

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

1 opt-out vote, notice of the results of the opt-out vote shall
2 be mailed, hand delivered, or electronically transmitted to
3 all unit owners. Evidence of compliance with this 30-day
4 notice shall be made by an affidavit executed by the person
5 providing the notice and filed among the official records of
6 the association. After such notice is provided to each owner,
7 a copy of such notice shall be provided by the current owner
8 to a new owner prior to closing and shall be provided by a
9 unit owner to a renter prior to signing a lease.

10 2. As part of the information collected annually from
11 condominiums, the division shall require condominium
12 associations to report the membership vote and recording of a
13 certificate under this subsection and, if retrofitting has
14 been undertaken, the per-unit cost of such work. The division
15 shall annually report to the Division of State Fire Marshal of
16 the Department of Financial Services the number of
17 condominiums that have elected to forego retrofitting.

18 Section 5. Paragraph (a) of subsection (5) of section
19 719.1055, Florida Statutes, is amended to read:

20 719.1055 Amendment of cooperative documents;
21 alteration and acquisition of property.--

22 (5) Notwithstanding the provisions of chapter 633 or
23 of any other code, statute, ordinance, administrative rule, or
24 regulation, or any interpretation of the foregoing, a
25 cooperative or unit owner is not obligated to retrofit the
26 common elements or units of a residential cooperative with a
27 fire sprinkler system or other engineered life safety system
28 in a building that has been certified for occupancy by the
29 applicable governmental entity, if the unit owners have voted
30 to forego such retrofitting and engineered life safety system
31 by the affirmative vote of two-thirds of all voting interests

1 in the affected cooperative. However, a cooperative may not
2 forego the retrofitting with a fire sprinkler system of common
3 areas in a high-rise building. For purposes of this
4 subsection, the term "high-rise building" means a building
5 that is greater than 75 feet in height where the building
6 height is measured from the lowest level of fire department
7 access to the floor of the highest occupiable story. For
8 purposes of this subsection, the term "common areas" means any
9 enclosed hallway, corridor, lobby, stairwell, or entryway. In
10 no event shall the local authority having jurisdiction require
11 completion of retrofitting of common areas with a sprinkler
12 system before the end of 2014.

13 (a) A vote to forego retrofitting may ~~not~~ be obtained
14 by ~~general proxy or limited proxy or by a ballot, but shall be~~
15 ~~obtained by a vote~~ personally cast at a duly called membership
16 meeting, or by execution of a written consent by the member,
17 and shall be effective upon the recording of a certificate
18 attesting to such vote in the public records of the county
19 where the cooperative is located. The association shall mail,
20 hand deliver, or electronically transmit to provide each unit
21 owner written notice at least 14 days prior to such membership
22 meeting in which ~~of~~ the vote to forego retrofitting of the
23 required fire sprinkler system is to take place, in at least
24 16 point bold type, by certified mail, within 20 days after
25 the association's vote. Within 30 days after the association's
26 opt-out vote, notice of the results of the opt-out vote shall
27 be mailed, hand delivered, or electronically transmitted to
28 all unit owners. Evidence of compliance with this 30-day
29 notice shall be made by an affidavit executed by the person
30 providing the notice and filed among the official records of
31 the association. After such notice is provided to each owner,

1 a copy of such notice shall be provided by the current owner
2 to a new owner prior to closing and shall be provided by a
3 unit owner to a renter prior to signing a lease.

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

6 718.503 Developer disclosure prior to sale;
7 nondeveloper unit owner disclosure prior to sale;
8 voidability.--

9 (2) NONDEVELOPER DISCLOSURE.--

10 (a) Each unit owner who is not a developer as defined
11 by this chapter shall comply with the provisions of this
12 subsection prior to the sale of his or her unit. Each
13 prospective purchaser who has entered into a contract for the
14 purchase of a condominium unit is entitled, at the seller's
15 expense, to a current copy of the declaration of condominium,
16 articles of incorporation of the association, bylaws~~7~~ and
17 rules of the association, ~~and a copy of the financial~~
18 information required by s. 718.111, and the document entitled
19 "Frequently Asked Questions and Answers" required by s.
20 718.504.

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

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

28 1. A clause which states: THE BUYER HEREBY
29 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF
30 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF
31 THE ASSOCIATION, BYLAWS AND~~7~~ RULES OF THE ASSOCIATION, AND A

1 COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND
 2 FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT MORE THAN 3
 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR
 4 TO EXECUTION OF THIS CONTRACT; or

5 2. A clause which states: THIS AGREEMENT IS VOIDABLE
 6 BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION
 7 TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND
 8 LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT
 9 BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE
 10 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS
 11 AND~~7~~ RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT
 12 YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS
 13 AND ANSWERS DOCUMENT IF SO REQUESTED IN WRITING. ANY PURPORTED
 14 WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT.
 15 BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE
 16 THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS,
 17 AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF
 18 INCORPORATION, BYLAWS~~7~~ AND RULES OF THE ASSOCIATION, AND A
 19 COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND
 20 FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF REQUESTED
 21 IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL
 22 TERMINATE AT CLOSING.

23
 24 A contract that does not conform to the requirements of this
 25 paragraph is voidable at the option of the purchaser prior to
 26 closing.

27 Section 7. Section 720.403, Florida Statutes, is
 28 created to read:

29 720.403 Preservation of residential communities;
 30 revival of declaration of covenants.--

31

1 (1) Consistent with required and optional elements of
2 local comprehensive plans and other applicable provisions of
3 the Local Government Comprehensive Planning and Land
4 Development Regulation Act, homeowners are encouraged to
5 preserve existing residential communities, promote available
6 and affordable housing, protect structural and aesthetic
7 elements of their residential community, and, as applicable,
8 maintain roads and streets, easements, water and sewer
9 systems, utilities, drainage improvements, conservation and
10 open areas, recreational amenities, and other infrastructure
11 and common areas that serve and support the residential
12 community by the revival of a previous declaration of
13 covenants and other governing documents that may have ceased
14 to govern some or all parcels in the community.

15 (2) In order to preserve a residential community and
16 the associated infrastructure and common areas for the
17 purposes described in this section, the parcel owners in a
18 community that was previously subject to a declaration of
19 covenants that has ceased to govern one or more parcels in the
20 community may revive the declaration and the homeowners'
21 association for the community upon approval by the parcel
22 owners to be governed thereby as provided in this act, and
23 upon approval of the declaration and the other governing
24 documents for the association by the Department of Community
25 Affairs in a manner consistent with this act.

26 Section 8. Section 720.404, Florida Statutes, is
27 created to read:

28 720.404 Eligible residential communities; requirements
29 for revival of declaration.--Parcel owners in a community are
30 eligible to seek approval from the Department of Community
31

1 Affairs to revive a declaration of covenants under this act if
2 all of the following requirements are met:

3 (1) All parcels to be governed by the revived
4 declaration must have been once governed by a previous
5 declaration that has ceased to govern some or all of the
6 parcels in the community;

7 (2) The revived declaration must be approved in the
8 manner provided in s. 720.405(6); and

9 (3) The revived declaration may not contain covenants
10 that are more restrictive on the parcel owners than the
11 covenants contained in the previous declaration, except that
12 the declaration may:

13 (a) Have an effective term of longer duration than the
14 term of the previous declaration;

15 (b) Omit restrictions contained in the previous
16 declaration;

17 (c) Govern fewer than all of the parcels governed by
18 the previous declaration;

19 (d) Provide for amendments to the declaration and
20 other governing documents; and

21 (e) Contain provisions required by this chapter for
22 new declarations that were not contained in the previous
23 declaration.

24 Section 9. Section 720.405, Florida Statutes, is
25 created to read:

26 720.405 Organizing committee; parcel owner approval.--

27 (1) The proposal to revive a declaration of covenants
28 and a homeowners' association for a community under the terms
29 of this act shall be initiated by an organizing committee
30 consisting of not less than three parcel owners located in the
31 community that is proposed to be governed by the revived

1 declaration. The name, address, and telephone number of each
2 member of the organizing committee must be included in any
3 notice or other document provided by the committee to parcel
4 owners to be affected by the proposed revived declaration.

5 (2) The organizing committee shall prepare or cause to
6 be prepared the complete text of the proposed revised
7 declaration of covenants to be submitted to the parcel owners
8 for approval. The proposed revived documents must identify
9 each parcel that is to be subject to the governing documents
10 by its legal description, and by the name of the parcel owner
11 or the person in whose name the parcel is assessed on the last
12 completed tax assessment roll of the county at the time when
13 the proposed revived declaration is submitted for approval by
14 the parcel owners.

