

1                                   A bill to be entitled  
2       An act relating to residential properties; amending s.  
3       514.011, F.S.; providing definitions; amending s.  
4       514.0115, F.S.; providing specified supervision and  
5       regulation exemptions for homeowners' association swimming  
6       pools; amending s. 515.25, F.S.; conforming a cross-  
7       reference; creating s. 515.295, F.S.; providing  
8       definitions; requiring residential pools and spas built  
9       after a specified date to have certain features; amending  
10      s. 720.303, F.S.; revising provisions relating to  
11      homeowners' association board meetings, inspection and  
12      copying of records, and reserve accounts of budgets;  
13      prohibiting salary or compensation of certain association  
14      personnel for certain duties; providing exceptions;  
15      amending s. 720.305, F.S.; revising a lien restriction;  
16      amending s. 720.306, F.S.; providing absentee ballot  
17      voting requirements; requiring newly elected members of a  
18      board of directors to make certain certifications in  
19      writing to the association; providing for disqualification  
20      for failure to make such certifications; requiring an  
21      association to retain such certifications for a certain  
22      time; amending s. 720.401, F.S.; revising certain  
23      prospective parcel owner disclosure summary requirements;  
24      requiring the department to apply for and implement a  
25      federal grant for enforcing swimming pool safety  
26      standards; requiring the Department of Health, the  
27      Department of Community Affairs, and the Florida Building  
28      Commission to assess state statutes and the Florida

29 Building Code to determine if changes are needed to comply  
 30 with federal standards pertaining to swimming pool and spa  
 31 safety; requiring the Department of Health to present the  
 32 assessment to the Legislature by a specified date;  
 33 providing effective dates.

34

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

36

37 Section 1. Section 514.011, Florida Statutes, is amended  
 38 to read:

39 514.011 Definitions.--As used in this chapter, the term:

40 (1) "Department" means the Department of Health.

41 (2) "Homeowners' association" means a homeowners'  
 42 association as defined in s. 720.301.

43 (3)~~(5)~~ "Portable pool" means a pool or spa, and related  
 44 equipment systems of any kind, which is designed or intended to  
 45 be movable from location to location.

46 (4)~~(3)~~ "Private pool" means a facility used only by an  
 47 individual, family, or living unit members and their guests  
 48 which does not serve any type of cooperative housing or joint  
 49 tenancy of five or more living units.

50 (5)~~(4)~~ "Public bathing place" means a body of water,  
 51 natural or modified by humans, for swimming, diving, and  
 52 recreational bathing, together with adjacent shoreline or land  
 53 area, buildings, equipment, and appurtenances pertaining  
 54 thereto, used by consent of the owner or owners and held out to  
 55 the public by any person or public body, irrespective of whether  
 56 a fee is charged for the use thereof. The bathing water areas of

57 public bathing places include, but are not limited to, lakes,  
 58 ponds, rivers, streams, artificial impoundments, and waters  
 59 along the coastal and intracoastal beaches and shores of the  
 60 state.

61 ~~(6)(2)~~ "Public swimming pool" or "public pool" means a  
 62 watertight structure of concrete, masonry, or other approved  
 63 materials which is located either indoors or outdoors, used for  
 64 bathing or swimming by humans, and filled with a filtered and  
 65 disinfected water supply, together with buildings,  
 66 appurtenances, and equipment used in connection therewith. A  
 67 public swimming pool or public pool shall mean a conventional  
 68 pool, spa-type pool, wading pool, special purpose pool, or water  
 69 recreation attraction, to which admission may be gained with or  
 70 without payment of a fee and includes, but is not limited to,  
 71 pools operated by or serving camps, churches, cities, counties,  
 72 day care centers, group home facilities for eight or more  
 73 clients, health spas, institutions, parks, state agencies,  
 74 schools, subdivisions, or the cooperative living-type projects  
 75 of five or more living units, such as apartments,  
 76 boardinghouses, hotels, mobile home parks, motels, recreational  
 77 vehicle parks, and townhouses.

78 Section 2. Subsection (2) of section 514.0115, Florida  
 79 Statutes, is amended to read:

80 514.0115 Exemptions from supervision or regulation;  
 81 variances.--

82 (2) (a) Pools serving no more than 32 condominium or  
 83 cooperative units or 32 parcels governed by a homeowners'  
 84 association which are not operated as a public lodging

85 establishment shall be exempt from supervision under this  
 86 chapter, except for water quality.

