



**FINAL REPORT OF THE  
HOMEOWNERS'  
ASSOCIATION  
TASK FORCE  
FEBRUARY 2004**

*The Homeowners' Association Task Force, a cross-section of representatives involved with homeowners' associations, was created at the Governor's request to harmonize and improve relations between homeowners, homeowners' associations and other related entities. The members have provided input and made recommendations for legislative change consistent with his vision for government and regulation.*

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## INTRODUCTION

In 1992, the Florida Legislature first enacted laws governing homeowners' associations. At that time, these laws were placed in chapter 617, Florida Statutes, the Florida Not For Profit Act.<sup>1</sup> After expansions of the laws in 1995 and again in 1997, the legislature created a separate chapter of the Florida Statutes, chapter 720, to exclusively address homeowners' associations.

Section 720.301(7), Florida Statutes, defines a homeowners' association as:

*... a Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.*

Many new developments are being built in deed restricted or planned residential areas which often include mandatory homeowner associations. Ideally, these associations provide homeowners access to recreational and other shared amenities that are not provided by the local government and that they may not be able to afford or maintain themselves. These amenities typically include facilities such as tennis courts, pools, golf courses and clubhouses, but may also include roads, entrances and even drainage structures.

In many ways, homeowners' association laws are similar to those that govern condominiums in chapter 718, Florida Statutes. However condominium law, which has had more time to evolve over the years, includes broader and more detailed requirements and protections. In a condominium, a unit owner owns his or her defined unit and a percentage of the shared areas or common elements.<sup>2</sup> Parcel owners in a homeowners' association own a platted or unplatted lot, tract, unit or other subdivision of

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<sup>1</sup> § 617.301, *et seq.*, Fla. Stat. (1993).

<sup>2</sup> § 718.103(8),(9),(27); 718.106(2); 718.108, Fla. Stat. (2003).

real property within the community.<sup>3</sup> The shared areas, or common areas, are owned or leased by the association or dedicated for use or maintenance by the association or its members.<sup>4</sup>

Homeowners' associations are run by a board of directors elected by the homeowners.<sup>5</sup> The board is required to operate the association in accordance with the statutes as well as the governing documents. These documents include a declaration of covenants, conditions and restrictions, the articles of incorporation, the bylaws and association rules.<sup>6</sup>

Elections are conducted in accordance with the governing documents of the association. Board members in a homeowners' association are, in most cases, volunteers and residents of the community.<sup>7</sup> Board member responsibilities vary, but basic requirements include maintaining the common areas, enforcing the covenants and restrictions, preparing budgets and collecting assessments. Generally, board members operate the association as required by the documents unless chapter 720, Florida Statutes, states otherwise.<sup>8</sup> The operation of the association is funded by collecting assessments from parcel owners in a manner set forth in the documents. These assessments, if not paid, can result in a lien upon the parcel.<sup>9</sup>

The Department of Business and Professional Regulation, under its Division of Land Sales, Condominiums, and Mobile Homes currently regulates condominiums, time-shares, cooperatives, mobile homes and the sale of subdivided land.<sup>10</sup> These regulations authorize the agency to bring enforcement actions against associations and developers for violations of state law. There is currently no state agency that regulates or governs homeowners' associations. Section 720.302(2), Florida Statutes, specifically states:

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<sup>3</sup> § 720.301(9), Fla. Stat. (2003).

<sup>4</sup> § 720.301(2), Fla. Stat. (2003).

<sup>5</sup> § 720.303, Fla. Stat. (2003).

<sup>6</sup> § 720.301(6), Fla. Stat. (2003).

<sup>7</sup> § 720.306(7), Fla. Stat. (2003).

<sup>8</sup> § 720.303(1), Fla. Stat. (2003).

<sup>9</sup> § 720.301(7), Fla. Stat. (2003).

<sup>10</sup> Chs. 718, 719, 721, 723, and 498, Fla. Stat. (2003).

*The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations.*

While homeowners' associations are required to be corporations and thus are required to file articles of incorporation with the Division of Corporations in the Secretary of State's office, that office cannot presently identify chapter 720 associations. We have not been presented with any statistics or estimates on the number of homeowners' associations or citizens living in homeowners' associations in Florida.<sup>11</sup>

The last task force meeting held in Tallahassee on January 28, 2004 was designed to wrap up the issues and vote on legislative drafts to submit as recommendations. It should be noted, while an omnibus vote was taken on the resulting legislative draft, not all members of the task force voted on these recommendations. One homeowners' member representing Cyber Citizens for Justice, Inc. abstained from voting on the matter. He along with others from his group has already begun reporting their dissatisfaction with the majority vote.

The following pages include some historical information along with a summary of issues by meeting and the resulting legislative drafts that are to be presented to the Governor and Legislature. The Homeowners' Association (HOA) Task Force has recommended legislative changes that will guarantee expanded rights for Florida homeowners. Highlights of those recommendations include:

- The right to fly flags has been significantly broadened;
- HOA board members will be subject to recall under a clearly defined process that will include recourse to fast-track arbitration;
- Arbitration and mediation will now be available for aggrieved homeowners under certain circumstances, *avoiding the unnecessary expense and delays of litigation;*
- To ensure that homeowners are *fully informed* before purchasing a home in a mandatory homeowners' association, sellers and developers will be required to make complete disclosures;

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<sup>11</sup> § 720.303(1), Fla. Stat. (2003).

- Homeowners *must be given notice* before a HOA Board can act on special assessments and amendments that affect the use of lots;
- Homeowners will have the *right to be heard* at HOA Board meetings;
- HOA Boards must allow homeowners to add items to meeting agendas when petitioned by 20% of the voting interests;
- Homeowners will have *additional remedies* for false and misleading statements made to them when purchasing;
- Statutory warranties for HOA common area improvements;
- Homeowners will be protected from association liens resulting from unpaid fines, or from fees that are not assessments;
- Enhanced right of access to HOA records for homeowners;
- HOA board members, officers and managers are subject to criminal penalties for self-dealing and boards are required to use competitive bidding to ensure fiscal accountability; and
- HOA Boards will be held to higher financial reporting standards to promote fiscal integrity.

The HOA Task Force decided not to forward a number of additional suggestions for legislative change:

- Adding non-mandatory associations to the definition of HOA to chapter 720;
- Changing HOA Board election procedures to parallel Condominium Act procedures;
- Allowing for new funding mechanisms for non-mandatory HOA to act against homeowners;
- Requiring additional warranties on individual homes and lot improvements; and
- Creating a new state regulatory agency to police homeowners' associations.

## HISTORICAL NARRATIVE

During the 2002 Legislative Session, Representative Melvin filed House Bill 887 and Senator Clary filed Senate Bill 1484, which was identical to House Bill 887. Both bills died in committee. The following year, similar bills were filed during the 2003 Legislative Session. Senator Wise filed Senate Bill 1248, which was identical to House Bill 547, filed by Representative Prieguez. The 2003 bills in their original form created a 39 member Mandated Property Reform Task Force to review and recommend changes to the laws affecting land sales, exemptions, mandatory homeowners' associations and disclosure laws related to adult and residential subdivisions. The bills provided for a \$50,000 appropriation for these purposes out of the General Revenue Fund (\$100,000 was provided for the 2002 versions of the bills). A committee substitute bill filed during the 2003 session changed this by requiring the Office of Program Policy Analysis and Government Accountability to review these areas rather than a task force. It also eliminated the \$50,000 appropriation. These bills did not pass.