15 (3) The organizing committee shall prepare the full
16 text of the proposed articles of incorporation and bylaws of
17 the revived homeowners' association to be submitted to the
18 parcel owners for approval, unless the association is then an
19 existing corporation, in which case the organizing committee
20 shall prepare the existing articles of incorporation and
21 bylaws to be submitted to the parcel owners.

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

24 (a) Provide that the voting interest of each parcel
25 owner shall be the same as the voting interest of the parcel
26 owner under the previous governing documents;

27 (b) Provide that the proportional-assessment
28 obligations of each parcel owner shall be the same as
29 proportional-assessment obligations of the parcel owner under
30 the previous governing documents;

31

1 (c) Contain the same respective amendment provisions
2 as the previous governing documents or, if there were no
3 amendment provisions in the previous governing document,
4 amendment provisions that require approval of not less than
5 two-thirds of the affected parcel owners;

6 (d) Contain no covenants that are more restrictive on
7 the affected parcel owners than the covenants contained in the
8 previous governing documents, except as permitted under s.
9 720.402(3); and

10 (e) Comply with the other requirements for a
11 declaration of covenants and other governing documents as
12 specified in this chapter.

13 (5) A copy of the complete text of the proposed
14 revised declaration of covenants, the proposed new or existing
15 articles of incorporation and bylaws of the homeowners'
16 association, and a graphic depiction of the property to be
17 governed by the revived declaration shall be presented to all
18 of the affected parcel owners by mail or hand delivery not
19 less than 14 days before the time that the consent of the
20 affected parcel owners to the proposed governing documents is
21 sought by the organizing committee.

22 (6) A majority of the affected parcel owners must
23 agree in writing to the revived declaration of covenants and
24 governing documents of the homeowners' association or approve
25 the revived declaration and governing documents by a vote at a
26 meeting of the affected parcel owners noticed and conducted in
27 the manner prescribed by s. 720.306. Proof of notice of the
28 meeting to all affected owners of the meeting and the minutes
29 of the meeting recording the votes of the property owners
30 shall be certified by a court reporter or an attorney licensed
31 to practice in the state.

1 Section 10. Section 720.406, Florida Statutes, is
2 created to read:

3 720.406 Department of Community Affairs; submission;
4 review and determination.--

5 (1) No later than 60 days after the date the proposed
6 revived declaration and other governing documents are approved
7 by the affected parcel owners, the organizing committee or its
8 designee must submit the proposed revived governing documents
9 and supporting materials to the Department of Community
10 Affairs to review and determine whether to approve or
11 disapprove of the proposal to preserve the residential
12 community. The submission to the department must include:

13 (a) The full text of the proposed revived declaration
14 of covenants and articles of incorporation and bylaws of the
15 homeowners' association;

16 (b) A verified copy of the previous declaration of
17 covenants and other previous governing documents for the
18 community, including any amendments thereto;

19 (c) The legal description of each parcel to be subject
20 to the revived declaration and other governing documents and a
21 plat or other graphic depiction of the affected properties in
22 the community;

23 (d) A verified copy of the written consents of the
24 requisite number of the affected parcel owners approving the
25 revived declaration and other governing documents or, if
26 approval was obtained by a vote at a meeting of affected
27 parcel owners, verified copies of the notice of the meeting,
28 attendance, and voting results;

29 (e) An affidavit by a current or former officer of the
30 association or by a member of the organizing committee

31

1 verifying that the requirements for the revived declaration
2 set forth in s. 720.404 have been satisfied; and

3 (f) Such other documentation that the organizing
4 committee believes is supportive of the policy of preserving
5 the residential community and operating, managing, and
6 maintaining the infrastructure, aesthetic character, and
7 common areas serving the residential community.

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

12 (a) If the department determines that the proposed
13 revived declaration and other governing documents comply with
14 the act and have been approved by the parcel owners as
15 required by this act, the department shall notify the
16 organizing committee in writing of its approval.

17 (b) If the department determines that the proposed
18 revived declaration and other governing documents do not
19 comply with this act or have not been approved as required by
20 this act, the department shall notify the organizing committee
21 in writing that it does not approve the governing documents
22 and shall state the reasons for the disapproval.

23 Section 11. Section 720.407, Florida Statutes, is
24 created to read:

25 720.407 Recording; notice of recording; applicability
26 and effective date.--

27 (1) No later than 30 days after receiving approval
28 from the department, the organizing committee shall file the
29 articles of incorporation of the association with the Division
30 of Corporations of the Department of State if the articles
31 have not been previously filed with the division.

1 (2) No later than 30 days after receiving approval
2 from the division, the president and secretary of the
3 association shall execute the revived declaration and other
4 governing documents approved by the department in the name of
5 the association and have the documents recorded with the clerk
6 of the circuit court in the county where the affected parcels
7 are located.

8 (3) The recorded documents shall include the full text
9 of the approved declaration of covenants, the articles of
10 incorporation and bylaws of the homeowners' association, the
11 letter of approval by the department, and the legal
12 description of each affected parcel of property. For purposes
13 of chapter 712, the association is deemed to be and shall be
14 indexed as the grantee in a title transaction and the parcel
15 owners named in the revived declaration are deemed to be and
16 shall be indexed as the grantors in the title transaction.

17 (4) Immediately after recording the documents, a
18 complete copy of all of the approved recorded documents must
19 be mailed or hand delivered to the owner of each affected
20 parcel. The revived declaration and other governing documents
21 shall be effective upon recordation in the public records with
22 respect to each affected parcel subject thereto, regardless of
23 whether the particular parcel owner approved the revived
24 declaration. Upon recordation, the revived declaration shall
25 replace and supersede the previous declaration with respect to
26 all affected parcels then governed by the previous declaration
27 and shall have the same record priority as the superseded
28 previous declaration. With respect to any affected parcels
29 that had ceased to be governed by the previous declaration as
30 of the recording date, the revived declaration may not have
31

1 retroactive effect with respect to the parcel and shall take
2 priority with respect to the parcel as of the recording date.

3 (5) With respect to any parcel that has ceased to be
4 governed by a previous declaration of covenants as of the
5 effective date of this act, the parcel owner may commence an
6 action within one year after the effective date of this act
7 for a judicial determination that the previous declaration did
8 not govern that parcel as of the effective date of this act
9 and that any revival of such declaration as to that parcel
10 would unconstitutionally deprive the parcel owner of rights or
11 property. A revived declaration that is implemented pursuant
12 to this act shall not apply to or affect the rights of the
13 respective parcel owner recognized by any court order or
14 judgment in any such action commenced within one year after
15 the effective date of this act, and any such rights so
16 recognized may not be subsequently altered by a revived
17 declaration implemented under this act without the consent of
18 the affected property owner.

19 Section 12. Subsection (16) of section 718.103,
20 Florida Statutes, is amended to read:

21 718.103 Definitions.--As used in this chapter, the
22 term:

23 (16) "Developer" means a person who creates a
24 condominium or offers condominium parcels for sale or lease in
25 the ordinary course of business, but does not include an owner
26 or lessee of a condominium or cooperative unit who has
27 acquired the unit for his or her own occupancy, nor does it
28 include a cooperative association which creates a condominium
29 by conversion of an existing residential cooperative after
30 control of the association has been transferred to the unit
31 owners if, following the conversion, the unit owners will be

1 the same persons who were unit owners of the cooperative and
2 no units are offered for sale or lease to the public as part
3 of the plan of conversion. A state, county, or municipal
4 entity is not a developer for any purposes under this act when
5 it is acting as a lessor and not otherwise named as a
6 developer in the association.

7 Section 13. Section 720.301, Florida Statutes, is
8 amended to read:

9 720.301 Definitions.--As used in ss. 720.301-720.501
10 ~~ss. 720.301-720.312~~, the term:

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

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

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

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

27 (3) "Community" means the real property that is or
28 will be subject to a declaration of covenants which is
29 recorded in the county where the property is located. The
30 term "community" includes all real property, including
31 undeveloped phases, that is or was the subject of a

1 development-of-regional-impact development order, together
2 with any approved modification thereto.

3 (4) "Declaration of covenants," or "declaration,"
4 means a recorded written instrument in the nature of covenants
5 running with the land which subjects the land comprising the
6 community to the jurisdiction and control of an association or
7 associations in which the owners of the parcels, or their
8 association representatives, must be members.

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

11 ~~(6)(5)~~ "Developer" means a person or entity that:

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

13 or

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

17 (7) "Division" means the Division of Florida Land
18 Sales, Condominiums, and Mobile Homes in the Department of
19 Business and Professional Regulation.