87 (b) Pools serving condominium or cooperative associations  
 88 of more than 32 units or homeowners' associations of more than  
 89 32 parcels and whose recorded documents prohibit the rental or  
 90 sublease of the units for periods of less than 60 days are  
 91 exempt from supervision under this chapter, except that the  
 92 homeowners' association or condominium or cooperative owner or  
 93 association must file applications with the department and  
 94 obtain construction plans approval and receive an initial  
 95 operating permit. The department shall inspect the swimming  
 96 pools at such places annually, at the fee set forth in s.  
 97 514.033(3), or upon request by a unit owner, to determine  
 98 compliance with department rules relating to water quality and  
 99 lifesaving equipment. The department may not require compliance  
 100 with rules relating to swimming pool lifeguard standards.

101 Section 3. Subsection (9) of section 515.25, Florida  
 102 Statutes, is amended to read:

103 515.25 Definitions.--As used in this chapter, the term:

104 (9) "Public swimming pool" means a swimming pool, as  
 105 defined in s. 514.011 (6) ~~(2)~~, which is operated, with or without  
 106 charge, for the use of the general public; however, the term  
 107 does not include a swimming pool located on the grounds of a  
 108 private residence.

109 Section 4. Effective January 1, 2009, section 515.295,  
 110 Florida Statutes, is created to read:

111 515.295 Residential swimming pool and spa drain-cover  
 112 safety.--

113 (1) For purposes of this section, the term:

114 (a) "ASME/ANSI" as applied to a safety standard means a  
115 standard that is accredited by the American National Standards  
116 Institute and published by the American Society of Mechanical  
117 Engineers.

118 (b) "Main drain" means a submerged suction outlet  
119 typically located at the bottom of a swimming pool or spa to  
120 conduct water to a recirculating pump.

121 (c) "Safety vacuum release system" means a vacuum release  
122 system capable of providing vacuum release at a suction outlet  
123 caused by a high vacuum occurrence due to a suction outlet flow  
124 blockage.

125 (d) "Unblockable drain" means a drain of any size and  
126 shape which a human body cannot sufficiently block to create a  
127 suction-entrapment hazard.

128 (2) All residential swimming pools and spas constructed on  
129 or after January 1, 2009, must have more than one drain, one or  
130 more unblockable drains, or no main drain.

131 (3) All residential swimming pools and spas constructed on  
132 or after January 1, 2009, must be equipped with one or more of  
133 the following devices and systems designed to prevent entrapment  
134 by the pool or spa drain:

135 (a) A safety vacuum release system that ceases operation  
136 of the pump, reverses the circulation flow, or otherwise  
137 provides a vacuum release at a suction outlet when a blockage is  
138 detected. Such system must have been tested by an independent  
139 third party and found to conform to ASME/ANSI standard  
140 A112.19.17 or ASTM standard F2387.

141 (b) A suction-limiting vent system that has a tamper-  
 142 resistant atmospheric opening.

143 (c) A gravity drainage system that uses a collector tank.

144 (d) An automatic pump shut-off system.

145 (e) A device or system that disables the drain.

146 (f) Any other system determined by the department to be  
 147 equally effective as, or better than, the systems described in  
 148 this subsection at preventing or eliminating the risk of injury  
 149 or death associated with swimming pool and spa drainage systems.

150 (4) Any device or system described in subsection (3) must  
 151 meet the requirements of any ASME/ANSI or ASTM performance  
 152 standard, if there is such a standard for such a device or  
 153 system, or any applicable consumer product safety standard.

154 Section 5. Paragraph (b) of subsection (2), paragraphs (a)  
 155 and (c) of subsection (5), and paragraphs (b), (c), (d), (f),  
 156 and (g) of subsection (6) of section 720.303, Florida Statutes,  
 157 are amended, and subsection (12) is added to that section, to  
 158 read:

159 720.303 Association powers and duties; meetings of board;  
 160 official records; budgets; financial reporting; association  
 161 funds; recalls.--

162 (2) BOARD MEETINGS.--

163 (b) Members have the right to attend all meetings of the  
 164 board and to speak on any matter placed on the agenda by  
 165 petition of the voting interests for at least 3 minutes. The  
 166 association may adopt written reasonable rules expanding the  
 167 right of members to speak and governing the frequency, duration,  
 168 and other manner of member statements, which rules must be

169 consistent with this paragraph and may include a sign-up sheet  
 170 for members wishing to speak. Notwithstanding any other law, the  
 171 requirement that board meetings and committee meetings be open  
 172 to the members is inapplicable to meetings between the board or  
 173 a committee to discuss proposed or pending litigation with and  
 174 the association's attorney, and with respect to meetings of the  
 175 board held for the purpose of discussing personnel matters.