Another bill unrelated to those above, Senate Bill 1632, passed during the 2003 Legislative Session, but was vetoed by Governor Bush. In his veto letter Governor Bush wrote:

*"I recognize that homeowners' associations in Florida are facing a variety of difficult issues; however, I believe it is inappropriate and fundamentally unfair to use the government's taxation power to compensate for shortcomings in private contractual arrangements to the benefit of one party and to the detriment of another. Instead, I have asked Secretary Carr of the Department of Business and Professional Regulation to form a task force to examine the challenges that associations face. It is my hope that practical solutions to these issues, like those in this bill, can be found."*

Secretary Carr created a 15-member task force with the following mission statement:

*The Homeowners' Association Task Force, a cross-section of representatives involved with homeowners' associations, was created*

*at the Governor's request to harmonize and improve relations between homeowners, homeowners' associations and other related entities. The members will provide input and make recommendations for legislative change consistent with his vision for government and regulation.*

As stated in the mission statement, the task force was designed to include representatives from various segments of the community and homeowners' association industry. The hope was to bring all of the diverging interests together to build consensus and to explore where differences or opposition may exist. Since no funding was available for this task force, members were asked to volunteer their time and pay their own travel expenses.

It should be noted that the 1994 Legislature required the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation to conduct a study of the laws governing mandatory homeowners' associations and residential subdivisions. With this study, the department recommended legislation in the areas of association powers and duties with respect to property owners both before and after turnover of the association by the developer; transfer of association control from developer to homeowners; timely resolution of association disputes with affected homeowners; and disclosure of the existence of mandatory homeowners' associations to prospective purchasers. Chapter 95-274, Laws of Florida amended chapter 720, Florida Statutes to:

- Add and amend definitions for assessment, common area, community, declaration, developer, governing documents, member, parcel and voting interest;
- Substantially amend the scope of homeowners' associations to recognize that homeowners' associations should not be regulated;
- Substantially amend homeowners' associations' responsibilities to include preparation of an annual budget and expansion of the financial reporting requirements;
- Give homeowners the right to inspect and copy records, provide a remedy when the association refuses to allow inspection and copying, and permit associations to adopt reasonable written rules governing the manner of inspection and cost of copying;

- Add the duty of homeowners, tenants and guests to comply with the governing documents and association rules, provide a right of action for members and the homeowners' associations to enforce rules in court, and provide prevailing party attorney's fees and costs;
- Allow homeowners' associations to suspend use rights for violations of the documents and levy a \$50 fine with notice and an opportunity to be heard by a committee before the fine or suspension can be imposed;
- Revise receiverships to permit any member, rather than any parcel owner, to seek the appointment of a receiver when the board fails to fill vacancies after 30 days notice;
- Amend member meeting requirements so that 30% (rather than a majority of the voting interest) constitutes a quorum, require annual meetings, require special meetings when called by 10% of the total voting interests, require notice of special meetings and the purpose for which the special meeting is called, require adjournments to a date and time to be announced at the meeting or noticed when a quorum was not obtained, delete restrictions on proxy voting and permit voting by proxy, establish election procedures, and allow parcel owners to tape record board and member meetings in accordance with reasonable rules adopted by the board;
- Create provisions for transfer of control of the association from the developer to homeowners other than the developer;
- Require governing documents to specify common expenses and each parcel owner's proportional share of these expenses and to allow a developer to be excused from paying common expenses under a guarantee;
- Require any grant, reservation or association management contract of more than 10 years entered under developer control to be fair and reasonable;
- Require all developer leases of recreational and common facilities to give owners the right of first refusal when the facility is offered for sale, to notify the association when an offer is received and prohibit escalation clauses in leases;
- Authorize courts to refer homeowner disputes to mediation and arbitration; and
- Provide that a declaration of covenants survives on parcels foreclosed or sold for delinquent taxes.

## **HOMEOWNERS' ASSOCIATION TASK FORCE MEMBERS**

JOSEPH ADAMS, Ft. Myers – Attorney (Shareholder) with law firm of Becker & Poliakoff. Represents condominium, cooperative and homeowners' associations and works with the Community Associations Institute. Mr. Adams is also the author of a weekly column that appears in the Ft. Myers News-Press.

JULIE BAKER, Tallahassee (Co-Chair) – Deputy Secretary with the Department of Business and Professional Regulation.

JAN BERGEMANN, St. Augustine – Homeowner advocate and President of Cyber Citizens for Justice, Inc.

KAREN GOTTLIEB, Ft. Lauderdale – Homeowner advocate.

BARBARA KATZ, Lake Worth – First Vice President of the Coalition of Boynton West Residential Associations (know as "COBWRA") which is an organization representing residents living in the unincorporated West Boynton area.

WILLIAM GUTHRIE, Orlando – Attorney with Baker & Hostetler. Designee for ARDA (American Resort Development Association).

ROBERT JONES, Tallahassee – Designee for the Florida Conflict Resolution Consortium.

CHERYL KENT, Tallahassee – Legislative Director for the Attorney General's Office.

RANDY LYON, Celebration – Designee for the Association of Florida Community Developers, Inc.

WELLINGTON MEFFERT, Tallahassee – General Counsel for the Florida Housing Finance Corporation.

JAMES MORGAN, Jacksonville – Legislative Chairman for the Florida Association of Realtors.

RAFAEL PENALVER, Miami – Attorney.

WILLIAM SKLAR, West Palm Beach (Co-Chair) – Attorney with law firm of Foley & Lardner in West Palm Beach and professor of law at the University of Miami where he teaches courses in condominium and cluster development law.

NINA VAZNELIS, Spring Hill – Attorney.

JULIUS J. ZSCHAU, Tampa – Attorney representing the Real Property, Probate & Trust Law Section of the Florida Bar.

## **DEPARTMENT STAFF SERVING THE TASK FORCE**

Marlita Peters, Administrative Assistant

Sue Richardson, Chief Attorney, Division of Florida Land Sales, Condominiums, and Mobile Homes

Karl Scheuerman, Lead Arbitrator, Division of Florida Land Sales, Condominiums, and Mobile Homes

James D. Varnado, Deputy General Counsel

Susan Wilkinson, Attorney, Custodian of Records

## SUMMARY OF TASK FORCE MEETINGS AND RECOMMENDATIONS

The task force held six meetings throughout the state. The department prepared a list of six issues for the task force to discuss. These included: flags, associations, removal of directors, alternative dispute resolution, disclosure and purchaser protections. The task force added other issues as the meetings progressed. Below is a summary by meeting of actions taken by the task force.

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### **MEETING 1 – SEPTEMBER 24, 2003 – TALLAHASSEE**

**Issue 1: Flags.** Whether homeowners should be granted the same rights as condominium unit owners to fly the United States flag and military service flags.

**Vote:** *Passed 15-0 with amendment to require current Florida flag.*

**Issue 2: Associations.** Whether the definition of homeowners' association should be amended to include organizations and entities presently operating homeowners' associations, but not clearly within the scope of the definition.

**Vote:** *Failed 15-0.*

### **MEETING 2 – OCTOBER 17, 2003 – MIAMI**

**Issue 3: Removal of Directors.** Whether specific provisions for removal of directors by homeowners should be provided under chapter 720, Florida Statutes, and if so, whether disputes involving removal of directors should be subject to binding arbitration.