20 ~~(8)(6)~~ "Governing documents" means:

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

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

27 ~~(9)(7)~~ "Homeowners' association" or "association"
28 means a Florida corporation responsible for the operation of a
29 community or a mobile home subdivision in which the voting
30 membership is made up of parcel owners or their agents, or a
31 combination thereof, and in which membership is a mandatory

1 condition of parcel ownership, and which is authorized to
2 impose assessments that, if unpaid, may become a lien on the
3 parcel. The term "homeowners' association" does not include a
4 community development district or other similar special taxing
5 district created pursuant to statute.

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

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

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

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

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

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

21 ~~(12)(10)~~ "Parcel owner" means the record owner of
22 legal title to a parcel.

23 ~~(13)(11)~~ "Voting interest" means the voting rights
24 distributed to the members of the homeowners' association,
25 pursuant to the governing documents.

26 Section 14. Subsection (2) of section 720.302, Florida
27 Statutes, is amended to read:

28 720.302 Purposes, scope, and application.--

29 (2) The Legislature recognizes that it is not in the
30 best interest of homeowners' associations or the individual
31 association members thereof to create or impose a bureau or

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

16 Section 15. Section 720.303, Florida Statutes, is
 17 amended to read:

18 720.303 Association powers and duties; meetings of
 19 board; official records; budgets; financial reporting;
 20 association funds; recalls.--

21 (1) POWERS AND DUTIES.--An association which operates
 22 a community as defined in s. 720.301, must be operated by an
 23 association that is a Florida corporation. After October 1,
 24 1995, the association must be incorporated and the initial
 25 governing documents must be recorded in the official records
 26 of the county in which the community is located. An
 27 association may operate more than one community. The officers
 28 and directors of an association have a fiduciary relationship
 29 to the members who are served by the association. The powers
 30 and duties of an association include those set forth in this
 31 chapter and, except as expressly limited or restricted in this

1 chapter, those set forth in the governing documents. After
2 control of the association is obtained by members ~~unit owners~~
3 other than the developer, the association may institute,
4 maintain, settle, or appeal actions or hearings in its name on
5 behalf of all members concerning matters of common interest to
6 the members, including, but not limited to, the common areas;
7 roof or structural components of a building, or other
8 improvements for which the association is responsible;
9 mechanical, electrical, or plumbing elements serving an
10 improvement or building for which the association is
11 responsible; representations of the developer pertaining to
12 any existing or proposed commonly used facility; and
13 protesting ad valorem taxes on commonly used facilities. The
14 association may defend actions in eminent domain or bring
15 inverse condemnation actions. Before commencing litigation
16 against any party in the name of the association involving
17 amounts in controversy in excess of \$100,000, the association
18 must obtain the affirmative approval of a majority of the
19 voting interests at a meeting of the membership at which a
20 quorum has been attained. This subsection does not limit any
21 statutory or common-law right of any individual member or
22 class of members to bring any action without participation by
23 the association. A member does not have authority to act for
24 the association by virtue of being a member. An association
25 may have more than one class of members and may issue
26 membership certificates. An association of 15 or fewer parcel
27 owners may enforce only the requirements of those deed
28 restrictions established prior to the purchase of each parcel
29 upon an affected parcel owner or owners.

30 (2) BOARD MEETINGS.--
31

1 (a) A meeting of the board of directors of an
2 association occurs whenever a quorum of the board gathers to
3 conduct association business. All meetings of the board must
4 be open to all members except for meetings between the board
5 and its attorney with respect to proposed or pending
6 litigation where the contents of the discussion would
7 otherwise be governed by the attorney-client privilege.

8 (b) Members have the right to attend all meetings of
9 the board and to speak on any matter placed on the agenda by
10 petition of the voting interests for at least 3 minutes. The
11 association may adopt written reasonable rules expanding the
12 right of members to speak and governing the frequency,
13 duration, and other manner of member statements, which rules
14 must be consistent with this paragraph and may include a
15 sign-up sheet for members wishing to speak. Notwithstanding
16 any other law, the requirement that board meetings and
17 committee meetings be open to the members is inapplicable to
18 meetings between the board or a committee and the
19 association's attorney, with respect to meetings of the board
20 held for the purpose of discussing personnel matters.

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

24 1. Notices of all board meetings must be posted in a
25 conspicuous place in the community at least 48 hours in
26 advance of a meeting, except in an emergency. In the
27 alternative, if notice is not posted in a conspicuous place in
28 the community, notice of each board meeting must be mailed or
29 delivered to each member at least 7 days before the meeting,
30 except in an emergency. Notwithstanding this general notice
31 requirement, for communities with more than 100 members, the

1 bylaws may provide for a reasonable alternative to posting or
2 mailing of notice for each board meeting, including
3 publication of notice, provision of a schedule of board
4 meetings, or the conspicuous posting and repeated broadcasting
5 of the notice on a closed-circuit cable television system
6 serving the homeowners' association. However, if broadcast
7 notice is used in lieu of a notice posted physically in the
8 community, the notice must be broadcast at least four times
9 every broadcast hour of each day that a posted notice is
10 otherwise required. When broadcast notice is provided, the
11 notice and agenda must be broadcast in a manner and for a
12 sufficient continuous length of time so as to allow an average
13 reader to observe the notice and read and comprehend the
14 entire content of the notice and the agenda. The bylaws or
15 amended bylaws may provide for giving notice by electronic
16 transmission in a manner authorized by law for meetings of the
17 board of directors, committee meetings requiring notice under
18 this section, and annual and special meetings of the members;
19 however, a member must consent in writing to receiving notice
20 by electronic transmission.

21 2. An assessment may not be levied at a board meeting
22 unless a written ~~the~~ notice of the meeting is provided to all
23 members at least 14 days before the meeting, which notice
24 includes a statement that assessments will be considered at
25 the meeting and the nature of the assessments. Written notice
26 of any meeting at which special assessments will be considered
27 or at which rules that regulate the use of parcels in the
28 community may be adopted, amended, or revoked must be mailed,
29 delivered, or electronically transmitted to the members and
30 parcel owners and posted conspicuously on the property or
31 broadcast on closed-circuit cable television not less than 14

1 days before the meeting. A written notice concerning changes
2 to the rules that regulate the use of parcels in the community
3 must include a statement that changes to the rules regarding
4 the use of parcels will be considered at the meeting.

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

14 (d) If 20 percent of the total voting interests
15 petition the board to address an item of business, the board
16 shall at its next regular board meeting or at a special
17 meeting of the board, but not later than 60 days after the
18 receipt of the petition, take the petitioned item up on an
19 agenda. The board shall give all members notice of the meeting
20 at which the petitioned item shall be addressed in accordance
21 with the 14-day notice requirement pursuant to subparagraph 2.
22 Each member shall have the right to speak for at least 3
23 minutes on each matter placed on the agenda by petition,
24 provided that the member signs the sign-up sheet, if one is
25 provided, or submits a written request to speak prior to the
26 meeting. Other than addressing the petitioned item at the
27 meeting, the board is not obligated to take any other action
28 requested by the petition.

29 (3) MINUTES.--Minutes of all meetings of the members
30 of an association and of the board of directors of an
31 association must be maintained in written form or in another

1 form that can be converted into written form within a
2 reasonable time. A vote or abstention from voting on each
3 matter voted upon for each director present at a board meeting
4 must be recorded in the minutes.

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

8 (a) Copies of any plans, specifications, permits, and
9 warranties related to improvements constructed on the common
10 areas or other property that the association is obligated to
11 maintain, repair, or replace.

12 (b) A copy of the bylaws of the association and of
13 each amendment to the bylaws.

14 (c) A copy of the articles of incorporation of the
15 association and of each amendment thereto.

16 (d) A copy of the declaration of covenants and a copy
17 of each amendment thereto.

18 (e) A copy of the current rules of the homeowners'
19 association.

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

23 (g) A current roster of all members and their mailing
24 addresses and parcel identifications. The association shall
25 also maintain the electronic mailing addresses and the numbers
26 designated by members for receiving notice sent by electronic
27 transmission of those members consenting to receive notice by
28 electronic transmission. The electronic mailing addresses and
29 numbers provided by unit owners to receive notice by
30 electronic transmission shall be removed from association
31 records when consent to receive notice by electronic

1 transmission is revoked. However, the association is not
2 liable for an erroneous disclosure of the electronic mail
3 address or the number for receiving electronic transmission of
4 notices.

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

8 (i) A current copy of all contracts to which the
9 association is a party, including, without limitation, any
10 management agreement, lease, or other contract under which the
11 association has any obligation or responsibility. Bids
12 received by the association for work to be performed must also
13 be considered official records and must be kept for a period
14 of 1 year.

15 (j) The financial and accounting records of the
16 association, kept according to good accounting practices. All
17 financial and accounting records must be maintained for a
18 period of at least 7 years. The financial and accounting
19 records must include:

20 1. Accurate, itemized, and detailed records of all
21 receipts and expenditures.