176 (5) INSPECTION AND COPYING OF RECORDS.--The official  
 177 records shall be maintained within the state and must be open to  
 178 inspection and available for photocopying by members or their  
 179 authorized agents at reasonable times and places within 10  
 180 business days after receipt of a written request for access.  
 181 This subsection may be complied with by having a copy of the  
 182 official records available for inspection or copying in the  
 183 community. If the association has a photocopy machine available  
 184 where the records are maintained, it must provide parcel owners  
 185 with copies on request during the inspection if the entire  
 186 request is limited to no more than 25 pages.

187 (a) The failure of an association to provide access to the  
 188 records within 10 business days after receipt of a written  
 189 request submitted by certified mail, return receipt requested,  
 190 creates a rebuttable presumption that the association willfully  
 191 failed to comply with this subsection.

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

197 limit a parcel owner's right to inspect records to less than one  
198 8-hour business day per month. The association may impose fees  
199 to cover the costs of providing copies of the official records,  
200 including, without limitation, the costs of copying. The  
201 association may charge up to 50 cents per page for copies made  
202 on the association's photocopier. If the association does not  
203 have a photocopy machine available where the records are kept,  
204 or if the records requested to be copied exceed 25 pages in  
205 length, the association may have copies made by an outside  
206 vendor or association management company personnel and may  
207 charge the actual cost of copying, including any reasonable  
208 costs involving personnel fees and charges at an hourly rate for  
209 employee time to cover administrative costs to the association.  
210 The association shall maintain an adequate number of copies of  
211 the recorded governing documents, to ensure their availability  
212 to members and prospective members. Notwithstanding the  
213 provisions of this paragraph, the following records shall not be  
214 accessible to members or parcel owners:

215 1. Any record protected by the lawyer-client privilege as  
216 described in s. 90.502 and any record protected by the work-  
217 product privilege, including, but not limited to, any record  
218 prepared by an association attorney or prepared at the  
219 attorney's express direction which reflects a mental impression,  
220 conclusion, litigation strategy, or legal theory of the attorney  
221 or the association and was prepared exclusively for civil or  
222 criminal litigation or for adversarial administrative  
223 proceedings or which was prepared in anticipation of imminent  
224 civil or criminal litigation or imminent adversarial



225 administrative proceedings until the conclusion of the  
226 litigation or adversarial administrative proceedings.

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

230 3. Disciplinary, health, insurance, and personnel records  
231 of the association's employees.

232 4. Medical records of parcel owners or community  
233 residents.

234 (6) BUDGETS.--

235 (b) In addition to annual operating expenses, the budget  
236 may include reserve accounts for capital expenditures and  
237 deferred maintenance for which the association is responsible.  
238 To the extent that such reserve accounts are not created or  
239 established pursuant to paragraph (d), funding of such reserves  
240 shall be limited to the extent that the governing documents ~~do~~  
241 not limit increases in assessments, including reserves. If the  
242 budget of the association includes reserve accounts created or  
243 established pursuant to paragraph (d), such reserves shall be  
244 determined, maintained, and waived in the manner provided in  
245 this subsection. Once an association provides for reserve  
246 accounts created or established pursuant to paragraph (d) in the  
247 budget, the association shall thereafter determine, maintain,  
248 and waive reserves in compliance with this subsection. Nothing  
249 in this section precludes termination of a reserve account  
250 established pursuant to this paragraph upon approval of a  
251 majority of the voting interests of the association. Upon such  
252 approval, the terminating reserve account shall be removed from

253 the budget.