**Vote:** *Passed 15-0 to include recall provisions similar to chapter 718 with discussion later as to forum for disputed recalls.*

**Issue 4: Alternative Dispute Resolution (ADR).** Whether an organized arbitration and mediation unit, similar in format and function to condominium arbitration, be established to hear a limited range of disputes, such as covenant enforcement, elections, recalls, access to records, meetings and voting.

**Vote:** *Tabled for December meeting.*

### **MEETING 3 – NOVEMBER 14, 2003 – ORLANDO**

**Issue 5: Disclosure.** Whether providing a conspicuous disclosure regarding a developer's long-term control of an association or association property at the time of purchase would resolve many of the issues and disputes arising from the absence of a time limit for developer transition being imposed under section 720.307, Florida Statutes.

**Vote:** *Passed 11-2 to include language contained in section 689.26, Florida Statutes, with additional language (Custodian's note: further clarified at last meeting to transfer provisions of this section to chapter 720, Florida Statutes).*

**Issue 6\*: Notice of Meetings.** The right of homeowners' association members to receive notice of proposed board actions relative to special assessments or amendment of rules regarding use of parcels.

**Vote: *Passed 13-0*** (vote taken together with issue 7 below). Requires notice 14 days prior to a meeting. Notice can include closed-circuit television. Notice of assessment meetings requires both posting and actual notices.

**Issue 7\*: Right to be heard.** The right of association members to be heard by the board, including the right to speak to designated agenda items at any meeting of the board.

**Vote: *Passed 13-0*** (vote taken together with issue 6 above). Requires that parcel owners be allowed at least three minutes for each agenda item provided that request is made at least 10 minutes prior to the meeting. Amended to delete 10 minutes prior to the meeting at the last task force meeting.

**Issue 8\*: Right to petition the board.** The right of association members to petition the Board relative to proposed agenda items.

**Vote: *Passed 12-1***. Twenty percent of the voting interest would require Board at next director meeting or special meeting (but not longer than 60 days from receipt of petition) to take up the agenda item.

**Issue 9\*: Impartial elections.** The right to confidentiality of homeowners' association board elections, including secret ballot procedures.

**Vote: *Failed 8-5***.

#### **MEETING 4 – DECEMBER 8, 2003 – TAMPA**

##### **Issue 10a: Purchase Protections:**

- (a) Whether creating specific remedies for purchasers who have relied upon a developer's false and misleading information to induce the purchase of a residence would benefit purchasers and the industry.

**Vote: *Passed 11-1*** with language similar to section 718.506 except language regarding prospectus. Motion also included that developer cannot use homeowners' association funds to defend a lawsuit against him.

##### **Issue 10b: Purchaser Protections:**

- (b) Whether additional warranty protections should be provided for homeowners' associations for all association common area improvements.

**Vote: *Passed 13-0*** to include warranties to support common area improvements. Warranties pertaining to the home ***tabled***.

**Issue 11\*: (Municipal Service Benefit Unit) MSBU.** Funding mechanisms for the delivery of services to non-mandatory associations, such as MSBU.

**Vote: *Passed 11-1***. Motion was to oppose amendments that would allow MSBU funds for use to enforce documents, etc. in homeowners' associations.

**Issue 4: ADR.** Revisited from Meeting 2.

**Vote: *Tabled*** for St. Augustine meeting.

## **MEETING 5 – JANUARY 9, 2003 – ST. AUGUSTINE**

**Issue 4: ADR.** Whether organized arbitration and mediation mechanisms should be established to hear a limited range of disputes, such as covenant enforcement, recalls, meeting, voting, amendments to documents, and other optional forums to settle disputes, while reserving a homeowner's right to legal recourse, in chapter 720, and all other mechanisms, in form and function, based upon the task force's review of a comparative comprehensive analysis and proposals of alternative means of alternative dispute resolution systems, presented by department staff and task force member Robert Jones. (See Appendix Item 8). Recall disputes will be included.

**Vote: Passed 11-2.** *Will provide, in the case of general covenant enforcement disputes, for mandatory mediation, and upon the agreement of the parties, binding or non-binding arbitration for mandatory homeowners' associations with prevailing party attorney fees in the case of arbitration (none for mediation). This is to either be done by the Division or outsourced. Disputes over election or recall matters will be subject to mandatory binding arbitration to be handled by the Division arbitrators. These procedures should be available as an option for non-mandatory homeowners' associations. Homeowners' association mediation proceedings should be generally conducted in accordance with rules governing circuit and county court mediation. Mediators should be certified in community association matters with training provided by the Division. These programs are to be funded by a user fee of not less than \$200 with increases to cover costs. Allows for the parties to voluntarily apportion fees and provides that the Division will create educational and awareness programs on ADR. Grants statutory authority for concurrent jurisdiction on county courts to hear and adjudicate homeowners' association disputes.*

**Issue 10c\*: Purchaser Protection.** Whether additional warranty protections should be provided for homeowners' associations on individual homes and lot improvements by the developer/builder.

**Vote: Failed 6-7.**

**Issue 5: Disclosure.** Florida Association of Realtors representative to give update. Whether providing a conspicuous disclosure regarding a developer's long-term control of an association or association property at the time of purchase would resolve issues and disputes arising from the absence of a time limit for developer transition.

**Vote: Tabled** to January 28 meeting.

**Issue 12\*: Regulation of homeowners' associations.** Whether homeowner associations should be subject to government regulation. See section 720.302(2), Florida Statutes, in which the legislature expressly "recognizes that it is not in the interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations."

**Vote: Failed 10-3.**

**Issue 13\*: Liens and Foreclosures.** Whether association lien rights on homeowner property should be limited to nonpayment of assessments.

**Vote: Passed 9-3.** *Will no longer allow homeowners' associations to file liens for nonpayment of fines and other fees.*

**Issue 14\*: Inspection of Records.** Whether the statute should be amended to expand the definition of official records to include all written records except those exempted and provide guidelines for copying and inspection.

**Vote: *Passed 10-2.*** Also provides guidelines similar to condominiums for copying and inspection that include the right to make copies of the inspected records for \$.50/page.

**Issue 15\*: Fiscal Responsibility.** Whether amendments be adopted to require competitive bidding and the imposition of criminal penalties for director self-dealing.

**Vote: *Passed 12-0.***

**Issue 16\*: Timely and Accurate Financial Information.** Whether to require a minimum level of financial reporting based on association annual income; require reports to be performed in accordance with Common Interest Realty Associations' guidelines; permit homeowners to waive or raise the level of reporting required; require the board to call a meeting to change the reporting level if 10% of the homeowners petition for a meeting.

**Vote: *Passed 9-3.*** Requires homeowners' associations to submit year-end reports with level of reporting based on annual income. Provisions can be waived by a majority of those voting interests present at a meeting. Twenty percent (20%) of total voting interests can petition the board for a higher level of reporting than required, and if passed by a majority of the total voting interests, the higher level of reporting shall prevail.

**Issue 17\*: Strategic Lawsuits Against Public Participation (SLAPP).** Handout provided by task force member Karen Gottlieb.

**Vote: *Tabled*** for January 28.

## **MEETING 6 – TALLAHASSEE – JANUARY 28, 2004**

**Issue 17\*: SLAPP.** Initial vote was called with motion to remove the issue from the agenda.

**Vote: *Failed 5-6.***

**Second motion** made to place prohibition of SLAPPs in chapter 720, Florida Statutes, with reference to chapter 768, to add treble damages and to prohibit use of association funds to finance SLAPP suits and to apply only to appearances before governmental entities with governmental body to be clearly defined.

