

By Senator Hays

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1 A bill to be entitled
2 An act relating to homeowners' associations; amending
3 s. 20.165, F.S.; renaming the Division of Florida
4 Condominiums, Timeshares, and Mobile Homes in the
5 Department of Business and Professional Regulation to
6 the Division of Florida Condominiums, Homeowners'
7 Associations, Timeshares, and Mobile Homes; amending
8 s. 718.509, F.S.; renaming and revising the Florida
9 Condominiums, Timeshares, and Mobile Homes to include
10 moneys collected under ch. 720, F.S., relating to
11 homeowners' associations and to allow funds to remain
12 in the trust fund at the end of the fiscal year;
13 amending s. 720.301, F.S.; revising the definition of
14 "division"; amending s. 720.302, F.S.; revising
15 legislative intent with respect to the regulation of
16 homeowners' associations; creating s. 720.3021, F.S.;
17 providing the division's duties with respect to
18 homeowners' associations; authorizing the division to
19 adopt a seal; requiring the division to submit an
20 annual report to the Governor and Legislature;
21 authorizing the department to adopt rules; creating s.
22 720.3022, F.S.; requiring the department to
23 investigate complaints and providing a timetable for
24 responding to such complaints; authorizing the
25 department to conduct investigations and providing
26 requirements for such investigations; providing for
27 service of process; requiring the department to adopt
28 penalty guidelines by rule and providing the
29 parameters for such guidelines; creating s. 720.3023,

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30 F.S.; requiring all moneys collected by the division
31 relating to the regulation of homeowners' associations
32 to be deposited into the Florida Condominiums,
33 Homeowners' Association, Timeshares, and Mobile Homes
34 Trust Fund; creating s. 720.3024, F.S.; creating the
35 Office of Community Association Ombudsman; providing
36 for appointment by the Governor; providing powers and
37 duties; creating s. 720.3025, F.S.; creating the
38 Community Association Living Study Council; providing
39 for term and membership; providing council functions;
40 creating s. 720.3029, F.S.; imposing a fee on certain
41 homeowners' associations; providing for the deposit
42 and use of such fees; amending s. 720.306, F.S.;

43 revising provisions relating to member meetings, proxy
44 voting, and elections and board meetings, amending s.
45 720.307, F.S.; providing additional circumstances for
46 authorizing members to elect a majority of association
47 board members; requiring the governing documents of an
48 association to be approved by the parcel owners upon
49 transference of authority from the developer to the
50 owners; amending s. 720.3085, F.S.; providing
51 procedures and timeframes for the payment of unpaid
52 assessments into a court registry pending a court
53 hearing; amending ss. 73.073, 192.037, 213.053,
54 326.002, 326.006, 380.0651, 455.116, 475.455, 509.512,
55 718.103, 718.105, 718.1255, 718.501, 718.5011,
56 718.502, 718.503, 718.504, 718.508, 718.608, 719.103,
57 719.1255, 719.501, 719.502, 719.504, 719.508, 719.608,
58 721.05, 721.07, 721.08, 721.26, 721.28, 721.301,

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59 723.003, 723.006, 723.009, and 723.0611, F.S.;

60 conforming terms to changes made by the act; providing

61 an effective date.

62

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

64

65 Section 1. Paragraph (e) of subsection (2) of section

66 20.165, Florida Statutes, is amended to read:

67 20.165 Department of Business and Professional Regulation.—

68 There is created a Department of Business and Professional

69 Regulation.

70 (2) The following divisions of the Department of Business

71 and Professional Regulation are established:

72 (e) Division of Florida Condominiums, Homeowners'

73 Associations, Timeshares, and Mobile Homes.

74 1. The executive offices of the division shall be located

75 in Tallahassee.

76 2. The division may establish and maintain branch offices

77 throughout the state.

78 Section 2. Section 718.509, Florida Statutes, is amended to

79 read:

80 718.509 ~~Division of~~ Florida Condominiums, Homeowners'

81 Associations, Timeshares, and Mobile Homes Trust Fund.—

82 (1) There is created within the State Treasury the ~~Division~~

83 ~~of~~ Florida Condominiums, Homeowners' Associations, Timeshares,

84 and Mobile Homes Trust Fund to be used for the administration

85 and operation of this chapter and chapters 718, 719, 720, 721,

86 and 723 by the Division of Florida Condominiums, Homeowners'

87 Associations, Timeshares, and Mobile Homes.

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88 (2) All moneys collected by the division from fees, fines,
89 or penalties or from costs awarded to the division by a court or
90 administrative final order shall be paid into the ~~Division of~~
91 ~~Florida Condominiums, Timeshares, and Mobile Homes~~ trust fund.
92 The Legislature shall appropriate funds from this trust fund
93 sufficient to carry out the provisions of this chapter and the
94 provisions of law with respect to each category of business
95 covered by the trust fund. The division shall maintain separate
96 revenue accounts in the trust fund for each of the businesses
97 regulated by the division. The division shall provide for the
98 proportionate allocation among the accounts of expenses incurred
99 by the division in the performance of its duties with respect to
100 each of these businesses. As part of its normal budgetary
101 process, the division shall prepare an annual report of revenue
102 and allocated expenses related to the operation of each of these
103 businesses which may be used to determine fees charged by the
104 division. This subsection shall operate pursuant to the
105 provisions of s. 215.20.

106 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
107 any balance in the trust fund at the end of any fiscal year
108 shall remain in the trust fund at the end of the year and shall
109 be available for carrying out the purposes of the trust fund.

110 Section 3. Subsection (7) of section 720.301, Florida
111 Statutes, is amended to read:

112 720.301 Definitions.—As used in this chapter, the term:

113 (7) "Division" means the Division of Florida Condominiums,
114 Homeowners' Associations, Timeshares, and Mobile Homes in the
115 Department of Business and Professional Regulation.