254 (c)1. If the budget of the association does not provide  
 255 for reserve accounts created or established pursuant to  
 256 paragraph (d) ~~governed by this subsection~~ and the association is  
 257 responsible for the repair and maintenance of capital  
 258 improvements that may result in a special assessment if reserves  
 259 are not provided, each financial report for the preceding fiscal  
 260 year required by subsection (7) shall contain the following  
 261 statement in conspicuous type: THE BUDGET OF THE ASSOCIATION  
 262 DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES  
 263 AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.  
 264 OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO THE  
 265 PROVISIONS OF SECTION 720.303(6), FLORIDA STATUTES, UPON THE  
 266 APPROVAL OF NOT LESS THAN A MAJORITY OF THE TOTAL VOTING  
 267 INTERESTS OF THE ASSOCIATION ATTAINED BY VOTE OF THE MEMBERS AT  
 268 A MEETING OR BY WRITTEN CONSENT EXECUTED BY A MAJORITY OF THE  
 269 VOTING INTERESTS.

270 2. If the budget of the association does provide for  
 271 funding of accounts for deferred expenditures, including, but  
 272 not limited to, funds for capital expenditures and deferred  
 273 maintenance, but such accounts are not created or established  
 274 pursuant to paragraph (d), each financial report for the  
 275 preceding fiscal year required by subsection (7) shall also  
 276 contain the following statement in conspicuous type: THE BUDGET  
 277 OF THE ASSOCIATION DOES PROVIDE FOR LIMITED VOLUNTARY DEFERRED  
 278 EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND  
 279 DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN  
 280 OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO

281 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO THE PROVISIONS OF  
282 SECTION 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT  
283 SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN  
284 THAT STATUTE, NOR ARE RESERVES CALCULATED IN ACCORDANCE WITH  
285 THAT STATUTE.

286 (d) An association shall be deemed to have provided for  
287 reserve accounts when reserve accounts have been initially  
288 established by the developer or when the membership of the  
289 association affirmatively elects to provide for reserves. If  
290 reserve accounts are not initially provided for by the  
291 developer, the membership of the association may elect to do so  
292 upon the affirmative approval of not less than a majority of the  
293 total voting interests of the association. Such approval may be  
294 attained by vote of the members at a duly called meeting of the  
295 membership or upon a written consent executed by not less than a  
296 majority of the total voting interests in the community. The  
297 approval action of the membership shall state that reserve  
298 accounts shall be provided for in the budget and shall designate  
299 the components for which the reserve accounts are to be  
300 established. Upon approval by the membership, the board of  
301 directors shall provide for the required reserve accounts for  
302 inclusion in the budget in the next fiscal year following the  
303 approval and in each year thereafter. Once established as  
304 provided in this subsection, the reserve accounts shall be  
305 funded or maintained or shall have their funding waived in the  
306 manner provided in paragraph (f).

307 (f) After one or more ~~Once a reserve account or~~ reserve  
308 accounts are established, the membership of the association,

309 upon a majority vote at a meeting at which a quorum is present,  
310 may provide for no reserves or less reserves than required by  
311 this section. If a meeting of the unit owners has been called to  
312 determine whether to waive or reduce the funding of reserves and  
313 no such result is achieved or a quorum is not present, the  
314 reserves as included in the budget shall go into effect. After  
315 the turnover, the developer may vote its voting interest to  
316 waive or reduce the funding of reserves. Any vote taken pursuant  
317 to this subsection to waive or reduce reserves shall be  
318 applicable only to one budget year.

319 (g) Funding formulas for reserves authorized by this  
320 section shall be based on either a separate analysis of each of  
321 the required assets or a pooled analysis of two or more of the  
322 required assets.

323 1. If the association maintains separate reserve accounts  
324 for each of the required assets, the amount of the contribution  
325 to each reserve account shall be the sum of the following two  
326 calculations:

327 a. The total amount necessary, if any, to bring a negative  
328 component balance to zero.

329 b. The total estimated deferred maintenance expense or  
330 estimated replacement cost of the reserve component less the  
331 estimated balance of the reserve component as of the beginning  
332 of the period for which the budget will be in effect. The  
333 remainder, if greater than zero, shall be divided by the  
334 estimated remaining useful life of the component.

335

336 The formula may be adjusted each year for changes in estimates

337 and deferred maintenance performed during the year and may  
 338 include factors such as inflation and earnings on invested  
 339 funds.