**Vote: *Passed 11-0.***

**Issue 5: Disclosure.** While already voted on earlier, the task force voted to also require a question and answer sheet, or alternatively, to use the disclosure summary in this capacity.

**Vote: *Passed 11-0.***

This concluded the discussion of issues. At this time the task force reviewed draft legislation prepared by staff and voted on various changes included below. The chair then made an omnibus motion to adopt all other amendments made to the draft legislation.

**Issue 5: Disclosure.** Task force voted on whether to expand language to include the requirement that associations make available within 10 calendar days documents at a cost of \$.50 per page not to exceed \$50 including: the most recent set of (1) the disclosure summary; (2) a complete and most recent set of governing documents; (3) the most recently adopted budget; and (4) the most recent year-end financial statement.

**Vote: *Passed 10-1.***

**Issue 5: Disclosure.** There was a motion to eliminate language regarding privileged information under state or federal law as drafted by staff.

**Vote: *Passed 7-5.***

**Issue 16\*: Timely and Accurate Financial Information.** Motion was made to allow an association to amend its budget or adopt a special assessment to pay for the cost of an audit if required to do so by petition of the members and sufficient funds are not available.

**Vote: *Passed 7-5.***

**Issue 13\*: Liens and Foreclosures.** Motion was made to allow prevailing party to recover reasonable attorney's fees in action to recover a fine.

**Vote: *Passed 10-2.***

**Issue 10a: Purchase Protection.** Motion made to remove language in draft requiring a party to submit disputes to mediation prior to filing for a civil action.

**Vote: *Passed 11-1.***

**Issue 10b: Purchaser Protections.** Motion made to remove language that currently appears in condominium statutes that are not applicable to homeowners' associations.

**Vote: *Passed 11-1.***

**Omnibus Vote on draft legislation.**

**Vote: *Passed 11-0 (1 abstention).***

\* Denotes issues considered by the task force in addition to the original six presented by the department.

## VOTING SUMMARY

MEMBER	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10a	#10b	#10c	#11	#12	#13	#14	#15	#16	#17
Adams, Joe	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y
Baker, Julie	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	Y	Y
Bergemann, Jan	Y	N	Y	N	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	N	Y	N	Y
Gottlieb, Karen	Y	N	Y	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	Y	N	Y
Guthrie, Bill	Y	N	Y	Y	Y	Y	Y	Y	N			N		N	N	Y	Y	Y	
Jones, Robert	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Katz, Barbara	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Kent, Cheryl	Y	N	Y	Y	Y	Y	Y	Y	N		Y	Y	Y	N	Y	Y	Y	Y	Y
Lyon, Randy	Y	N	Y	Y	Y	Y	Y	Y	N	N	Y	N	Y	N	N	Y	Y	Y	Y
Meffert, Wellington	Y	N		Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	Y	Y
Morgan, Jim	Y	N		Y	N	Y	Y	Y	N	Y	Y	N		N	Y	Y	Y	Y	Y
Penalver, Rafael	Y	N	Y																
Sklar, Bill	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	Y	Y
Vaznelis, Nina	Y	N	Y		N	Y	Y	Y	N	Y	Y		N						
Zschau, Julius	Y	N	Y	Y						Y	Y	N	Y	N					Y

# DRAFT LEGISLATION

## INDEX OF STATUTORY SECTIONS

**720.301 Definitions.** (page 18).

**720.302 Purposes, scope, and application.--** (pages 18).

**720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.** (pages 18-29).

**720.304 Right of owners to peaceably assemble; display of flag; SLAPP suits prohibited.**—(pages 29-30).

**720.305 Obligations of members; remedies at law or in equity; levy of fines, and suspension of use rights, and collection; failure to fill sufficient number of vacancies on board of directors to constitute a quorum; appointment of receiver upon petition of any member.**— (page 31).

**720.3055 Contracts for products and services; in writing; bids; exceptions.-**  
(pages 31-32).

**720.306 Meetings of Members; voting and election procedures; amendments.—**  
(pages 32-34).

**720.311 Dispute resolution.—** (pages 34-37).

**720.401– Prospective purchasers subject to association membership requirement; disclosure required; covenants; assessments; contract violability.-** (pages 37-40).

**720.402 Publication of false and misleading information.--** (pages 40-41).

**720.501 Warranties.--** (pages 41-43).

**34.01 Jurisdiction of county court.—** (pages 43-44).

**718.501 Powers and duties of Division of Florida Land Sales, Condominiums, and Mobile Homes.--** (page 44).

Section 1. Present paragraph (6) of section 720.301 Florida Statutes, is re-designated as paragraph (7), and a new paragraph (6) is added to that section with subsequent renumbering of paragraphs (8) through (11), to read:

**720.301 Definitions.--**

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

Section 2. Paragraph (2) of section 720.302 Florida Statutes, is amended to read:

**720.302 Purposes, scope, and application.--**

(2) The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with section 720.311, the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative dispute resolution of election and recall disputes, and pre-suit mediation of other disputes involving covenant enforcement, and authorizes the division to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.501 ~~720.312~~ are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

Section 3. Paragraphs (1), (2), (4), (5), (7), and (8) are amended and a new paragraph (10) is created in section 720.303, Florida Statutes, to read:

**720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.**

(1) POWERS AND DUTIES.--An association which operates a community as defined in s. 720.301, must be operated by an association that is a Florida corporation. After October 1, 1995, the association must be incorporated and the initial governing documents must be recorded in the official records of the county in which the community is located. An association may operate more than one community. The officers and directors of an association have a fiduciary relationship to the members who are served by the association. It is the intent of the Legislature that nothing in this paragraph shall

be construed as providing for or removing a requirement of a fiduciary relationship between any manager employed by the association and the parcel owners. An officer, director, or manager may not solicit, offer to accept, or accept any thing or service of value for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association. Any such officer, director, or manager who knowingly so solicits, offers to accept, or accepts any thing or service of value commits a felony of the third degree, punishable as provided in s. 775.082, or s. 775.084, or the successor thereof, and shall thereafter be permanently disqualified from serving on the board of directors of the association or serving as an officer of the association. However, this paragraph does not prohibit an officer, director, or manager from accepting customary amenities provided in business relationships, such as food and drinks at meetings or conferences, business lunches not exceeding twenty dollars per person, or marketing trinkets, which includes but is not limited to pens, key chains, scribble pads, and calendars, provided that the value of each item does not exceed twenty dollars. The powers and duties of an association include those set forth in this chapter and, except as expressly limited or restricted in this chapter, those set forth in the governing documents. After control of the association is obtained by members ~~unit-owners~~ other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to the members, including, but not limited to, the common areas; roof or structural components of a building, or other improvements for which the association is responsible; mechanical, electrical, or plumbing elements serving an improvement or building for which the association is responsible; representations of the developer pertaining to any existing or proposed commonly used facility; and protesting ad valorem taxes on commonly used facilities. The association may defend actions in eminent domain or bring inverse condemnation actions. Before commencing litigation against any party in the name of the association involving amounts in controversy in excess of \$100,000, the association must obtain the affirmative approval of a majority of the voting interests at a meeting of the membership at which a quorum has been attained. This subsection does not limit any statutory or common-law right of any individual member or class of members to bring any action without participation by the association. A member does not have authority to act for the association by virtue of being a member. An association may have more than one class of members and may issue membership certificates.

