

Bill No. SB 1632, 1st Eng.

Amendment No. ____ Barcode 604516

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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2	04/23/2003 11:05 AM	.	
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11 Senator Fasano moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 2, between lines 12 and 13,

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16 insert:

17 Section 2. Subsection (1) of section 720.303, Florida
18 Statutes, is amended to read:

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

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

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

26 | Section 3. Subsection (1) of section 720.306, Florida
 27 | Statutes, is amended to read:

28 | 720.306 Meetings of members; voting and election
 29 | procedures; amendments.--

30 | (1) QUORUM; AMENDMENTS.--

31 | (a) Unless a lower number is provided in the bylaws,

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1 the percentage of voting interests required to constitute a
 2 quorum at a meeting of the members shall be 30 percent of the
 3 total voting interests. Unless otherwise provided in this
 4 chapter or in the articles of incorporation or bylaws,
 5 decisions that require a vote of the members must be made by
 6 the concurrence of at least a majority of the voting interests
 7 present, in person or by proxy, at a meeting at which a quorum
 8 has been attained.

9 (b) Unless otherwise provided in the governing
 10 documents or required by law, and other than those matters set
 11 forth in paragraph (c), any governing document of an
 12 association may be amended by the affirmative vote of
 13 two-thirds of the voting interests of the association.

14 (c) Unless otherwise provided in the governing
 15 documents as originally recorded or permitted by this chapter
 16 or chapter 617, an amendment may not materially and adversely
 17 alter the proportionate voting interest appurtenant to a
 18 parcel or increase the proportion or percentage by which a
 19 parcel shares in the common expenses of the association affect
 20 vested rights unless the record parcel owner of the affected
 21 parcel and all record owners of liens on the affected parcels
 22 join in the execution of the amendment. For purposes of this
 23 section, a change in quorum requirements is not an alteration
 24 of voting interests.

25 Section 4. Subsection (1) of section 712.05, Florida
 26 Statutes, is amended to read:

27 712.05 Effect of filing notice.--

28 (1) Any person claiming an interest in land or a
 29 homeowners' association desiring to preserve any covenant or
 30 restriction or any portion of a covenant or restriction may
 31 preserve and protect the same from extinguishment by the

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1 operation of this act by filing for record, during the 30-year
2 period immediately following the effective date of the root of
3 title, a notice, in writing, in accordance with the provisions
4 hereof, which notice shall have the effect of so preserving
5 such claim of right or such covenant or restriction or portion
6 of such covenant or restriction for a period of not longer
7 than 30 years after filing the same unless again filed as
8 required herein. No disability or lack of knowledge of any
9 kind on the part of anyone shall delay the commencement of or
10 suspend the running of said 30-year period. Such notice may be
11 filed for record by the claimant or by any other person acting
12 on behalf of any claimant who is:

- 13 (a) Under a disability,
14 (b) Unable to assert a claim on his or her behalf, or
15 (c) One of a class, but whose identity cannot be
16 established or is uncertain at the time of filing such notice
17 of claim for record.

18
19 Such notice may be filed by a homeowners' association only if
20 the preservation of such covenant or restriction or portion of
21 such covenant or restriction is approved by at least
22 two-thirds of the members of the board of directors of an
23 incorporated homeowners' association at a meeting for which a
24 notice, stating the time and place of the meeting and
25 containing the Statement of Marketable Record Title Action
26 described in s. 712.06(1)(b), was mailed or hand-delivered to
27 members of the homeowners' association not less than 7 days
28 before the meeting ~~a majority vote at a meeting of the~~
29 ~~membership where a quorum is present.~~

30 Section 5. Paragraphs (b) and (e) of subsection (1) of
31 section 712.06, Florida Statutes, are amended to read:

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1 712.06 Contents of notice; recording and indexing.--

2 (1) To be effective, the notice above referred to
3 shall contain:

4 (b) The name and post office address of an owner, or
5 the name and post office address of the person in whose name
6 said property is assessed on the last completed tax assessment
7 roll of the county at the time of filing, who, for the purpose
8 of such notice, shall be deemed to be an owner; however, if a
9 homeowners' association is filing the notice, the requirements
10 of this paragraph may be satisfied by attaching to and
11 recording with the notice an affidavit executed by the
12 appropriate member of the homeowners' association board of
13 directors affirming that the board of directors of the
14 homeowners' association caused a statement in substantially
15 the following form to be mailed or hand-delivered to the
16 homeowners' association's members.

17 STATEMENT OF MARKETABLE TITLE ACTION

18 The (name of homeowners' association) (the
19 "Association") has taken action to ensure that the (name of
20 declaration, covenant, or restriction) recorded in Official
21 Records Book, Page of the public records
22 of County, Florida, as may be amended from time
23 to time, currently burdening the property of each and every
24 member of the Association, retains its status as the source of
25 marketable title with regard to the transfer of a member's
26 residence. To this end, the Association shall cause the notice
27 required by chapter 712, Florida Statutes, to be recorded in
28 the public records of County, Florida. Copies of
29 this notice and its attachments are available through the
30 Association pursuant to the Association's governing documents
31 regarding official records of the Association.

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1 (e) If such claim is based upon an instrument of
 2 record or a recorded covenant or restriction, such instrument
 3 of record or recorded covenant or restriction is considered to
 4 ~~shall~~ be sufficiently described to identify the same if the
 5 notice includes a, including reference to the book and page in
 6 which the same is recorded.

7 Section 6. Section 5 does not apply to or affect any
 8 vested rights recognized by a court order or judgment in
 9 litigation commenced prior to July 1, 2003. Any vested right
 10 so recognized may not be subsequently altered without the
 11 consent of the affected parcel owners.

12
 13 (Redesignate subsequent sections.)

14
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16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 On page 1, line 5, after the semicolon,

19

20 insert:

21 amending s. 720.303, F.S.; providing powers for
 22 associations controlled by unit owners other
 23 than the developer; amending s. 720.306, F.S.;

24 prohibiting certain amendments to bylaws of the
 25 associations; amending s. 712.05, F.S.;

26 providing for the board of directors of a
 27 homeowners' association to preserve covenants
 28 or restrictions through an extraordinary vote;

29 amending s. 712.06, F.S.; providing notice
 30 requirements for homeowners' associations;

31 providing applicability;