116 Section 4. Subsections (1) and (2) of section 720.302,

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117 Florida Statutes, are amended to read:

118 720.302 Purposes, scope, and application.—

119 (1) The purposes of this chapter are to give statutory
120 recognition to corporations not for profit that administer or
121 operate residential communities in this state, to provide
122 procedures for operating homeowners' associations, and to
123 protect the rights of association members without unduly
124 impairing the ability of such associations to perform their
125 functions as authorized by federal and state laws, local
126 ordinances, and the governing documents of the association.

127 (2) Having provided certain powers and authority to
128 homeowners' associations and in deed restrictions created by
129 developers of mandated properties in residential communities,
130 the Legislature recognizes that it is necessary to provide
131 regulatory oversight of such associations in order to ensure
132 compliance with federal and state laws and local ordinances. It
133 is the intent of the Legislature to protect the rights of parcel
134 owners by ensuring that the powers and authority granted to
135 homeowners' associations and in deed restrictions created by
136 developers of mandated properties in residential communities
137 conform to a system of checks and balances in order to prevent
138 abuses by these governing authorities. Further, ~~The Legislature~~
139 ~~recognizes that it is not in the best interest of homeowners'~~
140 ~~associations or the individual association members thereof to~~
141 ~~create or impose a bureau or other agency of state government to~~
142 ~~regulate the affairs of homeowners' associations. However, in~~
143 ~~accordance with s. 720.311,~~ the Legislature finds that
144 homeowners' associations and their individual members will
145 benefit from an expedited alternative process for the resolution

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146 of election and recall disputes and presuit mediation of other
147 disputes involving covenant enforcement and authorizes the
148 department to hear, administer, and determine these disputes as
149 more fully set forth in this chapter. ~~Further,~~ The Legislature
150 recognizes that certain contract rights, which were created
151 before June 14, 1995, and have been accepted by a two-thirds
152 majority of the members, were ~~have been~~ created for the benefit
153 of homeowners' associations and their members ~~thereof before the~~
154 ~~effective date of this act~~ and that ss. 720.301-720.407 are not
155 intended to impair such contract rights, including, but not
156 limited to, the rights of the developer to complete the
157 community as initially contemplated.

158 Section 5. Section 720.3021, Florida Statutes, is created
159 to read:

160 720.3021 Duties of the division.—The division has
161 jurisdiction for, and may enforce compliance with, the
162 provisions of this chapter and its rules relating to homeowners'
163 associations.

164 (1) The division shall respond to complaints, conduct
165 investigations, and impose penalties as provided under s.
166 720.3032.

167 (2) The division may prepare and disseminate a prospectus
168 and other information to assist prospective owners, purchasers,
169 lessees, and developers of homeowners' associations in assessing
170 associated rights, privileges, and duties.

171 (3) The division shall establish procedures for providing
172 notice to an association and the developer during the period the
173 developer controls the association if the division is
174 considering the issuance of a declaratory statement with respect

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175 to the homeowners' association or any related document governing
176 such community.

177 (4) The division shall annually provide each association
178 with a summary of declaratory statements and formal legal
179 opinions relating to the operations of homeowners' association
180 which were rendered by the division during the previous year.

181 (5) The division shall provide training and educational
182 programs for homeowners' association board members and parcel
183 owners. The training may include web-based electronic media and
184 live training and seminars in various locations throughout the
185 state. The division may review and approve education and
186 training programs offered by providers and shall maintain a
187 current list of approved programs and providers and make such
188 list available to board members and parcel owners in a
189 reasonable and cost-effective manner.

190 (6) The division shall maintain a toll-free telephone
191 number accessible to homeowners' association parcel owners.

192 (7) The division shall develop a program to certify both
193 volunteer and paid mediators to provide mediation of homeowners'
194 association disputes. Upon request, the division shall provide a
195 list of such mediators to any association, parcel owner, or
196 other participant in arbitration proceedings under s. 718.1255.

197 (a) Only volunteer mediators who have received at least 20
198 hours of training in mediation techniques or who have mediated
199 at least 20 disputes may be included on the list.

200 (b) In order to become initially certified by the division,
201 paid mediators must be certified by the Supreme Court to mediate
202 court cases in county or circuit courts. However, the division
203 may, by rule, adopt additional factors related to the mediator's

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204 experience, education, or background. In order to maintain
205 certification, any person initially certified as a paid mediator
206 by the division must comply with any factors or requirements
207 adopted by rule.

208 (8) The division may accept grants-in-aid from any source.

209 (9) The division shall cooperate with similar agencies in
210 other jurisdictions to establish uniform filing procedures and
211 forms, public offering statements, advertising standards, and
212 rules and common administrative practices.

213 (10) The division shall consider notice to a developer to
214 be complete when it is delivered to the address of the developer
215 currently on file with the division.

216 (11) In addition to its enforcement authority, the division
217 may issue a notice to show cause, which must provide for a
218 hearing, upon written request, in accordance with chapter 120.

219 (12) The division shall adopt a seal by which it shall
220 authenticate its records. Copies of the records of the division,
221 and certificates purporting to relate the facts contained in
222 those records, if authenticated by the seal, shall be prima
223 facie evidence of the records in the courts of this state.

224 (13) The division shall submit to the Governor, the
225 President of the Senate, and the Speaker of the House of
226 Representatives an annual report that includes, but need not be
227 limited to, the number of training programs provided for
228 homeowners' association board members and parcel owners under
229 subsection (5); and the number of complaints received by type,
230 the number and percent of complaints acknowledged in writing
231 within 30 days, the number and percent of resulting
232 investigations conducted within 90 days, and the number of

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233 investigations exceeding the 90-day requirement as required
234 under s. 720.3021(1). The annual report must also include an
235 evaluation of the division's core business processes and make
236 recommendations for improvements, including statutory changes.
237 The report shall be submitted by September 30 following the end
238 of the fiscal year.

239 (14) The department may adopt rules to administer and
240 enforce the provisions of this chapter.