(2) BOARD MEETINGS.—

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

(b) Parcel owners and members have the right to attend all meetings and to speak at the meeting with reference to all items opened for discussion or included on the agenda. Notwithstanding any provision to the contrary in the governing documents or any rules adopted by the board or by the membership, a parcel owner and member has the right to speak for at least three minutes on any item, provided that the parcel owner and member submits a request to speak prior to the commencement of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and other manner of parcel owner or member statements, which rules shall be consistent with this paragraph. Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the parcel owners and members is inapplicable to meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, when the meeting is held for the purpose of seeking or rendering legal advice, and to meetings of the board held for the purpose of discussing personnel matters.

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

1. Notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for communities with more than 100 members, the bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice, provision of a schedule of board meetings, or the conspicuous posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the homeowners' association. However, if broadcast notice is used in lieu of a notice posted physically in the community, the notice must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required. When

broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. The bylaws or amended bylaws may provide for giving notice by electronic transmission in a manner authorized by law for meetings of the board of directors, committee meetings requiring notice under this section, and annual and special meetings of the members; however, a member must consent in writing to receiving notice by electronic transmission.

2. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Written notice of any meeting at which special assessments will be considered, or at which amendments to rules regarding parcel use will be considered, shall be mailed, delivered, or electronically transmitted to the members and parcel owners and posted conspicuously on the property or broadcast on closed-circuit cable television not less than 14 days prior to the meeting.

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

(d) If twenty (20) percent of the total voting interests petition the board to address an item of business, the board shall at its next board meeting or special meeting, but not later than sixty (60) days after the receipt of the petition, take the petitioned item up on its agenda. The board shall give all members notice of the meeting at which the petitioned item shall be addressed in accordance with the 14-day notice requirement pursuant to subparagraph (2) above. Other than addressing the item at the meeting, the board is not obligated to take any other action requested by the petition.

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

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

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

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

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

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

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

(g) A current roster of all members and their mailing addresses and parcel identifications. The association shall also maintain the electronic mailing addresses and the numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by parcel owners to receive notice by electronic transmission shall be removed from association records when consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.

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

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

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

1. Accurate, itemized, and detailed records of all receipts and expenditures.
2. A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.
3. All tax returns, financial statements, and financial reports of the association.
4. Any other records that identify, measure, record, or communicate financial information.

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

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

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

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

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

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not impose a requirement that a parcel owner demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one eight-hour business day per month. The association may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The association may charge up to fifty cents per page for copies made on the association's photocopier. If the association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed twenty-five pages in length, the association may have copies made by an outside vendor and may charge the actual cost of copying. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members. Notwithstanding the provisions of this paragraph, the following records shall not be accessible to members or parcel owners:

1. Any record protected by the lawyer-client privilege as described in s. 90.502; and any record protected by the work-product privilege, including but not limited to any record

prepared by an association attorney or prepared at the attorney's express direction; which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.

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

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

4. Medical records of parcel owners or community residents.

(7) FINANCIAL REPORTING.--The association shall prepare an annual financial report within 90 ~~60~~ days after the close of the fiscal year. The association shall, within the time limits set forth in subsection (5), provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. Financial reports shall be prepared as follows:

(a) An association that meets the criteria of this paragraph shall prepare or cause to be prepared a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements shall be based upon the association's total annual revenues, as follows:

1. An association with total annual revenues of \$100,000 or more, but less than \$200,000, shall prepare compiled financial statements.

2. An association with total annual revenues of at least \$200,000, but less than \$400,000, shall prepare reviewed financial statements.

3. An association with total annual revenues of \$400,000 or more shall prepare audited financial statements.

(b)1. An association with total annual revenues of less than \$100,000 shall prepare a report of cash receipts and expenditures.

2. An association in a community of fewer than 50 parcels, regardless of the association's annual revenues, may prepare a report of cash receipts and expenditures in lieu of financial statements required by paragraph (a) unless the governing documents provide otherwise.

3. A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and

expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves if maintained by the association.

The financial report must consist of either:

~~(a) — Financial statements presented in conformity with generally accepted accounting principles; or~~

~~(b) — A financial report of actual receipts and expenditures, cash basis, which report must show:~~

~~1. The amount of receipts and expenditures by classification; and~~

~~2. The beginning and ending cash balances of the association.~~

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

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

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

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

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

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

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

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

(8) ASSOCIATION FUNDS; COMMINGLING.--

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

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

(c) No association funds shall be utilized by a developer to defend a civil or criminal action, or administrative proceeding, or arbitration proceeding that has been filed against the developer or directors appointed to the association board by the developer, even where the subject of the action or proceeding concerns the operation of the developer-controlled association.

(10) Recall of board directors.—

(a) 1. Regardless of any provision to the contrary contained in the governing documents, subject to the provisions of s. 720.307 regarding transition of association control, any member of the board of directors may be recalled and removed from office with or without cause by a majority of the total voting interests.

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

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

2. The board of administration shall duly notice and hold a meeting of the board within 5 full business days after receipt of the agreement in writing or written ballots. At the meeting, the board shall either certify the written ballots or written agreement to recall a director or directors of the board, in which case such director or directors shall be recalled effective immediately and shall turn over to the board within 5 full business days

any and all records and property of the association in their possession, or proceed as described in subparagraph (d).

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

4. Any rescission or revocation of a member's written recall ballot or agreement must be in writing and, in order to be effective, must be delivered to the association prior to the association being served with the written recall agreements or ballots.

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

(c) Recall at a Meeting.

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

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

(d) If the board determines not to certify the written agreement or written ballots to recall a director or directors of the board, or does not certify the recall by a vote at a meeting, the board shall, within 5 full business days after the meeting, file with the division a petition for binding arbitration pursuant to the applicable procedures in ss. 718.1255 and 718.112(2)(j), Florida Statutes, and the rules promulgated thereunder. For the purposes

of this section, the members who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any director or directors of the board, the recall will be effective upon mailing of the final order of arbitration to the association. The director or directors so recalled shall deliver to the board any and all records of the association in their possession within 5 full business days of the effective date of the recall.

(e) If a vacancy occurs on the board as a result of a recall and less than a majority of the board directors are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any provision to the contrary contained in this subsection or in the association documents. If vacancies occur on the board as a result of a recall and a majority or more of the board directors are removed, the vacancies shall be filled by members voting in favor of the recall; if removal is at a meeting, any vacancies shall be filled by the members at the meeting. If the recall occurred by agreement in writing or by written ballot, members may vote for replacement directors in the same instrument in accordance with procedural rules adopted by the division, which rules need not be consistent with this subsection.

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

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

(h) The minutes of the board meeting at which the board decides whether to certify the recall are an official association record. The minutes shall record the date and time of the meeting, the decision of the board, and the vote count taken on each board member subject to the recall. In addition, where the board decides not to certify the recall, as to each vote rejected, the minutes shall identify the parcel number and the specific reason for each such rejection.

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

Section 4. Paragraph (2) of section 720.304, Florida Statutes, is amended to read and paragraph (4) is created to read:

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

(2) Any homeowner may display one portable, removable United States flag or official flag of the State of Florida, in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day, may display in a respectful manner portable, removable official flags, not larger than 4½ feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, regardless of any declaration rules or requirements dealing with flags or decorations.