22 2. A current account and a periodic statement of the
23 account for each member, designating the name and current
24 address of each member who is obligated to pay assessments,
25 the due date and amount of each assessment or other charge
26 against the member, the date and amount of each payment on the
27 account, and the balance due.

28 3. All tax returns, financial statements, and
29 financial reports of the association.

30 4. Any other records that identify, measure, record,
31 or communicate financial information.

1 (k) A copy of the disclosure summary described in s.
2 720.401(1).

3 (l) All other written records of the association not
4 specifically included in the foregoing which are related to
5 the operation of the association.

6 (5) INSPECTION AND COPYING OF RECORDS.--The official
7 records shall be maintained within the state and must be open
8 to inspection and available for photocopying by members or
9 their authorized agents at reasonable times and places within
10 10 business days after receipt of a written request for
11 access. This subsection may be complied with by having a copy
12 of the official records available for inspection or copying in
13 the community. If the association has a photocopy machine
14 available where the records are maintained, it must provide
15 parcel owners with copies on request during the inspection if
16 the entire request is limited to no more than 25 pages.

17 (a) The failure of an association to provide access to
18 the records within 10 business days after receipt of a written
19 request creates a rebuttable presumption that the association
20 willfully failed to comply with this subsection.

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

27 (c) The association may adopt reasonable written rules
28 governing the frequency, time, location, notice, records to be
29 inspected, and manner of inspections, but may not impose a
30 requirement that a parcel owner demonstrate any proper purpose
31 for the inspection, state any reason for the inspection, or

1 limit a parcel owner's right to inspect records to less than
2 one 8-hour business day per month. The association ~~and~~ may
3 impose fees to cover the costs of providing copies of the
4 official records, including, without limitation, the costs of
5 copying. The association may charge up to 50 cents per page
6 for copies made on the association's photocopier. If the
7 association does not have a photocopy machine available where
8 the records are kept, or if the records requested to be copied
9 exceed 25 pages in length, the association may have copies
10 made by an outside vendor and may charge the actual cost of
11 copying. The association shall maintain an adequate number of
12 copies of the recorded governing documents, to ensure their
13 availability to members and prospective members, ~~and may~~
14 ~~charge only its actual costs for reproducing and furnishing~~
15 ~~these documents to those persons who are entitled to receive~~
16 ~~them.~~ Notwithstanding the provisions of this paragraph, the
17 following records shall not be accessible to members or parcel
18 owners:

19 1. Any record protected by the lawyer-client privilege
20 as described in s. 90.502 and any record protected by the
21 work-product privilege, including, but not limited to, any
22 record prepared by an association attorney or prepared at the
23 attorney's express direction which reflects a mental
24 impression, conclusion, litigation strategy, or legal theory
25 of the attorney or the association and was prepared
26 exclusively for civil or criminal litigation or for
27 adversarial administrative proceedings or which was prepared
28 in anticipation of imminent civil or criminal litigation or
29 imminent adversarial administrative proceedings until the
30 conclusion of the litigation or adversarial administrative
31 proceedings.

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

4 3. Disciplinary, health, insurance, and personnel
5 records of the association's employees.

6 4. Medical records of parcel owners or community
7 residents.

8 (6) BUDGETS.--The association shall prepare an annual
9 budget. The budget must reflect the estimated revenues and
10 expenses for that year and the estimated surplus or deficit as
11 of the end of the current year. The budget must set out
12 separately all fees or charges for recreational amenities,
13 whether owned by the association, the developer, or another
14 person. The association shall provide each member with a copy
15 of the annual budget or a written notice that a copy of the
16 budget is available upon request at no charge to the member.
17 The copy must be provided to the member within the time limits
18 set forth in subsection (5).

19 (7) FINANCIAL REPORTING.--The association shall
20 prepare an annual financial report within 60 days after the
21 close of the fiscal year. The association shall, within the
22 time limits set forth in subsection (5), provide each member
23 with a copy of the annual financial report or a written notice
24 that a copy of the financial report is available upon request
25 at no charge to the member. Financial reports shall be
26 prepared as follows ~~The financial report must consist of~~
27 ~~either:~~

28 (a) An association that meets the criteria of this
29 paragraph shall prepare or cause to be prepared a complete set
30 of financial statements in accordance with generally accepted
31

1 accounting principles. The financial statements shall be based
2 upon the association's total annual revenues, as follows:
3 1. An association with total annual revenues of
4 \$100,000 or more, but less than \$200,000, shall prepare
5 compiled financial statements.
6 2. An association with total annual revenues of at
7 least \$200,000, but less than \$400,000, shall prepare reviewed
8 financial statements.
9 3. An association with total annual revenues of
10 \$400,000 or more shall prepare audited financial statements.
11 ~~Financial statements presented in conformity with generally~~
12 ~~accepted accounting principles; or~~
13 ~~(b) A financial report of actual receipts and~~
14 ~~expenditures, cash basis, which report must show:~~
15 1. An association with total annual revenues of less
16 than \$100,000 shall prepare a report of cash receipts and
17 expenditures. The amount of receipts and expenditures by
18 classification; and
19 2. An association in a community of fewer than 50
20 parcels, regardless of the association's annual revenues, may
21 prepare a report of cash receipts and expenditures in lieu of
22 financial statements required by paragraph (a) unless the
23 governing documents provide otherwise. The beginning and
24 ending cash balances of the association.
25 3. A report of cash receipts and disbursement must
26 disclose the amount of receipts by accounts and receipt
27 classifications and the amount of expenses by accounts and
28 expense classifications, including, but not limited to, the
29 following, as applicable: costs for security, professional,
30 and management fees and expenses; taxes; costs for recreation
31 facilities; expenses for refuse collection and utility

1 services; expenses for lawn care; costs for building
2 maintenance and repair; insurance costs; administration and
3 salary expenses; and reserves if maintained by the
4 association.

5 (c) If 20 percent of the parcel owners petition the
6 board for a level of financial reporting higher than that
7 required by this section, the association shall duly notice
8 and hold a meeting of members within 30 days of receipt of the
9 petition for the purpose of voting on raising the level of
10 reporting for that fiscal year. Upon approval of a majority of
11 the total voting interests of the parcel owners, the
12 association shall prepare or cause to be prepared, shall amend
13 the budget or adopt a special assessment to pay for the
14 financial report regardless of any provision to the contrary
15 in the governing documents, and shall provide within 90 days
16 of the meeting or the end of the fiscal year, whichever occurs
17 later:

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

21 2. Reviewed or audited financial statements, if the
22 association is otherwise required to prepare compiled
23 financial statements; or

24 3. Audited financial statements if the association is
25 otherwise required to prepare reviewed financial statements.

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

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

31

1 2. A report of cash receipts and expenditures or a
2 compiled financial statement in lieu of a reviewed or audited
3 financial statement; or

4 3. A report of cash receipts and expenditures, a
5 compiled financial statement, or a reviewed financial
6 statement in lieu of an audited financial statement.

7 (8) ASSOCIATION FUNDS; COMMINGLING.--

8 (a) All association funds held by a developer shall be
9 maintained separately in the association's name. Reserve and
10 operating funds of the association shall not be commingled
11 prior to turnover except the association may jointly invest
12 reserve funds; however, such jointly invested funds must be
13 accounted for separately.

14 (b) No developer in control of a homeowners'
15 association shall commingle any association funds with his or
16 her funds or with the funds of any other homeowners'
17 association or community association.

18 (c) Association funds may not be used by a developer
19 to defend a civil or criminal action, administrative
20 proceeding, or arbitration proceeding that has been filed
21 against the developer or directors appointed to the
22 association board by the developer, even when the subject of
23 the action or proceeding concerns the operation of the
24 developer-controlled association.

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

28 (10) RECALL OF DIRECTORS.--

29 (a)1. Regardless of any provision to the contrary
30 contained in the governing documents, subject to the
31 provisions of s. 720.307 regarding transition of association

1 control, any member of the board or directors may be recalled
2 and removed from office with or without cause by a majority of
3 the total voting interests.

4 2. When the governing documents, including the
5 declaration, articles of incorporation, or bylaws, provide
6 that only a specific class of members is entitled to elect a
7 board director or directors, only that class of members may
8 vote to recall those board directors so elected.

9 (b)1. Board directors may be recalled by an agreement
10 in writing or by written ballot without a membership meeting.
11 The agreement in writing or the written ballots, or a copy
12 thereof, shall be served on the association by certified mail
13 or by personal service in the manner authorized by chapter 48
14 and the Florida Rules of Civil Procedure.