241 Section 6. Section 720.3022, Florida Statutes, is created
242 to read:

243 720.3022 Complaints; investigations; service of process;
244 penalty guidelines.—

245 (1) COMPLAINTS.—The division may investigate complaints and
246 enforce compliance with respect to homeowners' associations that
247 are still under developer control and complaints against
248 developers involving improper turnover or failure to turnover,
249 pursuant to s. 720.307. After turnover has occurred, the
250 division may only investigate complaints related to financial
251 issues, elections, and parcel owner access to association
252 records pursuant to ss. 720.303(4) and 720.303(5). If a
253 complaint is made, the division must conduct its inquiry with
254 due regard for the interests of the affected parties.

255 (a) Within 30 days after receiving a complaint, the
256 division shall acknowledge the complaint in writing and notify
257 the complainant as to whether the complaint is within the
258 jurisdiction of the division and whether additional information
259 is needed by the division from the complainant.

260 (b) The division shall conduct its investigation and,
261 within 90 days after receipt of the original complaint or timely

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262 requested additional information, take action upon the
263 complaint. However, the failure to complete the investigation
264 within 90 days does not prevent the division from continuing the
265 investigation, accepting or considering evidence obtained or
266 received after 90 days, or taking administrative action if
267 reasonable cause exists to believe that a violation of this
268 chapter or related rule has occurred.

269 (c) If an investigation is not completed within the time
270 limits established in this subsection, the division shall, on a
271 monthly basis, notify the complainant in writing of the status
272 of the investigation.

273 (d) When reporting its action to the complainant, the
274 division shall inform the complainant of any right to a hearing
275 pursuant to ss. 120.569 and 120.57.

276 (2) INVESTIGATIONS.—The division may conduct necessary
277 public or private investigations within or outside this state to
278 determine whether there has been a violation of this chapter or
279 related rules or orders, and to aid in the adoption of needed
280 rules or forms.

281 (a) For the purpose of conducting an investigation, the
282 division director, or officer or employee designated by the
283 division director, may administer oaths or affirmations,
284 subpoena witnesses and compel their attendance, take evidence,
285 and require the production of any matter that is relevant to an
286 investigation, including the existence, description, nature,
287 custody, condition, and location of any books, documents, or
288 other tangible things and the identity and location of persons
289 having knowledge of relevant facts or any other matter
290 reasonably calculated to lead to the discovery of material

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291 evidence. Upon the failure by a person to obey a subpoena or to
292 answer questions propounded by the investigating officer and
293 upon reasonable notice to all affected persons, the division may
294 apply to the circuit court for an order compelling compliance.

295 (b) The division may require or permit any person to file a
296 statement in writing, under oath or otherwise, as determined by
297 the division, as to the facts and circumstances concerning a
298 matter to be investigated.

299 (c) The division may submit any official written report,
300 worksheet, or other related paper, or a certified copy thereof,
301 compiled, prepared, drafted, or otherwise made and authenticated
302 by a financial examiner or analyst to be admitted as competent
303 evidence in any hearing in which the financial examiner or
304 analyst is available for cross-examination and attests under
305 oath that such documents were prepared as a result of an
306 examination or inspection conducted pursuant to this chapter.

307 (d) Notwithstanding any remedies available to parcel owners
308 and associations, if the division has reasonable cause to
309 believe that a violation of any provision of this chapter or
310 related rule has occurred, the division may institute
311 enforcement proceedings in its own name against any developer,
312 association, officer, or member of the board of administration,
313 or its assignees or agents, as follows:

314 1. The division may permit a person whose conduct or
315 actions may be under investigation to waive formal proceedings
316 and enter into a consent proceeding whereby orders, rules, or
317 letters of censure or warning, whether formal or informal, may
318 be entered against the person.

319 2. The division may issue an order requiring the developer,

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320 association, developer-designated officer, or developer-
321 designated member of the board of administration, developer-
322 designated assignees or agents, community association manager,
323 or community association management firm to cease and desist
324 from the unlawful practice and take such affirmative action as
325 the division determines will carry out the purposes of this
326 chapter. If the division finds that a developer, association,
327 officer, or member of the board of administration, or its
328 assignees or agents, is violating or is about to violate any
329 provision of this chapter, any rule adopted or order issued by
330 the division, or any written agreement entered into with the
331 division, and such violation presents an immediate danger to the
332 public requiring an immediate final order, it may issue an
333 emergency cease and desist order reciting with particularity the
334 facts underlying such findings. The emergency cease and desist
335 order is effective for 90 days. If the division begins
336 nonemergency cease and desist proceedings, the emergency cease
337 and desist order remains effective until the conclusion of the
338 proceedings under ss. 120.569 and 120.57.

339 3. If a developer fails to pay any restitution determined
340 by the division to be owed, plus any accrued interest at the
341 highest rate permitted by law, within 30 days after expiration
342 of any appellate time period of a final order requiring payment
343 of restitution or the conclusion of any appeal, whichever is
344 later, the division must bring an action in circuit or county
345 court on behalf of any association, class of parcel owners,
346 lessees, or purchasers for restitution, declaratory relief,
347 injunctive relief, or any other available remedy. The division
348 may also temporarily revoke its acceptance of the filing for the

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349 developer to which the restitution relates until payment of
350 restitution is made.

351 4. The division may petition the court for the appointment
352 of a receiver or conservator. If appointed, the receiver or
353 conservator may take action to implement the court order to
354 ensure the performance of and to remedy any breach of the order.
355 In addition to all other means provided by law for the
356 enforcement of an injunction or temporary restraining order, the
357 circuit court may impound or sequester the property of a party
358 defendant, including books, papers, documents, and related
359 records, and allow the examination and use of the property by
360 the division and a court-appointed receiver or conservator.

361 5. The division may apply to the circuit court for an order
362 of restitution whereby the defendant in an action brought
363 pursuant to subparagraph 4. is ordered to make restitution of
364 those sums shown by the division to have been obtained by the
365 defendant in violation of this chapter. At the option of the
366 court, such restitution is payable to the conservator or
367 receiver or directly to the persons whose funds or assets were
368 obtained in violation of this chapter.