(4) It is the intent of the Legislature to protect the right of parcel owners to exercise their rights to instruct their representatives and petition for redress of grievances before the various governmental entities of this state as protected by the First Amendment to the United States Constitution and Art. I, Section 5 of the State Constitution. The Legislature recognizes that “Strategic Lawsuits Against Public Participation” or “SLAPP” suits, as they are typically called, have occurred when members are sued by individuals, business entities, or governmental entities arising out of a parcel owner’s appearance and presentation before a governmental entity on matters related to the homeowners’ association. However, it is the public policy of this state that government entities, business organizations, and individuals, not engage in SLAPP suits because such actions are inconsistent the right of parcel owners to participate in the state’s institutions of government. Therefore, the Legislature finds and declares that prohibiting such lawsuits by governmental entities, business entities, and individuals against parcel owners who address matters concerning their homeowners’ association will preserve this fundamental state policy, preserve the constitutional rights of parcel owners, and assure the continuation of representative government in this state. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts.

(a) As used in this paragraph “governmental entity” means the state, including executive, legislative, and the judicial branches of government and the independent establishments of the state, counties, or municipalities, districts, authorities, boards, commissions, or any agencies of these branches, which are subject to Chapter 286, Florida Statutes.

(b) No governmental entity, business organization, or individual in this state shall file or cause to be filed, through its employees or agents any lawsuit, cause of action, claim, cross-claim, or counterclaim against a parcel owner without merit and solely because such parcel owner has exercised the right to instruct his or her representatives or the right to petition for redress of grievances before the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and Art. I, section 5 of the State Constitution.

(c) A parcel owner sued by a governmental entity, business organization or individual in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A parcel owner may petition the court for an order dismissing the action or granting final judgment in favor of that parcel owner. The petitioner may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the governmental entity’s, business organization’s, or individual’s lawsuit has been brought in violation of this section. The governmental entity, business organization, or individual shall thereafter file its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner’s motion, which shall be held at the earliest possible time after the filing of the governmental entity’s, business organization’s or individual’s response. The court may award the parcel owner sued by the governmental entity, business organization, or individual actual damages arising from the governmental entity’s, individual’s, or business organization’s violation of this act. A court may treble the damages awarded to a prevailing parcel owner and shall state the basis for the treble damages award in its judgment. The court shall award the prevailing party reasonable attorney’s fees and costs incurred in connection with a claim that an action was filed in violation of this section.

(d) Homeowners’ associations shall not expend association funds in prosecuting a SLAPP suit against a parcel owner.

Section 5. Paragraph (2) of section 720.305, Florida Statutes, is amended to read:

**720.305 Obligations of members; remedies at law or in equity; levy of fines, suspension of use rights, and collection; failure to fill sufficient number of vacancies on board of directors to constitute a quorum; appointment of receiver upon petition of any member.—**

(2) If the governing documents so provide, an association may suspend, for a reasonable period of time, the rights of a member or a member's tenants, guests, or invitees, or both, to use common areas and facilities and may levy reasonable fines, not to exceed \$100 per violation, against any member or any tenant, guest, or invitee. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. No fine shall become a lien against a parcel. In any action to recover a fine, the prevailing party shall be entitled to collect its reasonable attorney's fees and costs from the non-prevailing party as determined by the court.

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

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

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

Section 6. Section 720.3055 is created to read:

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

(1) All contracts as further described herein or any contract that is not to be fully performed within 1 year after the making thereof, for the purchase, lease, or renting of materials or equipment to be used by the association in accomplishing its purposes

under this chapter or the governing documents, and all contracts for the provision of services, shall be in writing. If a contract for the purchase, lease, or renting of materials or equipment, or for the provision of services, requires payment by the association that exceeds 10 percent of the total annual budget of the association, including reserves, the association shall obtain competitive bids for the materials, equipment, or services. Nothing contained herein shall be construed to require the association to accept the lowest bid.

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

2. A contract executed before July 1, 2004, and any renewal thereof, is not subject to the competitive bid requirements of this section. If a contract was awarded under the competitive bid procedures of this section, any renewal of that contract is not subject to such competitive bid requirements if the contract contains a provision that allows the board to cancel the contract on 30 days' notice. Materials, equipment, or services provided to an association under a local government franchise agreement by a franchise holder are not subject to the competitive bid requirements of this section. A contract with a manager, if made by a competitive bid, may be made for up to 3 years. An association whose declaration or bylaws provides for competitive bidding for services may operate under the provisions of that declaration or bylaws in lieu of this section if those provisions are not less stringent than the requirements of this section.

(b) Nothing contained herein is intended to limit the ability of an association to obtain needed products and services in an emergency.

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

(d) Nothing contained herein shall excuse a party contracting to provide maintenance or management services from compliance with s. 720.309.

Section 7. Present paragraph (5) of section 720.306 Florida Statutes, is re-designated as subsection (7), and new paragraphs (5) and (6) are added to that section with subsequent renumbering of paragraphs (5) through (8), to read:

**720.306 Meetings of Members; voting and election procedures; amendments.--**

(5) NOTICE OF MEETINGS.— The bylaws shall provide for giving notice to members of all member meetings, and if they do not do so shall be deemed to provide the following: The association shall give all parcel owners and members actual notice of all membership meetings, which shall be mailed, delivered, or electronically transmitted to the members not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed upon execution among the official records of the association. In addition to mailing, delivering or electronically transmitting the notice of any meeting, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the association. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda.

(6) RIGHT TO SPEAK.— Members and parcel owners have the right to attend all membership meetings and to speak at the meeting with reference to all items opened for discussion or included on the agenda. Notwithstanding any provision to the contrary in the governing documents or any rules adopted by the board or by the membership, a member and a parcel owner have the right to speak for at least three minutes on any item, provided that the member or parcel owner submits a request to speak prior to the meeting. The association may adopt written reasonable rules governing the frequency, duration, and other manner of member and parcel owner statements, which rules shall be consistent with this paragraph.

(7) (5) ADJOURNMENT.—Unless the bylaws require otherwise, adjournment of an annual or special meeting to a different date, time, or place must be announced at that meeting before an adjournment is taken, or notice must be given of the new date, time, or place pursuant to s. 720.303(2). Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. If a new record date for the adjourned meeting is or must be fixed under <sup>2</sup>s. 617.0707, notice of the adjourned meeting must be given to persons who are entitled to vote and are members as of the new record date but were not members as of the previous record date.

(8) ~~(6)~~ PROXY VOTING.--The members have the right, unless otherwise provided in this subsection or in the governing documents, to vote in person or by proxy. To be valid, a proxy must be dated, must state the date, time, and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. A proxy is effective only for the specific meeting for which it was originally given, as the meeting may lawfully be adjourned and reconvened from time to time, and automatically expires 90 days after the date of the meeting for which it was originally given. A proxy is revocable at any time at the pleasure of the person who executes it. If the proxy form expressly so provides, any proxy holder may appoint, in writing, a substitute to act in his or her place.

(9) ~~(7)~~ ELECTIONS.--Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. All members of the association shall be eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held. Except as otherwise provided in the governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters. Any election dispute between a member and an association must be submitted to mandatory binding arbitration with the division. Such proceedings shall be conducted in the manner provided by s. 718.1255 and the procedural rules adopted by the division.

(10) ~~(8)~~ RECORDING.--Any parcel owner may tape record or videotape meetings of the board of directors and meetings of the members. The board of directors of the association may adopt reasonable rules governing the taping of meetings of the board and the membership.