340 2. If the association maintains a pooled account of two or  
 341 more of the required reserve assets, the amount of the  
 342 contribution to the pooled reserve account as disclosed on the  
 343 proposed budget shall not be less than that required to ensure  
 344 that the balance on hand at the beginning of the period for  
 345 which the budget will go into effect plus the projected annual  
 346 cash inflows over the remaining estimated useful life of all of  
 347 the assets that make up the reserve pool are equal to or greater  
 348 than the projected annual cash outflows over the remaining  
 349 estimated useful lives of all of the assets that make up the  
 350 reserve pool, based on the current reserve analysis. The  
 351 projected annual cash inflows may include estimated earnings  
 352 from investment of principal and accounts receivable minus the  
 353 allowance for doubtful accounts. The reserve funding formula  
 354 shall not include any type of balloon payments.

355 (12) COMPENSATION PROHIBITED.--A director, officer, or  
 356 committee member of the association may not receive directly or  
 357 indirectly any salary or compensation from the association for  
 358 performance of duties as a director, officer, or committee  
 359 member and such person may not in any other way benefit  
 360 financially from service to the association. This subsection  
 361 shall not be construed to preclude:

362 (a) Participation by such person in a financial benefit  
 363 accruing to all or a significant number of members as a result  
 364 of actions lawfully taken by the board or a committee of which

365 he or she is a member, including, but not limited to, routine  
 366 maintenance, repair, or replacement of community assets;

367 (b) Reimbursement for out-of-pocket expenses incurred by  
 368 such person on behalf of the association, subject to approval of  
 369 such reimbursement in accordance with procedures established by  
 370 the association's governing documents or, in the absence of such  
 371 procedures, in accordance with an approval process established  
 372 by the board;

373 (c) Any recovery of insurance proceeds derived from a  
 374 policy of insurance maintained by the association for the  
 375 benefit of its members;

376 (d) Any fee or compensation authorized in the governing  
 377 documents; or

378 (e) Any fee or compensation authorized in advance by a  
 379 vote of a majority of the voting interests voting in person or  
 380 by proxy at the meeting of the members.

381 Section 6. Subsection (2) of section 720.305, Florida  
 382 Statutes, are amended to read:

383 720.305 Obligations of members; remedies at law or in  
 384 equity; levy of fines and suspension of use rights; failure to  
 385 fill sufficient number of vacancies on board of directors to  
 386 constitute a quorum; appointment of receiver upon petition of  
 387 any member.--

388 (2) If the governing documents so provide, an association  
 389 may suspend, for a reasonable period of time, the rights of a  
 390 member or a member's tenants, guests, or invitees, or both, to  
 391 use common areas and facilities and may levy reasonable fines,  
 392 not to exceed \$100 per violation, against any member or any

393 tenant, guest, or invitee. A fine may be levied on the basis of  
394 each day of a continuing violation, with a single notice and  
395 opportunity for hearing, except that no such fine shall exceed  
396 \$1,000 in the aggregate unless otherwise provided in the  
397 governing documents. A fine of less than \$1,000 shall not become  
398 a lien against a parcel. In any action to recover a fine, the  
399 prevailing party is entitled to collect its reasonable  
400 attorney's fees and costs from the nonprevailing party as  
401 determined by the court.

402 (a) A fine or suspension may not be imposed without notice  
403 of at least 14 days to the person sought to be fined or  
404 suspended and an opportunity for a hearing before a committee of  
405 at least three members appointed by the board who are not  
406 officers, directors, or employees of the association, or the  
407 spouse, parent, child, brother, or sister of an officer,  
408 director, or employee. If the committee, by majority vote, does  
409 not approve a proposed fine or suspension, it may not be  
410 imposed.

411 (b) The requirements of this subsection do not apply to  
412 the imposition of suspensions or fines upon any member because  
413 of the failure of the member to pay assessments or other charges  
414 when due if such action is authorized by the governing  
415 documents.

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

420 Section 7. Subsections (8) and (9) of section 720.306,

421 Florida Statutes, are amended to read:

422 720.306 Meetings of members; voting and election  
 423 procedures; amendments.--

424 (8) PROXY VOTING.--The members have the right, unless  
 425 otherwise provided in this subsection or in the governing  
 426 documents, to vote in person or by proxy.

427 (a) To be valid, a proxy must be dated, must state the  
 428 date, time, and place of the meeting for which it was given, and  
 429 must be signed by the authorized person who executed the proxy.  
 430 A proxy is effective only for the specific meeting for which it  
 431 was originally given, as the meeting may lawfully be adjourned  
 432 and reconvened from time to time, and automatically expires 90  
 433 days after the date of the meeting for which it was originally  
 434 given. A proxy is revocable at any time at the pleasure of the  
 435 person who executes it. If the proxy form expressly so provides,  
 436 any proxy holder may appoint, in writing, a substitute to act in  
 437 his or her place.

438 (b) If the governing documents permit voting by secret  
 439 ballot by owners who are not in attendance at a meeting of the  
 440 members for the election of directors, such ballots shall be  
 441 placed in an inner envelope with no identifying markings and  
 442 mailed or delivered to the association in an outer envelope  
 443 bearing identifying information reflecting the name of the  
 444 owner, the lot or parcel for which the vote is being cast, and  
 445 the signature of the lot or parcel owner casting that ballot.  
 446 After the eligibility of the member to vote and confirmation  
 447 that no other ballot has been submitted for that lot or parcel  
 448 has been determined, the inner envelope shall be removed from



449 the outer envelope bearing the identification information and  
450 placed with the ballots which were personally cast and shall be  
451 opened when the ballots are counted. In the event that more than  
452 one ballot is submitted for a lot or parcel, the ballots for  
453 that lot or parcel shall be disqualified. Any vote by ballot  
454 received after the closing of the balloting by a vote of the  
455 membership shall not be considered.

456 (9) ELECTIONS; BOARD MEMBER CERTIFICATION.--

457 (a) Elections of directors must be conducted in accordance  
458 with the procedures set forth in the governing documents of the  
459 association. All members of the association shall be eligible to  
460 serve on the board of directors, and a member may nominate  
461 himself or herself as a candidate for the board at a meeting  
462 where the election is to be held or, in the case of an election  
463 process that allows voting by absentee ballot, in advance of the  
464 balloting. Except as otherwise provided in the governing  
465 documents, boards of directors must be elected by a plurality of  
466 the votes cast by eligible voters. Any election dispute between  
467 a member and an association must be submitted to mandatory  
468 binding arbitration with the division. Such proceedings shall be  
469 conducted in the manner provided by s. 718.1255 and the  
470 procedural rules adopted by the division.

471 (b) Within 30 days after being elected to the board of  
472 directors, a new director shall certify in writing to the  
473 secretary of the association that he or she has read the  
474 association's declarations of covenants and restrictions,  
475 articles of incorporation, bylaws, and current written policies  
476 and that he or she will work to uphold each to the best of his

477 or her ability and will faithfully discharge his or her  
 478 fiduciary responsibility to the association's members. Failure  
 479 to timely file such statement shall automatically disqualify the  
 480 director from service on the association's board of directors.  
 481 The secretary shall cause the association to retain a director's  
 482 certification for inspection by the membership of the  
 483 association for a period of 5 years after a director's election.  
 484 Failure to have such certification on file shall not affect the  
 485 validity of any appropriate action.

486 Section 8. Paragraph (a) of subsection (1) of section  
 487 720.401, Florida Statutes, is amended to read:

488 720.401 Prospective purchasers subject to association  
 489 membership requirement; disclosure required; covenants;  
 490 assessments; contract cancellation.--

491 (1)(a) A prospective parcel owner in a community must be  
 492 presented a disclosure summary before executing the contract for  
 493 sale. The disclosure summary must be in a form substantially  
 494 similar to the following form:

DISCLOSURE SUMMARY  
 FOR  
 (NAME OF COMMUNITY)

500 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL  
 501 BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

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

505 3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE  
 506 ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF  
 507 APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_. YOU WILL  
 508 ALSO BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE  
 509 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.  
 510 IF APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_.

511 4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE  
 512 RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL  
 513 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

514 5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS  
 515 LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION COULD RESULT IN A  
 516 LIEN ON YOUR PROPERTY.

517 6. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES  
 518 FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN  
 519 OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF  
 520 APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_.

521 7. IF THE ASSOCIATION IS STILL UNDER THE CONTROL OF THE  
 522 DEVELOPER, THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE  
 523 RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION  
 524 MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

525 8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE  
 526 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU  
 527 SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING  
 528 DOCUMENTS BEFORE PURCHASING PROPERTY.

529 9. THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC RECORD AND  
 530 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE  
 531 PROPERTY IS LOCATED, OR ARE NOT RECORDED AND CAN BE OBTAINED  
 532 FROM THE DEVELOPER.



CS/HB 679

2008

561 assessment to the Legislature by January 1, 2009.

562 Section 10. Except as otherwise expressly provided in this  
563 act, this act shall take effect July 1, 2008.