369 6. The division may impose a civil penalty against a
370 developer, or association, or its assignee or agent, for any
371 violation of this chapter or related rule. The division may
372 impose a civil penalty individually against an officer or board
373 member who willfully and knowingly violates a provision of this
374 chapter, adopted rule, or a final order of the division; may
375 order the removal of such individual as an officer or from the
376 board of administration or as an officer of the association; and
377 may prohibit such individual from serving as an officer or on

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378 the board of a community association for a period of time. The
379 term "willfully and knowingly" means that the division informed
380 the officer or board member that his or her action or intended
381 action violates this chapter, related rule, or a final order of
382 the division and that the officer or board member refused to
383 comply with the requirements of this chapter, related rule, or
384 final order of the division. Before initiating formal agency
385 action under chapter 120, the division must afford the officer
386 or board member an opportunity to voluntarily comply, and if he
387 or she complies within 10 days the officer or board member is
388 not subject to a civil penalty. A penalty may be imposed for
389 each day of continuing violation, but may not exceed a total of
390 \$5,000.

391 7. If a parcel owner presents the division with proof that
392 the parcel owner has requested access to official records in
393 writing by certified mail, and that after 10 days the parcel
394 owner again made the same request for access to official records
395 in writing by certified mail, and that more than 10 days has
396 elapsed since the second request and the association has still
397 failed or refused to provide access to official records as
398 required by this chapter, the division shall issue a subpoena
399 requiring production of the requested records where the records
400 are kept pursuant to s. 720.303.

401 8. In addition to subparagraph 6., the division may seek
402 the imposition of a civil penalty through the circuit court for
403 any violation for which the division may issue a notice to show
404 cause under subsection s. 720.302(11). The civil penalty shall
405 be at least \$500 but may not exceed \$5,000 for each violation.
406 The court may also award to the prevailing party court costs and

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407 reasonable attorney fees and, if the division prevails, may also
408 award reasonable costs of investigation.

409 (e) Homeowners' association directors, officers, and
410 employees; homeowners' association developers and community
411 association managers; and community association management firms
412 have an ongoing duty to reasonably cooperate with the division
413 in any investigation pursuant to this chapter. The division
414 shall refer to local law enforcement any person whom the
415 division believes has altered, destroyed, concealed, or removed
416 any record, document, or thing required to be kept or maintained
417 under this chapter for the purpose of impairing its verity or
418 availability to the department's investigation.

419 (f) The division may contract with agencies in this state
420 or other jurisdictions to perform investigative functions.

421 (g) The division shall establish by rule the standards for
422 reimbursement of actual verified expenses incurred in connection
423 with an onsite review or investigation.

424 (3) SERVICE OF PROCESS.—

425 (a) In addition to the methods of service provided for in
426 the Florida Rules of Civil Procedure and under state law,
427 service may be made and shall be binding upon a defendant or
428 respondent if:

429 1. The division, acting as the petitioner or plaintiff,
430 immediately sends a copy of the process and of the pleading by
431 certified mail to the defendant or respondent at his or her last
432 known address; and

433 2. The division files an affidavit of compliance with this
434 subsection on or before the return date of the process or within
435 the time set by the court.

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436 (b) If any person, including any nonresident of this state,
437 allegedly engages in conduct prohibited by this chapter, or any
438 rule or order of the division, and has not filed a consent to
439 service of process, and personal jurisdiction over him or her
440 cannot otherwise be obtained in this state, the director may
441 receive service of process in any noncriminal proceeding against
442 that person or his or her successor which grows out of the
443 conduct and which is brought by the division under this chapter
444 or any rule or order of the division. The process has the same
445 force and validity as if personally served. Notice shall be
446 given as provided in paragraph (a).

447 (4) PENALTY GUIDELINES.—The division shall, by rule, adopt
448 penalty guidelines applicable to violations or to categories of
449 violations of this chapter or related rules. The guidelines must
450 specify a meaningful range of civil penalties for each such
451 violation of statute and rule and must be based upon the harm
452 caused by the violation, the repetition of the violation, and
453 upon such other factors deemed relevant by the division, such as
454 whether the violations were committed by a developer or owner-
455 controlled association, the size of the association, and other
456 factors. The guidelines must designate the possible mitigating
457 or aggravating circumstances that justify a departure from the
458 range of penalties provided by the rules. It is the
459 Legislature's intent that minor violations be distinguished from
460 those that endanger the health, safety, or welfare of the
461 condominium residents or other persons and that such guidelines
462 provide reasonable and meaningful notice to the public of likely
463 penalties that may be imposed for the proscribed conduct. This
464 subsection does not limit the ability of the division to

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465 informally dispose of administrative actions or complaints by
466 stipulation, agreed settlement, or consent order. All amounts
467 collected shall be deposited with the Chief Financial Officer to
468 the credit of the Florida Condominiums, Homeowners'
469 Associations, Timeshares, and Mobile Homes Trust Fund. If a
470 developer fails to pay the civil penalty and the amount owed to
471 the association, the division shall issue an order directing
472 that such developer cease and desist from further operation
473 until such time as the civil penalty is paid or may pursue
474 enforcement of the penalty through court order. If an
475 association fails to pay the civil penalty, the division shall
476 pursue enforcement through court order, and the order imposing
477 the civil penalty or the cease and desist order is not effective
478 until 20 days after the date of such order. Any action commenced
479 by the division shall be brought in the county in which the
480 division has its executive offices or in the county where the
481 violation occurred.

482 Section 7. Section 720.3023, Florida Statutes, is created
483 to read:

484 720.3023 Florida Condominiums, Homeowners' Associations,
485 Timeshares, and Mobile Homes Trust Fund.—All funds collected by
486 the division and any amounts paid as fees, fines, or penalties
487 or from costs awarded to the division by a court or
488 administrative final order under this chapter shall be deposited
489 in the State Treasury to the credit of the Division of Florida
490 Condominiums, Homeowners' Associations, Timeshares, and Mobile
491 Homes Trust Fund created by s. 718.509.

492 Section 8. Section 720.3024, Florida Statutes, is created
493 to read:

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494 720.3024 Office of the Community Association Ombudsman.—

495 (1) CREATION.—There is created an Office of the Community
496 Association Ombudsman, within the division.

497 (a) The office shall be a bureau within the division as
498 provided under s. 20.04(3).

499 (b) The functions of the office shall be funded by the
500 Florida Condominiums, Homeowners' Associations, Timeshares, and
501 Mobile Homes Trust Fund.

502 (b) The office shall be located in Leon County on the
503 premises of the division or, if suitable space cannot be
504 provided there, at another place convenient to the division
505 which enables the ombudsman to expeditiously carry out the
506 duties and functions of his or her office. The office may
507 establish branch offices elsewhere in the state upon the
508 concurrence of the Governor and the availability of funding.

509 (2) APPOINTMENT OF OMBUDSMAN.—The office shall be headed by
510 an ombudsman who shall be appointed by and serve at the pleasure
511 of the Governor.

512 (a) The ombudsman must be an attorney licensed in this
513 state.

514 (b) The ombudsman or any full-time employee of the office
515 may not actively engage in any other business or profession;
516 serve as the representative of any political party, executive
517 committee, or other governing body of a political party; serve
518 as an executive, officer, or employee of a political party;
519 receive remuneration for activities on behalf of any candidate
520 for public office; or engage in soliciting votes or other
521 activities on behalf of a candidate for public office. The
522 ombudsman or any employee of the office may not become a

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523 candidate for election to public office unless he or she first
524 resigns from his or her office or employment.

525 (3) POWERS AND DUTIES.—The ombudsman shall have all powers
526 necessary to carry out the duties of the office, including
527 authority to:

528 (a) Access and use of all files and records of the
529 division.

530 (b) Employ professional and clerical staff as necessary for
531 the efficient operation of the office.

532 (c) Prepare and issue reports and recommendations to the
533 Governor, the department, the division, the Advisory Council on
534 Condominiums, the President of the Senate, and the Speaker of
535 the House of Representatives on any matter or subject within the
536 jurisdiction of the division. The ombudsman shall make such
537 recommendations as he or she deems appropriate for legislation
538 relative to division procedures, rules, jurisdiction, personnel,
539 and functions.

540 (d) Act as the liaison between the division, parcel owners,
541 boards of directors, board members, community association
542 managers, and other affected parties. The ombudsman shall
543 develop policies and procedures to assist parcel owners, boards
544 of directors, board members, community association managers, and
545 other affected parties to understand their rights and
546 responsibilities as set forth in this chapter and the
547 homeowners' association documents governing the respective
548 association. The ombudsman shall coordinate and assist in the
549 preparation and adoption of educational and reference material,
550 and endeavor to coordinate with private or volunteer providers
551 of these services, so that the availability of these resources

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552 is made known to the largest possible audience.

553 (e) Monitor and review procedures and disputes concerning
554 homeowners' association elections or meetings, including, but
555 not limited to, recommending that the division pursue
556 enforcement action in any manner where there is reasonable cause
557 to believe that election misconduct has occurred.

558 (f) Make recommendations to the division for changes in
559 rules and procedures for the filing, investigation, and
560 resolution of complaints filed by parcel owners, associations,
561 and managers.

562 (g) Provide resources to assist members of boards of
563 directors and officers of associations to carry out their powers
564 and duties consistent with this chapter, division rules, and the
565 homeowners' associations documents governing the association.

566 (h) Encourage and facilitate voluntary meetings with and
567 between parcel owners, boards of directors, board members,
568 community association managers, and other affected parties if
569 such meetings may assist in resolving a dispute within a
570 community association before the dispute is submitted for a
571 formal or administrative remedy. It is the intent of the
572 Legislature that the ombudsman act as a neutral resource for
573 both the rights and responsibilities of parcel owners,
574 associations, and board members.

575 (i) Assist with the resolution of disputes between parcel
576 owners and the association or between parcel owners if the
577 dispute is not within the jurisdiction of the division to
578 resolve.

579 (4) APPOINTMENT OF ELECTION MONITORS.—Fifteen percent of
580 the total voting interests in a homeowners' association, or six

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581 parcel owners, whichever is greater, may petition the ombudsman
582 to appoint an election monitor to attend the annual meeting of
583 the members and conduct the election of the directors. The
584 ombudsman shall appoint a division employee, a person or persons
585 specializing in homeowners' association election monitoring, or
586 an attorney, licensed to practice in this state, as the election
587 monitor. All costs associated with the election monitoring
588 process shall be paid by the association. The division shall
589 adopt by rule procedures for the appointment of election
590 monitors and the scope and extent of the monitor's role in the
591 election process.

592 Section 9. Section 720.3025, Florida Statutes, is created
593 to read:

594 720.3025 Community Association Living Study Council.-

595 (1) The Community Association Living Study Council is
596 created. The council shall be created as of October 1 every 5
597 years, commencing October 1, 2013, and exist for a 6-month term.

598 (2) The council shall consist of seven appointed members:

599 (a) Two members shall be appointed by the President of the
600 Senate.

601 (b) Two members shall be appointed by the Speaker of the
602 House of Representatives.

603 (c) Three members shall be appointed by the Governor, of
604 which one member may represent timeshare condominiums.

605 (d) The director of the division shall appoint an ex
606 officio nonvoting member.

607
608 The Legislature intends that the persons appointed to the
609 council represent a cross-section of persons interested in

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610 community association issues.

611 (3) The council may elect a chair and vice chair and such
612 other officers as it may deem advisable. The council shall meet
613 at the call of its chair, at the request of a majority of its
614 membership, at the request of the division, or at such times as
615 it may prescribe. A majority of the members of the council
616 constitute a quorum. Council action may be taken by vote of a
617 majority of the voting members who are present at a meeting
618 where there is a quorum.