Section 8. Section 720.311, Florida Statutes, is amended to read:

**720.311 Dispute resolution.—**

(1) The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. ~~At any time after the filing of a court of competent jurisdiction of a complaint relating to a dispute under ss. 720.301-720.312, the court may order that the parties enter mediation or arbitration procedures.~~ The filing of any petition for mediation or arbitration provided for in this section shall toll the applicable statute of limitations. Any recall dispute filed with the division pursuant to s. 720.303(10) shall be conducted by the division in accordance with the provisions of ss. 718.1255 and 718.112(2)(i) and the

rules adopted by the division. In addition, the division shall conduct mandatory binding arbitration of election disputes between a member and an association pursuant to s. 718.1255, and rules adopted by the division. Neither election disputes nor recall disputes shall be eligible for mediation; these disputes shall be arbitrated by the division. At the conclusion of the proceeding, the division shall charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the division in conducting the proceeding. Initially, the petitioner shall remit a filing fee of at least \$200 to the division. The fees paid to the division shall become a recoverable cost in the arbitration proceeding; the prevailing party in an arbitration proceeding shall be paid its reasonable costs and attorney's fees in an amount found reasonable by the arbitrator. The division shall adopt rules to effectuate the purposes of this section.

(2)(a) Disputes between an association and a parcel owner regarding use of or changes to the parcel or the common areas and other covenant enforcement disputes, disputes regarding amendments to the association documents, disputes regarding meetings of the board and committees appointed by the board, membership meetings not including election meetings, and access to the official records of the association shall be filed with the division for mandatory mediation prior to the disputes being filed in the courts. Mediation proceedings must be conducted in accordance with the applicable Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. No arbitrator or judge shall consider any information or evidence arising from the mediation proceeding except in a proceeding to impose sanctions for failure to attend a mediation session. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, except for counsel for the parties and a corporate representative designated by the association. When mediation is attended by a quorum of the board, such mediation shall not be deemed to be a board meeting for purposes of notice and participation set forth in section 720.303, Florida Statutes. The division shall either conduct the proceedings through the use of division mediators or may refer the disputes to private mediators who have been duly certified by the division as provided in (c) below. The parties shall share the costs of mediation equally, including the fee charged by the mediator, if any, unless the parties agree otherwise. If a division mediator is used, the division may charge such fee as is necessary to pay expenses of the mediation, including but not limited to the salary and benefits of the mediator and any travel expenses incurred. The petitioner shall initially file with the division upon filing the

dispute, a filing fee of \$200, which shall be used to defray the costs of the mediation. At the conclusion of the mediation, the division shall charge to the parties, to be shared equally unless otherwise agreed by the parties, such further fees as may be necessary to fully reimburse the division for all expenses incurred in the mediation.

(b) If mediation as described in (a) above is not successful in resolving all issues between the parties, the parties may either file the unresolved dispute in a court of competent jurisdiction, or may elect to enter into binding or nonbinding arbitration pursuant to the procedures set forth in s. 718.1255 and rules adopted by the division, with the arbitration proceeding to be conducted either by a division arbitrator or by a private arbitrator certified by the division. If all parties do not agree to arbitration proceedings following an unsuccessful mediation, any party is free to file the dispute in the courts. A final order resulting from non-binding arbitration shall be final and enforceable in the courts if a complaint for trial de novo is not filed in a court of competent jurisdiction within 30 days of entry of the order.

(c) The division shall develop a certification and training program for both private mediators and private arbitrators which shall emphasize experience and expertise in the area of the operation of community associations. A mediator or arbitrator shall only be certified by the division if he or she has attended at least 20 hours of training in mediation or arbitration, as appropriate, and only if the applicant has mediated or arbitrated at least 10 disputes involving community associations 5 years prior to the date of the application, or has mediated or arbitrated 10 disputes in any area 5 years prior to the date of application and has completed 20 hours of training in community association disputes. Any mediators in order to be certified by the division must also be certified by the Florida Supreme Court. The division may conduct the training and certification program within the division or may contract with an outside vendor to perform the training or certification. The expenses of operating the training and certification and training program shall be paid by the monies and filing fees generated by the arbitration of recall and election disputes, and by the mediation of those disputes referenced above and by the training fees. Initially, the Department of Business and Professional Regulation should seek sufficient funding to cover the start up costs of establishing the certification and training program.

(d) The mediation procedures provided by this subsection may be used by a Florida corporation responsible for the operation of a community in which the voting members are parcel owners or their representatives, in which membership in the corporation is not

a mandatory condition of parcel ownership, or which is not authorized to impose an assessment which may become a lien on the parcel.

(3) The division shall develop an education program to assist homeowners, associations, board members, and managers in understanding and increasing awareness of the operation of homeowners associations pursuant to ch. 720 and in understanding the use of ADR techniques in resolving disputes between parcel owners and associations or between owners. Such education program may include the development of pamphlets and other written instructional guides, the holding of classes and meetings either by division employees or outside vendors, as the division may determine, and the creation and maintenance of a web site containing instructional materials. The expenses of operating the education program shall be initially paid by the monies and filing fees generated by the arbitration of recall and election disputes, and by the mediation of those disputes referenced above. The Department of Business and Professional Regulation shall seek funding to cover the start up costs of the education, mediation and arbitration programs.

Section 9. Part II of chapter 720 is created, and section 689.26 is transferred, substantially reworded, and renumbered as section 720.401, Florida Statutes, and is recreated to read:

**Part II DISCLOSURE PRIOR TO SALE OF RESIDENTIAL PARCELS**

**720.401– Prospective purchasers subject to association membership requirement; disclosure required; covenants; assessments; contract violability.-**

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

DISCLOSURE SUMMARY AND RECEIPT OF DOCUMENTS

FOR

(NAME OF COMMUNITY)

1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY YOU ARE OBLIGATED TO BE 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. THERE (ARE) (ARE NOT) UNRECORDED RULES AND REGULATIONS AFFECTING THE PARCELS OR COMMON AREAS. ANY COVENANTS THAT MAY EXIST ARE MATTERS OF PUBLIC RECORD AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE PROPERTY IS LOCATED.
3. THERE (IS) (IS NOT) A MUNICIPALITY, COUNTY, OR SPECIAL TAXING DISTRICT, WHICH MAY IMPOSE CHARGES OR ASSESSMENTS SEPARATE FROM THE HOMEOWNERS' ASSOCIATION'S ASSESSMENTS AND WHICH ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.
4. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION COULD RESULT IN A LIEN ON YOUR PROPERTY. LIENS MAY BE FORECLOSED IN THE SAME MANNER AS A MORTGAGE.
5. THE DEVELOPER (OR THE HOMEOWNERS OTHER THAN THE DEVELOPER) IS IN CONTROL OF THE HOMEOWNERS' ASSOCIATION.
6. THERE (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'S ASSOCIATION. (If such obligation exists, then the amount of the current obligation shall be set forth.)
7. THE RESTRICTIVE COVENANTS (CAN) (CANNOT) BE AMENDED WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP.
8. THE ASSOCIATION (IS) (IS NOT) INVOLVED IN LITIGATION, WHICH MAY RESULT IN EXPOSURE TO THE ASSOCIATION IN EXCESS OF \$100,000.
9. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

10. PURCHASER(S) ACKNOWLEDGE THAT THE SELLER HAS PROVIDED THE PURCHASER WITH DOCUMENTS IDENTIFIED AS: (a) THE DISCLOSURE STATEMENT REQUIRED BY THIS SECTION; (b) A COMPLETE AND MOST RECENT SET OF GOVERNING DOCUMENTS WITH ALL AMENDMENTS, WHICH INCLUDES ANY CURRENT RESTATEMENT; (c) THE MOST RECENT BUDGET; AND (d) THE MOST RECENT YEAR-END FINANCIAL STATEMENT.

