

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

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

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

19           720.3085 ~~689.26~~ Prospective purchasers subject to  
 20           association membership requirement; disclosure required;  
 21           covenants; assessments; contract voidability.--

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

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 27                                   DISCLOSURE SUMMARY  
 28   FOR

(NAME OF COMMUNITY)

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

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

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

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

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

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

~~7.6.~~ THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE  
RESTRICTIVE COVENANTS ~~(CAN)~~ ~~(CANNOT)~~ ~~BE AMENDED~~ WITHOUT THE

56 APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE,  
 57 ~~IF NO MANDATORY ASSOCIATION EXISTS,~~ PARCEL OWNERS.

58 ~~8.7.~~ THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE  
 59 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU  
 60 SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING  
 61 DOCUMENTS BEFORE PURCHASING PROPERTY.

62 ~~9.8.~~ THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC RECORD  
 63 AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE  
 64 THE PROPERTY IS LOCATED OR ARE NOT RECORDED AND CAN BE OBTAINED  
 65 FROM THE DEVELOPER.

67 DATE: PURCHASER:  
 68 PURCHASER:

70 The disclosure must be supplied by the developer, or by the  
 71 parcel owner if the sale is by an owner that is not the  
 72 developer. Any contract or agreement for sale shall refer to  
 73 and incorporate the disclosure summary and shall include, in  
 74 prominent language, a statement that the potential buyer should  
 75 not execute the contract or agreement until they have received  
 76 and read the disclosure summary required by this section.

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

81 IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION 720.3085  
 82 ~~689.26~~, FLORIDA STATUTES, HAS NOT BEEN PROVIDED TO THE  
 83 PROSPECTIVE PURCHASER BEFORE EXECUTING THIS CONTRACT

84 FOR SALE, THIS CONTRACT IS VOIDABLE BY BUYER BY  
 85 DELIVERING TO SELLER OR SELLER'S AGENT OR  
 86 REPRESENTATIVE WRITTEN NOTICE OF THE BUYER'S INTENTION  
 87 TO CANCEL WITHIN 3 DAYS AFTER RECEIPT OF THE  
 88 DISCLOSURE SUMMARY OR PRIOR TO CLOSING, WHICHEVER  
 89 OCCURS FIRST. ANY PURPORTED WAIVER OF THIS VOIDABILITY  
 90 RIGHT HAS NO EFFECT. BUYER'S RIGHT TO VOID THIS  
 91 CONTRACT SHALL TERMINATE AT CLOSING.

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

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

110 Section 2. Section 689.265, Florida Statutes, is  
 111 transferred and renumbered as section 720.3086, Florida  
 112 Statutes, to read:

113 720.3086 ~~689.265~~ Financial report.--In a residential  
 114 subdivision in which the owners of lots or parcels must pay  
 115 mandatory maintenance or amenity fees to the subdivision  
 116 developer or to the owners of the common areas, recreational  
 117 facilities, and other properties serving the lots or parcels,  
 118 the developer or owner of such areas, facilities, or properties  
 119 shall make public, within 60 days following the end of each  
 120 fiscal year, a complete financial report of the actual, total  
 121 receipts of mandatory maintenance or amenity fees received by  
 122 it, and an itemized listing of the expenditures made by it from  
 123 such fees, for that year. Such report shall be made public by  
 124 mailing it to each lot or parcel owner in the subdivision, by  
 125 publishing it in a publication regularly distributed within the  
 126 subdivision, or by posting it in prominent locations in the  
 127 subdivision. This section does not apply to amounts paid to  
 128 homeowner associations pursuant to chapter 617, chapter 718,  
 129 chapter 719, chapter 721, or chapter 723, or to amounts paid to  
 130 local governmental entities, including special districts.

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

133 498.025 Exemptions.--

134 (2) Except as provided in s. 498.022, the provisions of  
 135 this chapter do not apply to offers or dispositions of interests  
 136 in lots, parcels, or units contained in a recorded subdivision  
 137 plat, or resulting from the subdivision of land in accordance

138 with applicable local land development laws and regulations  
139 pursuant to part II of chapter 163, including lots, parcels,  
140 units, or interest vested under such part, if all of the  
141 following conditions exist:

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

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

146 2. The purchaser shall have an absolute right to cancel  
147 the contract or lease for any reason whatsoever for a period of  
148 7 business days following the date on which the contract or  
149 lease was executed by the purchaser.

150 3. In the event the purchaser elects to cancel within the  
151 period provided, all funds or other property paid by the  
152 purchaser shall be refunded without penalty or obligation within  
153 20 days of the receipt of the notice of cancellation by the  
154 developer.

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

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

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

165           7. The subdivider presents to the purchaser the disclosure  
 166 required by s. 720.3085 ~~689.26~~ prior to the execution of the  
 167 contract or lease.

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

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

172           2. The purchaser shall have an absolute right to cancel  
 173 the agreement for deed for any reason whatsoever for a period of  
 174 7 business days following the date on which the agreement for  
 175 deed was executed by the purchaser.

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

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

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

187           6. Sale of lots in the subdivision shall be restricted  
 188 solely to residents of the state.

189           7. The underlying mortgage or other ancillary documents  
 190 shall contain release provisions for the individual lot  
 191 purchased.

192           8. The subdivider presents to the purchaser the disclosure  
193 required by s. 720.3085 ~~689.26~~ prior to the execution of the  
194 agreement for deed.

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