619 (4) Members of the council shall serve without compensation
620 but are entitled to receive per diem and travel expenses
621 pursuant to s. 112.061 while on official business.

622 (5) The division shall provide administrative support to
623 the council.

624 (6) The functions of the council are to:

625 (a) Receive input from the public regarding issues of
626 concern with respect to community association living, including
627 living and participating in condominiums, cooperatives, and
628 homeowners' associations. The council shall make recommendations
629 for changes in the law related to community association living.
630 The issues that the council shall consider include, but are not
631 limited to, the rights and responsibilities of the parcel owners
632 in relation to the rights and responsibilities of the
633 association.

634 (b) Review, evaluate, and advise the division concerning
635 the adoption and revision of rules affecting condominiums and
636 cooperatives.

637 (c) Recommend improvements in the education programs
638 offered by the division if needed.

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639 (d) Review, evaluate, and advise the Legislature concerning
640 revisions and improvements to the laws relating to condominiums,
641 cooperatives, and homeowners' associations.

642 Section 10. Section 720.3029, Florida Statutes, is created
643 to read:

644 720.3029 Homeowners' association fees.—Effective January 1,
645 2014, each homeowners' association that operates more than two
646 units must pay to the division an annual fee of \$4 for each
647 residential unit in condominiums operated by the association.
648 Beginning January 1, 2016, the division may increase the fee in
649 manner provided for changes in the cost of living under s.
650 401(a)(17) of the Internal Revenue Code.

651 (1) If the fee is not paid by March 1, the association
652 shall be assessed a penalty of 10 percent of the amount due and
653 will not have standing to maintain or defend any action in the
654 courts of this state until the amount due, plus any penalty, is
655 paid.

656 (2) Funds collected shall be deposited in the Florida
657 Condominiums, Homeowners' Association, Timeshares, and Mobile
658 Homes Trust Fund. Funds shall be used by the division for, but
659 not limited to, the review and approval of deed restrictions
660 prior to being recorded at the county level by the developer or
661 owner of the initial lots to be developed; education;
662 enforcement; investigation; and prosecution of policies and
663 procedures related to mandated properties.

664 (3) The division shall furnish each association that pays
665 fees under this section with a copy of this chapter, as amended,
666 and related rules on an annual basis.

667 Section 11. Section 720.306, Florida Statutes, is amended

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668 to read:

669 720.306 Meetings of members; voting and election
670 procedures; amendments.—

671 (1) QUORUM; AMENDMENTS.—

672 (a) Unless a lower number is provided in the bylaws, the
673 percentage of voting interests required for ~~to constitute~~ a
674 quorum at a meeting of the members shall be 30 percent of the
675 total voting interests. Unless otherwise provided in this
676 chapter or in the articles of incorporation or bylaws, decisions
677 that require a vote of the members must be approved ~~made~~ by the
678 ~~concurrence of~~ at least a majority of the voting interests
679 present, in person or by proxy, at a meeting at which a quorum
680 is present ~~has been attained~~.

681 (b) Unless otherwise provided in the governing documents or
682 required by law, and other than those matters set forth in
683 paragraph (c), a ~~any~~ governing document of an association may be
684 amended by the affirmative vote of two-thirds of the voting
685 interests of the association.

686 (c) Unless otherwise provided in the governing documents as
687 originally recorded or permitted by this chapter or chapter 617,
688 an amendment may not materially and adversely alter the
689 proportionate voting interest appurtenant to a parcel or
690 increase the proportion or percentage by which a parcel shares
691 in the common expenses of the association unless the record
692 parcel owner and all record owners of liens on the parcels join
693 in the execution of the amendment. For purposes of this section,
694 a change in quorum requirements is not an alteration of voting
695 interests. The merger or consolidation of one or more
696 associations under a plan of merger or consolidation under

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697 chapter 607 or chapter 617 ~~is shall~~ not be considered a material
698 or adverse alteration of the proportionate voting interest
699 appurtenant to a parcel.

700 (2) ANNUAL MEETING.— The members ~~association~~ shall hold an
701 annual ~~a meeting of its members annually~~ for the transaction of
702 any and all proper business at a time, date, and place stated
703 in, or fixed in accordance with, the bylaws. If the bylaws are
704 silent as to the location, the annual meeting and all other
705 membership meetings shall be held within 45 miles of the
706 association property. The election of directors, if one is
707 required to be held, must be held at, or in conjunction with,
708 the annual meeting or as provided in the governing documents.

709 (3) SPECIAL MEETINGS.—Special meetings must be held when
710 called by the board of directors or, unless a different
711 percentage is stated in the governing documents, by at least 10
712 percent of the total voting interests of the association.
713 Business conducted at a special meeting is limited to the
714 purposes described in the notice of the meeting.

715 (4) CONTENT OF NOTICE.—Unless law or the governing
716 documents require otherwise, notice of an annual meeting need
717 not include a description of the ~~purpose or~~ purposes for which
718 the meeting is called. Notice of a special meeting must include
719 a description of the ~~purpose or~~ purposes for which the meeting
720 is called.

721 (5) NOTICE OF MEETINGS.—The bylaws must ~~shall~~ provide for
722 giving notice to members of all member meetings, and if they do
723 not do so shall be deemed to provide the following: The
724 association shall give all parcel owners and members actual
725 notice of all membership meetings, which shall be mailed,

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726 delivered, or electronically transmitted to the members not less
727 than 14 days before ~~prior to~~ the meeting. Evidence of compliance
728 with this 14-day notice shall be made by an affidavit executed
729 by the person providing the notice and filed upon execution
730 among the official records of the association. In addition to
731 mailing, delivering, or electronically transmitting the notice
732 of any meeting, the association may, by reasonable rule, adopt a
733 procedure for conspicuously posting and repeatedly broadcasting
734 the notice and the agenda on a closed-circuit cable television
735 system serving the association. If ~~When~~ broadcast notice is
736 provided, the notice and agenda must be broadcast in a manner
737 and for a sufficient continuous length of time so as to allow an
738 average reader to observe the notice and read and comprehend the
739 entire content of the notice and the agenda.

740 (6) RIGHT TO SPEAK.—Members and parcel owners have the
741 right to attend all membership meetings and to speak at any
742 meeting with reference to all items opened for discussion or
743 included on the agenda. Notwithstanding any provision ~~to the~~
744 ~~contrary~~ in the governing documents or any rules adopted by the
745 board or by the membership, a member and a parcel owner have the
746 right to speak for at least 3 minutes on any item if, ~~provided~~
747 ~~that~~ the member or parcel owner submits a written request to
748 speak before ~~prior to~~ the meeting. The association may adopt
749 ~~written~~ reasonable written rules governing the frequency,
750 duration, and other manner of member and parcel owner
751 statements, which are ~~rules must be~~ consistent with this
752 subsection.

753 (7) ADJOURNMENT.—Unless the bylaws require otherwise,
754 adjournment of an annual or special meeting to a different date,

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755 time, or place must be announced at that meeting before an
756 adjournment is taken, or notice must be given of the new date,
757 time, or place pursuant to s. 720.303(2). Any business that
758 might have been transacted on the original date of the meeting
759 may be transacted at the adjourned meeting. If a new record date
760 for the adjourned meeting is or must be fixed under s. 607.0707,
761 notice of the adjourned meeting must be given to persons who are
762 entitled to vote and are members as of the new record date but
763 were not members as of the previous record date.

764 (8) PROXY VOTING.—

765 (a) Members voting by limited proxy must use a form
766 substantially conforming to a limited proxy form adopted by the
767 division. Limited proxies must be used for:

768 1. Votes taken to waive or reduce reserves in accordance
769 with 720.303(6);

770 2. Votes taken to waive the financial reporting
771 requirements of s. 720.303(7);

772 3. Votes taken to amend the declaration;

773 4. Votes taken to amend the articles of incorporation or
774 bylaws pursuant to this section; and

775 5. Any other matter for which this chapter requires or
776 permits a vote of the parcel owners.

777 (b) General proxies may be used for other matters for which
778 limited proxies are not required and may also be used in voting
779 for nonsubstantive changes to items for which a limited proxy is
780 required and given.

781 (c) Limited proxies and general proxies may be used to
782 establish a quorum.

783 (d) Voting interests or consent rights allocated to a

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784 parcel owned by the association may not be exercised or
785 considered for any purpose, whether for a quorum, an election,
786 or otherwise.

787 (e) Any proxy given is effective only for the specific
788 meeting for which originally given and any lawfully adjourned
789 meetings thereof. In no event is a proxy valid for longer than
790 90 days after the date of the first meeting for which it was
791 given. Every proxy is revocable at any time at the pleasure of
792 the parcel owner executing it.

793 (f) This subsection does not limit the use of general
794 proxies, require the use of limited proxies for any agenda item
795 or election at any meeting of a timeshare condominium
796 association, or prohibit parcel owners from voting in person at
797 parcel owner meetings. ~~The members have the right, unless~~
798 ~~otherwise provided in this subsection or in the governing~~
799 ~~documents, to vote in person or by proxy.~~

800 ~~(a) To be valid, a proxy must be dated, must state the~~
801 ~~date, time, and place of the meeting for which it was given, and~~
802 ~~must be signed by the authorized person who executed the proxy.~~
803 ~~A proxy is effective only for the specific meeting for which it~~
804 ~~was originally given, as the meeting may lawfully be adjourned~~
805 ~~and reconvened from time to time, and automatically expires 90~~
806 ~~days after the date of the meeting for which it was originally~~
807 ~~given. A proxy is revocable at any time at the pleasure of the~~
808 ~~person who executes it. If the proxy form expressly so provides,~~
809 ~~any proxy holder may appoint, in writing, a substitute to act in~~
810 ~~his or her place.~~

811 ~~(b) If the governing documents permit voting by secret~~
812 ~~ballot by members who are not in attendance at a meeting of the~~

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813 ~~members for the election of directors, such ballots must be~~
814 ~~placed in an inner envelope with no identifying markings and~~
815 ~~mailed or delivered to the association in an outer envelope~~
816 ~~bearing identifying information reflecting the name of the~~
817 ~~member, the lot or parcel for which the vote is being cast, and~~
818 ~~the signature of the lot or parcel owner casting that ballot. If~~
819 ~~the eligibility of the member to vote is confirmed and no other~~
820 ~~ballot has been submitted for that lot or parcel, the inner~~
821 ~~envelope shall be removed from the outer envelope bearing the~~
822 ~~identification information, placed with the ballots which were~~
823 ~~personally cast, and opened when the ballots are counted. If~~
824 ~~more than one ballot is submitted for a lot or parcel, the~~
825 ~~ballots for that lot or parcel shall be disqualified. Any vote~~
826 ~~by ballot received after the closing of the balloting may not be~~
827 ~~considered.~~

828 (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

829 (a) Unless the bylaws provide otherwise, a vacancy on the
830 board of directors caused by the expiration of a director's term
831 shall be filled by electing a new board member. The election
832 must occur on the date of the annual meeting.

833 1. An election is not required unless more candidates file
834 notices of intent to run or are nominated than board vacancies
835 exist. If the number of board members whose terms expire at the
836 annual meeting equals or exceeds the number of candidates, the
837 candidates become members of the board effective upon the
838 adjournment of the annual meeting.

839 2. If the bylaws permit staggered terms of up to 2 years,
840 and upon approval of a majority of the total voting interests,
841 the association board members may serve 2-year staggered terms.

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842 If the staggered term of a board member does not expire until a
843 later annual meeting, or if all members' terms would otherwise
844 expire but there are no candidates, the terms of all board
845 members expire at the annual meeting, and such members may stand
846 for reelection unless prohibited by the bylaws.

847 3. Unless the bylaws provide otherwise, any remaining
848 vacancies shall be filled by the affirmative vote of the
849 majority of the directors making up the newly constituted board
850 even if the directors constitute less than a quorum or there is
851 only one director.