15 2. The board shall duly notice and hold a meeting of
16 the board within 5 full business days after receipt of the
17 agreement in writing or written ballots. At the meeting, the
18 board shall either certify the written ballots or written
19 agreement to recall a director or directors of the board, in
20 which case such director or directors shall be recalled
21 effective immediately and shall turn over to the board within
22 5 full business days any and all records and property of the
23 association in their possession, or proceed as described in
24 paragraph (d).

25 3. When it is determined by the department pursuant to
26 binding arbitration proceedings that an initial recall effort
27 was defective, written recall agreements or written ballots
28 used in the first recall effort and not found to be defective
29 may be reused in one subsequent recall effort. However, in no
30 event is a written agreement or written ballot valid for more
31 than 120 days after it has been signed by the member.

1 4. Any rescission or revocation of a member's written
2 recall ballot or agreement must be in writing and, in order to
3 be effective, must be delivered to the association before the
4 association is served with the written recall agreements or
5 ballots.

6 5. The agreement in writing or ballot shall list at
7 least as many possible replacement directors as there are
8 directors subject to the recall, when at least a majority of
9 the board is sought to be recalled; the person executing the
10 recall instrument may vote for as many replacement candidates
11 as there are directors subject to the recall.

12 (c)1. If the declaration, articles of incorporation,
13 or bylaws specifically provide, the members may also recall
14 and remove a board director or directors by a vote taken at a
15 meeting. If so provided in the governing documents, a special
16 meeting of the members to recall a director or directors of
17 the board of administration may be called by 10 percent of the
18 voting interests giving notice of the meeting as required for
19 a meeting of members, and the notice shall state the purpose
20 of the meeting. Electronic transmission may not be used as a
21 method of giving notice of a meeting called in whole or in
22 part for this purpose.

23 2. The board shall duly notice and hold a board
24 meeting within 5 full business days after the adjournment of
25 the member meeting to recall one or more directors. At the
26 meeting, the board shall certify the recall, in which case
27 such member or members shall be recalled effective immediately
28 and shall turn over to the board within 5 full business days
29 any and all records and property of the association in their
30 possession, or shall proceed as set forth in subparagraph (d).

31

1 (d) If the board determines not to certify the written
2 agreement or written ballots to recall a director or directors
3 of the board or does not certify the recall by a vote at a
4 meeting, the board shall, within 5 full business days after
5 the meeting, file with the department a petition for binding
6 arbitration pursuant to the applicable procedures in ss.
7 718.1255 and 718.112(2)(j) and the rules adopted thereunder.
8 For the purposes of this section, the members who voted at the
9 meeting or who executed the agreement in writing shall
10 constitute one party under the petition for arbitration. If
11 the arbitrator certifies the recall as to any director or
12 directors of the board, the recall will be effective upon
13 mailing of the final order of arbitration to the association.
14 The director or directors so recalled shall deliver to the
15 board any and all records of the association in their
16 possession within 5 full business days after the effective
17 date of the recall.

18 (e) If a vacancy occurs on the board as a result of a
19 recall and less than a majority of the board directors are
20 removed, the vacancy may be filled by the affirmative vote of
21 a majority of the remaining directors, notwithstanding any
22 provision to the contrary contained in this subsection or in
23 the association documents. If vacancies occur on the board as
24 a result of a recall and a majority or more of the board
25 directors are removed, the vacancies shall be filled by
26 members voting in favor of the recall; if removal is at a
27 meeting, any vacancies shall be filled by the members at the
28 meeting. If the recall occurred by agreement in writing or by
29 written ballot, members may vote for replacement directors in
30 the same instrument in accordance with procedural rules
31

1 adopted by the division, which rules need not be consistent
2 with this subsection.

3 (f) If the board fails to duly notice and hold a board
4 meeting within 5 full business days after service of an
5 agreement in writing or within 5 full business days after the
6 adjournment of the member recall meeting, the recall shall be
7 deemed effective and the board directors so recalled shall
8 immediately turn over to the board all records and property of
9 the association.

10 (g) If a director who is removed fails to relinquish
11 his or her office or turn over records as required under this
12 section, the circuit court in the county where the association
13 maintains its principal office may, upon the petition of the
14 association, summarily order the director to relinquish his or
15 her office and turn over all association records upon
16 application of the association.

17 (h) The minutes of the board meeting at which the
18 board decides whether to certify the recall are an official
19 association record. The minutes must record the date and time
20 of the meeting, the decision of the board, and the vote count
21 taken on each board member subject to the recall. In addition,
22 when the board decides not to certify the recall, as to each
23 vote rejected, the minutes must identify the parcel number and
24 the specific reason for each such rejection.

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

29 Section 16. Section 720.304, Florida Statutes, is
30 amended to read:

31

1 720.304 Right of owners to peaceably assemble; display
2 of flag; SLAPP suits prohibited.--

3 (1) All common areas and recreational facilities
4 serving any homeowners' association shall be available to
5 parcel owners in the homeowners' association served thereby
6 and their invited guests for the use intended for such common
7 areas and recreational facilities. The entity or entities
8 responsible for the operation of the common areas and
9 recreational facilities may adopt reasonable rules and
10 regulations pertaining to the use of such common areas and
11 recreational facilities. No entity or entities shall
12 unreasonably restrict any parcel owner's right to peaceably
13 assemble or right to invite public officers or candidates for
14 public office to appear and speak in common areas and
15 recreational facilities.

16 (2) Any homeowner may display one portable, removable
17 United States flag or official flag of the State of Florida in
18 a respectful manner, and on Armed Forces Day, Memorial Day,
19 Flag Day, Independence Day, and Veterans Day may display in a
20 respectful manner portable, removable official flags, not
21 larger than 4 1/2 feet by 6 feet, which represents the United
22 States Army, Navy, Air Force, Marine Corps, or Coast Guard,
23 regardless of any declaration rules or requirements dealing
24 with flags or decorations.

25 (3) Any owner prevented from exercising rights
26 guaranteed by subsection (1) or subsection (2) may bring an
27 action in the appropriate court of the county in which the
28 alleged infringement occurred, and, upon favorable
29 adjudication, the court shall enjoin the enforcement of any
30 provision contained in any homeowners' association document or
31 rule that operates to deprive the owner of such rights.

1 (4) It is the intent of the Legislature to protect the
2 right of parcel owners to exercise their rights as protected
3 by the First Amendment to the United States Constitution and
4 s. 5, Art. I of the State Constitution. The Legislature
5 recognizes that strategic lawsuits against public
6 participation, or "SLAPP" suits, have occurred when a member
7 is sued by individuals or business organization due to a
8 parcel-owner member's appearance and presentation before a
9 governmental entity on matters related to the homeowners'
10 association. However, it is the public policy of this state
11 that business organizations and individuals not engage in such
12 suits, because such actions are inconsistent with the right of
13 parcel owners to participate in the state's institutions of
14 government. Therefore, the Legislature finds and declares that
15 prohibiting such lawsuits by business organizations and
16 individuals against parcel owners who address matters
17 concerning their homeowners' association will preserve this
18 fundamental state policy, preserve the constitutional rights
19 of parcel owners, and assure the continuation of
20 representative government in this state. It is the intent of
21 the Legislature that such lawsuits be expeditiously disposed
22 of by the courts.

23 (a) A business organization or individual in this
24 state may not file or cause to be filed through its employees
25 or agents any lawsuit, cause of action, claim, cross-claim, or
26 counterclaim against a parcel owner without merit and solely
27 because the parcel owner has exercised the right to instruct
28 his or her representatives or the right to petition for
29 redress of grievances before the governmental entities of this
30 state, as protected by the First Amendment to the United
31

1 States Constitution and s. 5, Art. I of the State
2 Constitution.

3 (b) A parcel owner sued by a business organization or
4 individual in violation of this section has a right to an
5 expeditious resolution of a claim that the suit violates this
6 section. A parcel owner may petition the court for an order
7 dismissing the action or granting final judgment in favor of
8 that parcel owner. The petitioner may file a motion for
9 summary judgment, with supplemental affidavits, seeking a
10 determination that the business organization's or individual's
11 lawsuit has been brought in violation of this section. The
12 business organization or individual must thereafter file a
13 response and any supplemental affidavits. As soon as
14 practicable, the court shall set a hearing on the petitioner's
15 motion, which shall be held at the earliest possible time
16 after the filing of the response. The court may award the
17 parcel owner actual damages arising from the violation of this
18 section. A court may award treble damages to a prevailing
19 parcel owner and shall state the basis for the treble damages
20 award in its judgment. The court shall award the prevailing
21 party reasonable attorney's fees and costs incurred in
22 connection with a claim that an action was filed in violation
23 of this section.

24 (c) Homeowners' associations may not expend
25 association funds in prosecuting a SLAPP suit against a parcel
26 owner.

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

31

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

4 2. Plans for the ramp must be submitted in advance to
5 the homeowners' association. The association may make
6 reasonable requests to modify the design to achieve
7 architectural consistency with surrounding structures and
8 surfaces.

9 (b) The parcel owner must submit to the association an
10 affidavit from a physician attesting to the medical necessity
11 or disability of the resident or occupant of the parcel
12 requiring the access ramp. Certification used for s. 320.0848
13 shall be sufficient to meet the affidavit requirement.

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

17 Section 17. Subsection (2) of section 720.305, Florida
18 Statutes, is amended to read:

19 720.305 Obligations of members; remedies at law or in
20 equity; levy of fines and suspension of use rights; failure to
21 fill sufficient number of vacancies on board of directors to
22 constitute a quorum; appointment of receiver upon petition of
23 any member.--

24 (2) If the governing documents so provide, an
25 association may suspend, for a reasonable period of time, the
26 rights of a member or a member's tenants, guests, or invitees,
27 or both, to use common areas and facilities and may levy
28 reasonable fines, not to exceed \$100 per violation, against
29 any member or any tenant, guest, or invitee. A fine may be
30 levied on the basis of each day of a continuing violation,
31 with a single notice and opportunity for hearing, except that

1 no such fine shall exceed \$1,000 in the aggregate unless
2 otherwise provided in the governing documents. A fine shall
3 not become a lien against a parcel. In any action to recover a
4 fine, the prevailing party is entitled to collect its
5 reasonable attorney's fees and costs from the nonprevailing
6 party as determined by the court.

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

16 (b) The requirements of this subsection do not apply
17 to the imposition of suspensions or fines upon any member
18 because of the failure of the member to pay assessments or
19 other charges when due if such action is authorized by the
20 governing documents.

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

25 Section 18. Section 720.3055, Florida Statutes, is
26 created to read:

27 720.3055 Contracts for products and services; in
28 writing; bids; exceptions.--

29 (1) All contracts as further described in this section
30 or any contract that is not to be fully performed within 1
31 year after the making thereof for the purchase, lease, or

1 renting of materials or equipment to be used by the
2 association in accomplishing its purposes under this chapter
3 or the governing documents, and all contracts for the
4 provision of services, shall be in writing. If a contract for
5 the purchase, lease, or renting of materials or equipment, or
6 for the provision of services, requires payment by the
7 association that exceeds 10 percent of the total annual budget
8 of the association, including reserves, the association must
9 obtain competitive bids for the materials, equipment, or
10 services. Nothing contained in this section shall be construed
11 to require the association to accept the lowest bid.

12 (2)(a)1. Notwithstanding the foregoing, contracts with
13 employees of the association, and contracts for attorney,
14 accountant, architect, community association manager,
15 engineering, and landscape architect services are not subject
16 to the provisions of this section.

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

1 provisions are not less stringent than the requirements of
2 this section.

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

6 (c) This section does not apply if the business entity
7 with which the association desires to enter into a contract is
8 the only source of supply within the county serving the
9 association.

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

13 Section 19. Present subsections (5) through (8) of
14 section 720.306, Florida Statutes, are renumbered as
15 subsections (7) through (10), respectively, present subsection
16 (7) is amended, and new subsections (5) and (6) are added to
17 that section to read:

18 720.306 Meetings of members; voting and election
19 procedures; amendments.--

20 (5) NOTICE OF MEETINGS.--The bylaws shall provide for
21 giving notice to members of all member meetings, and if they
22 do not do so shall be deemed to provide the following: The
23 association shall give all parcel owners and members actual
24 notice of all membership meetings, which shall be mailed,
25 delivered, or electronically transmitted to the members not
26 less than 14 days prior to the meeting. Evidence of compliance
27 with this 14-day notice shall be made by an affidavit executed
28 by the person providing the notice and filed upon execution
29 among the official records of the association. In addition to
30 mailing, delivering, or electronically transmitting the notice
31 of any meeting, the association may, by reasonable rule, adopt

1 a procedure for conspicuously posting and repeatedly
2 broadcasting the notice and the agenda on a closed-circuit
3 cable television system serving the association. When
4 broadcast notice is provided, the notice and agenda must be
5 broadcast in a manner and for a sufficient continuous length
6 of time so as to allow an average reader to observe the notice
7 and read and comprehend the entire content of the notice and
8 the agenda.

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

22 (9)(7) ELECTIONS.--Elections of directors must be
23 conducted in accordance with the procedures set forth in the
24 governing documents of the association. All members of the
25 association shall be eligible to serve on the board of
26 directors, and a member may nominate himself or herself as a
27 candidate for the board at a meeting where the election is to
28 be held. Except as otherwise provided in the governing
29 documents, boards of directors must be elected by a plurality
30 of the votes cast by eligible voters. Any election dispute
31 between a member and an association must be submitted to

1 mandatory binding arbitration with the division. Such
2 proceedings shall be conducted in the manner provided by s.
3 718.1255 and the procedural rules adopted by the division.

4 Section 20. Section 720.311, Florida Statutes, is
5 amended to read:

6 720.311 Dispute resolution.--

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

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

1 benefits of the mediator and any travel expenses incurred. The
2 petitioner shall initially file with the department upon
3 filing the disputes, a filing fee of \$200, which shall be used
4 to defray the costs of the mediation. At the conclusion of the
5 mediation, the department shall charge to the parties, to be
6 shared equally unless otherwise agreed by the parties, such
7 further fees as are necessary to fully reimburse the
8 department for all expenses incurred in the mediation.

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

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

1 community associations within 5 years prior to the date of the
2 application, or has mediated or arbitrated 10 disputes in any
3 area within 5 years prior to the date of application and has
4 completed 20 hours of training in community association
5 disputes. In order to be certified by the department, any
6 mediator must also be certified by the Florida Supreme Court.
7 The department may conduct the training and certification
8 program within the department or may contract with an outside
9 vendor to perform the training or certification. The expenses
10 of operating the training and certification and training
11 program shall be paid by the moneys and filing fees generated
12 by the arbitration of recall and election disputes and by the
13 mediation of those disputes referred to in this subsection and
14 by the training fees.

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

22 (3) The department shall develop an education program
23 to assist homeowners, associations, board members, and
24 managers in understanding and increasing awareness of the
25 operation of homeowners' associations pursuant to chapter 720
26 and in understanding the use of alternative dispute resolution
27 techniques in resolving disputes between parcel owners and
28 associations or between owners. Such education program may
29 include the development of pamphlets and other written
30 instructional guides, the holding of classes and meetings by
31 department employees or outside vendors, as the department

1 determines, and the creation and maintenance of a website
 2 containing instructional materials. The expenses of operating
 3 the education program shall be initially paid by the moneys
 4 and filing fees generated by the arbitration of recall and
 5 election disputes and by the mediation of those disputes
 6 referred to in this subsection. ~~At any time after the filing~~
 7 ~~in a court of competent jurisdiction of a complaint relating~~
 8 ~~to a dispute under ss. 720.301-720.312, the court may order~~
 9 ~~that the parties enter mediation or arbitration procedures.~~

10 Section 21. Section 689.26, Florida Statutes, is
 11 transferred, renumbered as section 720.401, Florida Statutes,
 12 and amended to read:

13 720.401 ~~689.26~~ Prospective purchasers subject to
 14 association membership requirement; disclosure required;
 15 covenants; assessments; contract cancellation ~~voidability~~--

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

20
 21 DISCLOSURE SUMMARY
 22 FOR
 23 (NAME OF COMMUNITY)
 24

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

28 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE
 29 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN
 30 THIS COMMUNITY.
 31

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

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

12 ~~5.4.~~ 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 ~~6.5.~~ THERE ~~MAY BE~~(~~IS~~) (~~IS NOT~~) AN OBLIGATION TO PAY
16 RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED
17 FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS'
18 ASSOCIATION. IF APPLICABLE, THE CURRENT AMOUNT IS \$ PER
19 ~~.(If such obligation exists, then the amount of the~~
20 ~~current obligation shall be set forth.)~~

21 ~~7.6.~~ THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE
22 RESTRICTIVE COVENANTS(~~CAN~~) (~~CANNOT~~) ~~BE AMENDED~~ WITHOUT THE
23 APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE
24 ~~IF NO MANDATORY ASSOCIATION EXISTS,~~ PARCEL OWNERS.