PURCHASER(S) SHOULD NOT EXECUTE THE CONTRACT OR AGREEMENT UNTIL THEY HAVE RECEIVED AND READ THIS DISCLOSURE SUMMARY AND DOCUMENTS FROM SELLER. YOU HAVE 3 DAYS FROM THE RECEIPT OF THE DOCUMENTS IN #10 TO CANCEL THIS CONTRACT.

DATE:

PURCHASER:

PURCHASER:

(b) At the time of signing a contract of purchase or agreement for sale, the developer or the parcel owner, if the owner is not the developer, must give to the prospective purchaser:

1. The disclosure statement required by this section;
2. A complete and most recent set of governing documents currently in effect, which includes any current restatement of the governing documents;
3. The most recent adopted budget; and
4. The most recent year-end financial statement.

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

IF THE DISCLOSURE SUMMARY REQUIRED BY SECTION 720.401, FLORIDA STATUTES, HAS NOT BEEN PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE EXECUTING THIS CONTRACT FOR SALE, PURCHASER MAY CANCEL THIS CONTRACT BY DELIVERING TO SELLER OR SELLER'S AGENT WRITTEN NOTICE OF THE PURCHASER'S INTENTION TO CANCEL WITHIN 3 DAYS AFTER RECEIPT OF THE DISCLOSURE SUMMARY; GOVERNING DOCUMENTS WITH

AMENDMENTS; CURRENT BUDGET; AND COPY OF CURRENT YEAR-END FINANCIAL STATEMENT OR PRIOR TO CLOSING, WHICHEVER OCCURS FIRST. ANY PURPORTED WAIVER OF THIS RIGHT TO CANCEL HAS NO EFFECT. PURCHASER'S RIGHT TO CANCEL THIS CONTRACT SHALL TERMINATE AT CLOSING.

(d) A contract that does not conform to the requirements of this subsection may be canceled at the option of the purchaser prior to closing.

(e) For purposes of this section, the association shall make available, to a parcel owner or his or her agent within 10 calendar days from receipt of request at a cost of 50 cents per page not to exceed a total of \$50.00, a copy of:

1. The disclosure statement required by this section;
2. A complete and most recent set of governing documents currently in effect, which may be satisfied by the most recent restatement of the governing documents;
3. The most recent adopted budget; and
4. The most recent year end financial statement.

(2) The association shall prepare and update annually the disclosure statement required by paragraph (1).

(3) This section does not apply to any association regulated under chapter 718, chapter 719, chapter 721, or chapter 723; and also does not apply if disclosure regarding the association is otherwise made in connection with the requirements of chapter 718, chapter 719, chapter 721, or chapter 723.

Section 10. Section 720.402, Florida Statutes, is created to read:

**720.402 Publication of false and misleading information.--**

(1) Any person who, in reasonable reliance upon any material statement or information that is false or misleading and published by or under authority from the developer in advertising and promotional materials, including, but not limited to a contract of purchaser, the declaration of covenants, exhibits to a declaration of covenants, brochures, and newspaper advertising, pays anything of value toward the purchase of a

parcel in a community located in this state shall have a cause of action to rescind the contract or collect damages from the developer for his or her loss prior to the closing of the transaction. After the closing of the transaction, the purchaser shall have a cause of action against the developer for damages under this section from the time of closing until 1 year after the date upon which the last of the events described in paragraphs (a) through (d) shall occur:

(a) The closing of the transaction;

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

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

(d) In the event there shall not be a written contract or agreement for sale or lease of the parcel, then the completion by the developer of the common areas and such recreational facilities, whether or not the same are common areas, which the developer would be obligated to complete under any rule of law applicable to the developer's obligation. Under no circumstances shall a cause of action created or recognized under this section survive for a period of more than 5 years after the closing of the transaction.

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

Section 11. A new part III of chapter 720 is created to read:

**Part III            RIGHTS AND OBLIGATIONS OF DEVELOPERS**

**720.501 Warranties.--**

(1) The developer shall be deemed to have granted to the homeowners' association an implied warranty of fitness and merchantability for the purposes or uses intended as follows:

(a) As to the common areas and improvements thereon, a warranty for 3 years commencing with the completion of the building or improvement, or 1 year after transfer of control of the association from the developer to the members other than the developer, in no event more than 5 years after completion of the building or improvement.

(b) As to the personal property that is transferred with, or appurtenant to the common areas, a warranty which is for the same period as that provided by the manufacturer of the personal property, commencing with the date of transfer of the common areas to the association.

(c) The statute of limitations for any actions in law or equity, which an association may have, shall not begin to run until the members other than the developer have elected a majority of the members of the board of administration.

(2) The contractor, and all subcontractors and suppliers, grant to the developer and to the homeowners' association implied warranties of fitness as to the work performed or materials supplied by them as follows:

(a) For a period of 3 years from the date of completion of construction of a building or improvement, a warranty as to the roof and structural components of the building or improvement and mechanical and plumbing elements serving a building or an improvement, located on the common areas or association property.

(b) For a period of 1 year after completion of all construction, a warranty as to all other improvements and materials.

(3) "Completion of a building or improvement" means issuance of a certificate of occupancy for the entire building or improvement, or the equivalent authorization issued by the governmental body having jurisdiction, and in jurisdictions where no certificate of occupancy or equivalent authorization is issued, it means substantial completion of construction, finishing, and equipping of the building or improvement according to the plans and specifications.

(4) These warranties are conditioned upon routine maintenance being performed, unless the maintenance is an obligation of the developer or a developer-controlled association.

(5) The warranties provided by this section shall inure to the benefit of each owner and his or her successor owners and to the benefit of the developer.

(6) Nothing in this section affects a homeowners' association as to which rights are established by transfer of control and ownership rights of the common areas from the developer to the homeowners' association prior to July 1, 2004.

(7) Common areas may be covered by an insured warranty program underwritten by a licensed insurance company registered in this state, provided that such warranty program meets the minimum requirements of this chapter; to the degree that such warranty program does not meet the minimum requirements of this chapter, such requirements shall apply.

Section 12. Paragraph (1) of section 34.01 is amended to read:

**34.01 Jurisdiction of county court.--**

(1) County courts shall have original jurisdiction:

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

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

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

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

(2) The county courts shall have jurisdiction previously exercised by county judges' courts other than that vested in the circuit court by s. 26.012, except that county court judges may hear matters involving dissolution of marriage under the simplified dissolution procedure pursuant to <sup>1</sup>Rule 1.611(c), Florida Rules of Civil Procedure or may issue a final order for dissolution in cases where the matter is uncontested, and the jurisdiction previously exercised by county courts, the claims court, small claims courts, small claims magistrates courts, magistrates courts, justice of the peace courts, municipal courts, and courts of chartered counties, including but not limited to the counties referred to in <sup>2</sup>ss. 9, 10, 11, and 24, Art. VIII of the State Constitution of 1885.

(3) Judges of county courts shall be committing magistrates. Judges of county courts shall be coroners unless otherwise provided by law or by rule of the Supreme Court.

(4) Judges of county courts may hear all matters in equity involved in any case within the jurisdictional amount of the county court, except as otherwise restricted by the State Constitution or the laws of Florida.

Section 13. Paragraph (1) of section 718.501, Florida Statutes, is amended to read:

**718.501 Powers and duties of Division of Florida Land Sales, Condominiums, and Mobile Homes.--**

(1) The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 498 and sections 720.303(10) and 720.306(9), has the power to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has the following powers and duties: