

CHAMBER ACTION

1 The Committee on Business Regulation recommends the following:

2  
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to conveyances of land; transferring,  
7 renumbering, and amending s. 689.26, F.S.; modifying a  
8 disclosure form that a prospective purchaser must receive  
9 before executing a contract for sale; providing that  
10 certain contracts are voidable for a specified period;  
11 requiring that a purchaser provide written notice of  
12 cancellation; transferring and renumbering s. 689.265,  
13 F.S., relating to required financial reports of certain  
14 residential subdivision developers; amending s. 498.025,  
15 F.S., relating to the disposition of subdivided lands;  
16 conforming cross references; providing an effective date.

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

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



HB611

2004  
CS

49 |       5.4. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR  
50 | ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION COULD  
51 | RESULT IN A LIEN ON YOUR PROPERTY.

52 |       6.5. THERE MAY BE ~~(IS)~~ ~~(IS NOT)~~ AN OBLIGATION TO PAY RENT  
53 | OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED  
54 | FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS'  
55 | ASSOCIATION. IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_  
56 | PER \_\_\_\_\_. ~~(If such obligation exists, then the amount of the~~  
57 | ~~current obligation shall be set forth.)~~

58 |       7.6. THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE  
59 | RESTRICTIVE COVENANTS ~~(CAN)~~ ~~(CANNOT) BE AMENDED~~ WITHOUT THE  
60 | APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE  
61 | ~~IF NO MANDATORY ASSOCIATION EXISTS,~~ PARCEL OWNERS.

62 |       8.7. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE  
63 | ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU  
64 | SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING  
65 | DOCUMENTS BEFORE PURCHASING PROPERTY.

66 |       9.8. THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC RECORD  
67 | AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE  
68 | THE PROPERTY IS LOCATED OR ARE NOT RECORDED AND CAN BE OBTAINED  
69 | FROM THE DEVELOPER.

70 |  
71 | DATE: PURCHASER:  
72 | PURCHASER:

73 |  
74 | The disclosure must be supplied by the developer, or by the  
75 | parcel owner if the sale is by an owner that is not the  
76 | developer. Any contract or agreement for sale shall refer to

CODING: Words **stricken** are deletions; words **underlined** are additions.

HB611

2004  
CS

77 and incorporate the disclosure summary and shall include, in  
78 prominent language, a statement that the potential buyer should  
79 not execute the contract or agreement until they have received  
80 and read the disclosure summary required by this section.

81 (b) Each contract entered into for the sale of property  
82 governed by covenants subject to disclosure required by this  
83 section must contain in conspicuous type a clause that states:  
84

85 IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION 720.3085  
86 ~~689.26~~, FLORIDA STATUTES, HAS NOT BEEN PROVIDED TO THE  
87 PROSPECTIVE PURCHASER BEFORE EXECUTING THIS CONTRACT  
88 FOR SALE, THIS CONTRACT IS VOIDABLE BY BUYER BY  
89 DELIVERING TO SELLER OR SELLER'S AGENT OR  
90 REPRESENTATIVE WRITTEN NOTICE OF THE BUYER'S INTENTION  
91 TO CANCEL WITHIN 3 DAYS AFTER RECEIPT OF THE  
92 DISCLOSURE SUMMARY OR PRIOR TO CLOSING, WHICHEVER  
93 OCCURS FIRST. ANY PURPORTED WAIVER OF THIS VOIDABILITY  
94 RIGHT HAS NO EFFECT. BUYER'S RIGHT TO VOID THIS  
95 CONTRACT SHALL TERMINATE AT CLOSING.  
96

97 (c) If the disclosure summary is not provided to a  
98 prospective purchaser before the purchaser executes a contract  
99 for the sale of property governed by covenants that are subject  
100 to disclosure pursuant to this section, the purchaser may void  
101 the contract by delivering to the seller or the seller's agent  
102 or representative written notice canceling the contract within 3  
103 days after receipt of the disclosure summary or prior to  
104 closing, whichever occurs first. This right may not be waived by

HB611

2004  
CS

105 | the purchaser, but terminates at closing. ~~A contract that does~~  
 106 | ~~not conform to the requirements of this subsection is voidable~~  
 107 | ~~at the option of the purchaser prior to closing.~~

108 |       (2) This section does not apply to any association  
 109 | regulated under chapter 718, chapter 719, chapter 721, or  
 110 | chapter 723 or to a subdivider registered under chapter 498; and  
 111 | also does not apply if disclosure regarding the association is  
 112 | otherwise made in connection with the requirements of chapter  
 113 | 718, chapter 719, chapter 721, or chapter 723.

114 |       Section 2. Section 689.265, Florida Statutes, is  
 115 | transferred and renumbered as section 720.3086, Florida  
 116 | Statutes, to read:

117 |       720.3086 ~~689.265~~ Financial report.--In a residential  
 118 | subdivision in which the owners of lots or parcels must pay  
 119 | mandatory maintenance or amenity fees to the subdivision  
 120 | developer or to the owners of the common areas, recreational  
 121 | facilities, and other properties serving the lots or parcels,  
 122 | the developer or owner of such areas, facilities, or properties  
 123 | shall make public, within 60 days following the end of each  
 124 | fiscal year, a complete financial report of the actual, total  
 125 | receipts of mandatory maintenance or amenity fees received by  
 126 | it, and an itemized listing of the expenditures made by it from  
 127 | such fees, for that year. Such report shall be made public by  
 128 | mailing it to each lot or parcel owner in the subdivision, by  
 129 | publishing it in a publication regularly distributed within the  
 130 | subdivision, or by posting it in prominent locations in the  
 131 | subdivision. This section does not apply to amounts paid to  
 132 | homeowner associations pursuant to chapter 617, chapter 718,

HB611

2004  
CS

133 chapter 719, chapter 721, or chapter 723, or to amounts paid to  
134 local governmental entities, including special districts.

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

137 498.025 Exemptions.--

138 (2) Except as provided in s. 498.022, the provisions of  
139 this chapter do not apply to offers or dispositions of interests  
140 in lots, parcels, or units contained in a recorded subdivision  
141 plat, or resulting from the subdivision of land in accordance  
142 with applicable local land development laws and regulations  
143 pursuant to part II of chapter 163, including lots, parcels,  
144 units, or interest vested under such part, if all of the  
145 following conditions exist:

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

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

150 2. The purchaser shall have an absolute right to cancel  
151 the contract or lease for any reason whatsoever for a period of  
152 7 business days following the date on which the contract or  
153 lease was executed by the purchaser.

154 3. In the event the purchaser elects to cancel within the  
155 period provided, all funds or other property paid by the  
156 purchaser shall be refunded without penalty or obligation within  
157 20 days of the receipt of the notice of cancellation by the  
158 developer.

HB611

2004  
CS

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

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

165           6. When title is conveyed, said title shall be conveyed by  
166 statutory warranty deed unencumbered by any lien or mortgage  
167 except for any first purchase money mortgage given by the  
168 purchaser and restrictions, covenants, or easements of record.

169           7. The subdivider presents to the purchaser the disclosure  
170 required by s. 720.3085 ~~689.26~~ prior to the execution of the  
171 contract or lease.

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

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

176           2. The purchaser shall have an absolute right to cancel  
177 the agreement for deed for any reason whatsoever for a period of  
178 7 business days following the date on which the agreement for  
179 deed was executed by the purchaser.

180           3. If the purchaser elects to cancel within the period  
181 provided, all funds or other property paid by the purchaser  
182 shall be refunded without penalty or obligation within 20 days  
183 after the receipt of the notice of cancellation by the  
184 developer.

HB611

2004  
CS

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

188 |           5. Unless otherwise timely canceled, the agreement for  
189 | deed shall be recorded within 180 days after its execution by  
190 | the purchaser.

191 |           6. Sale of lots in the subdivision shall be restricted  
192 | solely to residents of the state.

193 |           7. The underlying mortgage or other ancillary documents  
194 | shall contain release provisions for the individual lot  
195 | purchased.

196 |           8. The subdivider presents to the purchaser the disclosure  
197 | required by s. 720.3085 ~~689.26~~ prior to the execution of the  
198 | agreement for deed.

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