25 ~~8.7.~~ THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM
26 ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER,
27 YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION
28 GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

29 ~~9.8.~~ THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC
30 RECORD AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE
31

1 COUNTY WHERE THE PROPERTY IS LOCATED, OR ARE NOT RECORDED AND
2 CAN BE OBTAINED FROM THE DEVELOPER.

3 DATE: PURCHASER:
4 PURCHASER:

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

14 (b) Each contract entered into for the sale of
15 property governed by covenants subject to disclosure required
16 by this section must contain in conspicuous type a clause that
17 states:

18
19 IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION
20 720.401 ~~689.26~~, FLORIDA STATUTES, HAS NOT BEEN
21 PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE
22 EXECUTING THIS CONTRACT FOR SALE, THIS CONTRACT
23 IS VOIDABLE BY BUYER BY DELIVERING TO SELLER OR
24 SELLER'S AGENT OR REPRESENTATIVE WRITTEN NOTICE
25 OF THE BUYER'S INTENTION TO CANCEL WITHIN 3
26 DAYS AFTER RECEIPT OF THE DISCLOSURE SUMMARY OR
27 PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY
28 PURPORTED WAIVER OF THIS VOIDABILITY RIGHT HAS
29 NO EFFECT. BUYER'S RIGHT TO VOID THIS CONTRACT
30 SHALL TERMINATE AT CLOSING.

31

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

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

20 Section 22. Section 689.265, Florida Statutes, is
21 transferred and renumbered as section 720.3086, Florida
22 Statutes, to read:

23 720.3086 ~~689.265~~ Financial report.--In a residential
24 subdivision in which the owners of lots or parcels must pay
25 mandatory maintenance or amenity fees to the subdivision
26 developer or to the owners of the common areas, recreational
27 facilities, and other properties serving the lots or parcels,
28 the developer or owner of such areas, facilities, or
29 properties shall make public, within 60 days following the end
30 of each fiscal year, a complete financial report of the
31 actual, total receipts of mandatory maintenance or amenity

1 fees received by it, and an itemized listing of the
2 expenditures made by it from such fees, for that year. Such
3 report shall be made public by mailing it to each lot or
4 parcel owner in the subdivision, by publishing it in a
5 publication regularly distributed within the subdivision, or
6 by posting it in prominent locations in the subdivision. This
7 section does not apply to amounts paid to homeowner
8 associations pursuant to chapter 617, chapter 718, chapter
9 719, chapter 721, or chapter 723, or to amounts paid to local
10 governmental entities, including special districts.

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

13 498.025 Exemptions.--

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

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

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

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

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

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

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

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

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

15 7. The subdivider presents to the purchaser the
16 disclosure required by s. 720.401 ~~s. 689.26~~ prior to the
17 execution of the contract or lease.

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

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

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

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

31

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

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

7 6. Sale of lots in the subdivision shall be restricted
8 solely to residents of the state.

9 7. The underlying mortgage or other ancillary
10 documents shall contain release provisions for the individual
11 lot purchased.

12 8. The subdivider presents to the purchaser the
13 disclosure required by s. 720.401 ~~s. 689.26~~ prior to the
14 execution of the agreement for deed.

15 Section 24. Section 720.402, Florida Statutes, is
16 created to read:

17 720.402 Publication of false and misleading
18 information.--

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

1 year after the date upon which the last of the events

2 described in paragraphs (a) through (d) occur:

3 (a) The closing of the transaction;

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

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

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

27
28 Under no circumstances may a cause of action created or
29 recognized under this section survive for a period of more
30 than 5 years after the closing of the transaction.

31

1 (2) In any action for relief under this section, the
2 prevailing party may recover reasonable attorney's fees. A
3 developer may not expend association funds in the defense of
4 any suit under this section.

5 Section 25. Subsection (1) of section 34.01, Florida
6 Statutes, is amended to read:

7 34.01 Jurisdiction of county court.--

8 (1) County courts shall have original jurisdiction:

9 (a) In all misdemeanor cases not cognizable by the
10 circuit courts;

11 (b) Of all violations of municipal and county
12 ordinances; ~~and~~

13 (c) Of all actions at law in which the matter in
14 controversy does not exceed the sum of \$15,000, exclusive of
15 interest, costs, and attorney's fees, except those within the
16 exclusive jurisdiction of the circuit courts. The party
17 instituting any civil action, suit, or proceeding pursuant to
18 this paragraph where the amount in controversy is in excess of
19 \$5,000 shall pay to the clerk of the county court the filing
20 fees and service charges in the same amounts and in the same
21 manner as provided in s. 28.241; ~~and-~~

22 (d) Of disputes occurring in the homeowners'
23 associations as described in s. 720.311(2)(a), which shall be
24 concurrent with jurisdiction of the circuit courts.

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

27 316.00825 Closing and abandonment of roads; optional
28 conveyance to homeowners' association; traffic control
29 jurisdiction.--

30 (1)(a) In addition to the authority provided in s.
31 336.12, the governing body of the county may abandon the roads

1 and rights-of-way dedicated in a recorded residential
2 subdivision plat and simultaneously convey the county's
3 interest in such roads, rights-of-way, and appurtenant
4 drainage facilities to a homeowners' association for the
5 subdivision, if the following conditions have been met:

6 1. The homeowners' association has requested the
7 abandonment and conveyance in writing for the purpose of
8 converting the subdivision to a gated neighborhood with
9 restricted public access.

10 2. No fewer than four-fifths of the owners of record
11 of property located in the subdivision have consented in
12 writing to the abandonment and simultaneous conveyance to the
13 homeowners' association.

14 3. The homeowners' association is both a corporation
15 not for profit organized and in good standing under chapter
16 617, and a "homeowners' association" as defined in s.
17 720.301(9) ~~s. 720.301(7)~~ with the power to levy and collect
18 assessments for routine and periodic major maintenance and
19 operation of street lighting, drainage, sidewalks, and
20 pavement in the subdivision.

21 4. The homeowners' association has entered into and
22 executed such agreements, covenants, warranties, and other
23 instruments; has provided, or has provided assurance of, such
24 funds, reserve funds, and funding sources; and has satisfied
25 such other requirements and conditions as may be established
26 or imposed by the county with respect to the ongoing
27 operation, maintenance, and repair and the periodic
28 reconstruction or replacement of the roads, drainage, street
29 lighting, and sidewalks in the subdivision after the
30 abandonment by the county.

31

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

3 558.002 Definitions.--As used in this act, the term:

4 (2) "Association" has the same meaning as in s.
5 718.103(2), s. 719.103(2), s. 720.301(9) ~~s. 720.301(7)~~, or s.
6 723.025.

7 Section 28. The Division of Statutory Revision is
8 requested to designate sections 720.301-720.312, Florida
9 Statutes, as part I of chapter 720, Florida Statutes; to
10 designate sections 720.401 and 720.402, Florida Statutes, as
11 part II of chapter 720, Florida Statutes, and entitle that
12 part "DISCLOSURE PRIOR TO SALE OF RESIDENTIAL PARCELS"; to
13 designate sections 720.403-720.407 as part III of chapter 720,
14 Florida Statutes, and entitle that part "COVENANT
15 REVITALIZATION"; and to designate section 720.501, Florida
16 Statutes, as part IV of chapter 720, Florida Statutes, and
17 entitle that part "RIGHTS AND OBLIGATIONS OF DEVELOPERS."

18 Section 29. If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 invalidity does not affect other provisions or applications of
21 this act which can be given effect without the invalid
22 provision or application, and to this end the provisions of
23 this act are declared severable.

24 Section 30. Subsection (4) is added to section
25 190.012, Florida Statutes, to read:

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

1 special powers relating to public improvements and community
2 facilities authorized by this act:

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

15 1. Relate to limitations or prohibitions that apply
16 only to external structures and are deemed by the district to
17 be generally beneficial for the district's landowners and for
18 which enforcement by the district is appropriate, as
19 determined by the district's board of supervisors; or

20 2. Are consistent with the requirements of a
21 development order or regulatory agency permit.

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

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

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

30
31

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

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

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

14 Section 31. Section 190.046, Florida Statutes, is
15 amended to read:

16 190.046 Termination, contraction, or expansion of
17 district.--

18 (1) The board may petition to contract or expand the
19 boundaries of a community development district in the
20 following manner:

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

1 facilities are currently provided by the district to the area
2 being removed, and the designation of the future general
3 distribution, location, and extent of public and private uses
4 of land proposed for the area by the future land element of
5 the adopted local government comprehensive plan.

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

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

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

29 2. Prior to filing the petition, the petitioner shall
30 pay a filing fee of \$1,500 to the county and to each
31 municipality the boundaries of which are contiguous with or

1 contain all or a portion of the land within the district or
2 the proposed amendment, and submit a copy of the petition to
3 the county and to each such municipality. In addition, if the
4 district is not the petitioner, the petitioner shall file the
5 petition with the district board of supervisors.

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

12 4. The district board of supervisors shall, in lieu of
13 a hearing officer, hold the local public hearing provided for
14 by s. 190.005(1)(d). This local public hearing shall be
15 noticed in the same manner as provided in s. 190.005(1)(d).
16 Within 45 days of the conclusion of the hearing, the district
17 board of supervisors shall transmit to the Florida Land and
18 Water Adjudicatory Commission the full record of the local
19 hearing, the transcript of the hearing, any resolutions
20 adopted by the local general-purpose governments, and its
21 recommendation whether to grant the petition for amendment.
22 The commission shall then proceed in accordance with s.
23 190.005(1)(e).

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

26 (e) In all cases, written consent of all the
27 landowners whose land is to be added to or deleted from the
28 district shall be required. The filing of the petition for
29 expansion or contraction by the district board of supervisors
30 shall constitute consent of the landowners within the district
31

1 other than of landowners whose land is proposed to be added to
2 or removed from the district.

3 (f)1. During the existence of a district initially
4 established by administrative rule, petitions to amend the
5 boundaries of the district pursuant to paragraphs (a)-(e)
6 shall be limited to a cumulative total of no more than 10
7 percent of the land in the initial district, and in no event
8 shall all such petitions to amend the boundaries ever
9 encompass more than a total of 250 acres.

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

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

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

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

24 (a) The district is merged with another district as
25 provided in subsection (3);

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

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

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

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

26 (a) As efficiently as the district.

27 (b) At a level of quality equal to or higher than the
28 level of quality actually delivered by the district to the
29 users of the service.

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

1 (5) No later than 30 days following the adoption of a
2 transfer plan ordinance, the board of supervisors may file, in
3 the circuit court for the county in which the local
4 general-purpose government that adopted the ordinance is
5 located, a petition seeking review by certiorari of the
6 factual and legal basis for the adoption of the transfer plan
7 ordinance.

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

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

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

25 (9) If a district has no outstanding financial
26 obligations and no operating or maintenance responsibilities,
27 upon the petition of the district, the district may be
28 dissolved by a nonemergency ordinance of the general-purpose
29 local governmental entity that established the district or, if
30 the district was established by rule of the Florida Land and
31

1 Water Adjudicatory Commission, the district may be dissolved
 2 by repeal of such rule of the commission.

3 Section 32. Section 190.006, Florida Statutes, is
 4 amended to read:

5 190.006 Board of supervisors; members and meetings.--

6 (1) The board of the district shall exercise the
 7 powers granted to the district pursuant to this act. The board
 8 shall consist of five members; except as otherwise provided
 9 herein, each member shall hold office for a term of 2 years or
 10 4 years, as provided in this section, and until a successor is
 11 chosen and qualifies. The members of the board must be
 12 residents of the state and citizens of the United States.

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

27 (b) At such meeting, each landowner shall be entitled
 28 to cast one vote per acre of land owned by him or her and
 29 located within the district for each person to be elected. A
 30 landowner may vote in person or by proxy in writing. Each
 31 proxy must be signed by one of the legal owners of the

1 property for which the vote is cast and must contain the typed
2 or printed name of the individual who signed the proxy; the
3 street address, legal description of the property, or tax
4 parcel identification number; and the number of authorized
5 votes. If the proxy authorizes more than one vote, each
6 property must be listed and the number of acres of each
7 property must be included. The signature on a proxy need not
8 be notarized. A fraction of an acre shall be treated as 1
9 acre, entitling the landowner to one vote with respect
10 thereto. The two candidates receiving the highest number of
11 votes shall be elected for a period of 4 years, and the three
12 candidates receiving the next largest number of votes shall be
13 elected for a period of 2 years, with the term of office for
14 each successful candidate commencing upon election. The
15 members of the first board elected by landowners shall serve
16 their respective 4-year or 2-year terms; however, the next
17 election by landowners shall be held on the first Tuesday in
18 November. Thereafter, there shall be an election of
19 supervisors for the district every 2 years in November on a
20 date established by the board and noticed pursuant to
21 paragraph (a). The second and subsequent landowners' election
22 shall be announced at a public meeting of the board at least
23 90 days prior to the date of the landowners' meeting and shall
24 also be noticed pursuant to paragraph (a). Instructions on how
25 all landowners may participate in the election, along with
26 sample proxies, shall be provided during the board meeting
27 that announces the landowners' meeting. The two candidates
28 receiving the highest number of votes shall be elected to
29 serve for a 4-year period, and the remaining candidate elected
30 shall serve for a 2-year period.
31

1 (3)(a)1. If the board proposes to exercise the ad
2 valorem taxing power authorized by s. 190.021, the district
3 board shall call an election at which the members of the board
4 of supervisors will be elected. Such election shall be held
5 in conjunction with a primary or general election unless the
6 district bears the cost of a special election. Each member
7 shall be elected by the qualified electors of the district for
8 a term of 4 years, except that, at the first such election,
9 three members shall be elected for a period of 4 years and two
10 members shall be elected for a period of 2 years. All elected
11 board members must be qualified electors of the district.

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

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

31

1 **b.** After the 6th or 10th year, once a district reaches
2 250 or 500 qualified electors, respectively, then the
3 ~~positions~~ position of two board members whose terms are
4 expiring shall be filled by qualified electors of the
5 district, elected by the qualified electors of the district
6 for 4-year terms. ~~One of these board members shall serve a~~
7 ~~2-year term, and the other a 4-year term.~~ The remaining board
8 member whose term is expiring shall be elected for a 4-year
9 term by the landowners and is not required to be a qualified
10 elector. Thereafter, as terms expire, board members shall be
11 qualified electors elected by qualified electors of the
12 district for a term of 4 years.

13 **c.** Once a district qualifies to have any of its board
14 members elected by the qualified electors of the district, the
15 initial and all subsequent elections by the qualified electors
16 of the district shall be held at the general election in
17 November. The board shall adopt a resolution if necessary to
18 implement this requirement when the board determines the
19 number of qualified electors as required by sub-subparagraph
20 d., to extend or reduce the terms of current board members.

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

30 (b) Elections of board members by qualified electors
31 held pursuant to this subsection shall be nonpartisan and

1 shall be conducted in the manner prescribed by law for holding
2 general elections. Board members shall assume the office on
3 the second Tuesday following their election.

4 (c) Candidates seeking election to office by qualified
5 electors under this subsection shall conduct their campaigns
6 in accordance with the provisions of chapter 106 and shall
7 file qualifying papers and qualify for individual seats in
8 accordance with s. 99.061. Candidates shall pay a qualifying
9 fee, which shall consist of a filing fee and an election
10 assessment or, as an alternative, shall file a petition signed
11 by not less than 1 percent of the registered voters of the
12 district, ~~Candidates shall file petitions,~~ and take the oath
13 required in s. 99.021, with the supervisor of elections in the
14 county affected by such candidacy. The amount of the filing
15 fee is 3 percent of \$4,800; however, if the electors have
16 provided for compensation pursuant to subsection (8), the
17 amount of the filing fee is 3 percent of the maximum annual
18 compensation so provided. The amount of the election
19 assessment is 1 percent of \$4,800; however, if the electors
20 have provided for compensation pursuant to subsection (8), the
21 amount of the election assessment is 1 percent of the maximum
22 annual compensation so provided. The filing fee and election
23 assessment shall be distributed as provided in s. 105.031(3).

24 (d) The supervisor of elections shall appoint the
25 inspectors and clerks of elections, prepare and furnish the
26 ballots, designate polling places, and canvass the returns of
27 the election of board members by qualified electors. The
28 county canvassing board of county commissioners shall declare
29 and certify the results of the election.

30 (4) Members of the board shall be known as supervisors
31 and, upon entering into office, shall take and subscribe to

1 the oath of office as prescribed by s. 876.05. They shall
2 hold office for the terms for which they were elected or
3 appointed and until their successors are chosen and qualified.
4 If, during the term of office, a vacancy occurs, the remaining
5 members of the board shall fill the vacancy by an appointment
6 for the remainder of the unexpired term.

7 (5) A majority of the members of the board constitutes
8 a quorum for the purposes of conducting its business and
9 exercising its powers and for all other purposes. Action
10 taken by the district shall be upon a vote of a majority of
11 the members present unless general law or a rule of the
12 district requires a greater number.

13 (6) As soon as practicable after each election or
14 appointment, the board shall organize by electing one of its
15 members as chair and by electing a secretary, who need not be
16 a member of the board, and such other officers as the board
17 may deem necessary.

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

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

7 (9) All meetings of the board shall be open to the
8 public and governed by the provisions of chapter 286.

9 Section 33. This act shall take effect upon becoming a
10 law, except sections 1 through 16, which shall take effect
11 October 1, 2004.

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