852 4. For purposes of this paragraph, the term "candidate"
853 means an eligible person who has timely submitted the written
854 notice, as described in subparagraph (c)2., of his or her
855 intention to become a candidate.

856 (b) Any parcel owner desiring to be a candidate for board
857 membership must be eligible to serve on the board of directors
858 at the time of the deadline for submitting a notice of intent to
859 run as provided in subparagraph (c)2. in order to have his or
860 her name listed as a proper candidate on the ballot. The
861 following parcel owners are not eligible to be a candidate or
862 serve on the board of directors:

863 1. A parcel owner who is delinquent in the payment of any
864 fee, fine, or special or regular assessment as provided in
865 paragraph (c).

866 2. A parcel owner who has been convicted of any felony in
867 this state or in a United States District or Territorial Court,
868 or who has been convicted of any offense in another jurisdiction
869 which would be considered a felony if committed in this state,
870 unless such felon's civil rights have been restored for at least

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871 5 years as of the date such person seeks election to the board.
872 The validity of an action by the board is not affected if it is
873 later determined that a board member is ineligible for board
874 membership due to having been convicted of a felony.

875 3. In a homeowners' association of more than 10 parcels,
876 coowners of a parcel may not serve as members of the board of
877 directors at the same time unless they own more than one parcel
878 or unless there are not enough eligible candidates to fill the
879 vacancies on the board at the time of the vacancy.

880 (c) The members of the board shall be elected by secret
881 ballot using a written ballot or voting machine. Proxies may not
882 be used in electing the board in general elections or elections
883 to fill vacancies caused by recall, resignation, or otherwise,
884 unless otherwise provided in this chapter.

885 1. At least 60 days before a scheduled election, the
886 association shall mail, deliver, or electronically transmit, by
887 separate association mailing or by inclusion in another
888 association mailing, delivery, or transmission, including
889 regularly published newsletters, to each parcel owner entitled
890 to a vote, a first notice of the date of the election.

891 2. Any parcel owner or other eligible person desiring to be
892 a candidate for the board must give written notice of his or her
893 intent to be a candidate to the association at least 40 days
894 before the scheduled election.

895 3. Together with the notice and agenda required under
896 subsection (5), the association shall mail, deliver, or
897 electronically transmit a second notice of the election to all
898 parcel owners entitled to vote, which includes a ballot that
899 lists all candidates. Upon request of a candidate, an

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900 information sheet, no larger than 8 1/2 inches by 11 inches,
901 which must be furnished by the candidate at least 35 days before
902 the election, must be included with the mailing, delivery, or
903 transmission of the ballot, with the costs of mailing, delivery,
904 or electronic transmission and copying to be borne by the
905 association. The association is not liable for the contents of
906 the information sheets prepared by the candidates. In order to
907 reduce costs, the association may print or duplicate the
908 information sheets on both sides of the paper.

909 4. Elections shall be decided by a plurality of ballots
910 cast. There is no quorum requirement; however, at least 20
911 percent of the eligible voters must cast a ballot in order to
912 have a valid election. A parcel owner may not permit any other
913 person to vote his or her ballot, and any ballots improperly
914 cast are invalid. A parcel owner who violates this provision may
915 be fined by the association in accordance with s. 720.305. A
916 parcel owner who needs assistance in casting the ballot for the
917 reasons stated in s. 101.051 may obtain such assistance.

918 5. The division shall by rule establish voting procedures
919 consistent with this paragraph, including rules establishing
920 procedures for giving notice by electronic transmission and
921 rules providing for the secrecy of ballots.

922 (d) Within 90 days after being elected or appointed to the
923 board, each newly elected or appointed director shall certify in
924 writing to the secretary of the association that he or she has
925 read the homeowners' association's declaration, articles of
926 incorporation, bylaws, and current written policies; that he or
927 she will work to uphold such documents and policies to the best
928 of his or her ability; and that he or she will faithfully

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929 discharge his or her fiduciary responsibility to the
930 association's members. In lieu of written certification, within
931 90 days after being elected or appointed to the board, the newly
932 elected or appointed director may submit a certificate of having
933 satisfactorily completed the educational curriculum administered
934 by a division-approved homeowners' association education
935 provider within 1 year before or 90 days after the date of
936 election or appointment. The written certification or
937 educational certificate is valid and does not have to be
938 resubmitted as long as the director serves on the board without
939 interruption.

940 1. A director who fails to timely file the written
941 certification or educational certificate is suspended from
942 service on the board until he or she complies with this
943 paragraph. The board may temporarily fill the vacancy during the
944 period of suspension.

945 2. The secretary shall cause the association to retain a
946 director's written certification or educational certificate for
947 inspection by the members for 5 years after a director's
948 election. Failure to have such written certification or
949 educational certificate on file does not affect the validity of
950 any board action.

951 3. A director or officer more than 90 days delinquent in
952 the payment of any monetary obligation due the association shall
953 be deemed to have abandoned the office, creating a vacancy in
954 the office to be filled according to law.

955 4. A director or officer charged by information or
956 indictment with a felony theft or embezzlement offense involving
957 the association's funds or property must be removed from office,

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958 creating a vacancy in the office to be filled according to law
959 until the end of the period of the suspension or the end of the
960 director's term of office, whichever occurs first. While such
961 criminal charges are pending, he or she may not be appointed or
962 elected to a position as a director or officer. However, if the
963 charges are resolved without a finding of guilt, the director or
964 officer shall be reinstated for the remainder of his or her term
965 of office, if any. Elections of directors must be conducted in
966 accordance with the procedures set forth in the governing
967 documents of the association. All members of the association are
968 eligible to serve on the board of directors, and a member may
969 nominate himself or herself as a candidate for the board at a
970 meeting where the election is to be held or, if the election
971 process allows voting by absentee ballot, in advance of the
972 balloting. Except as otherwise provided in the governing
973 documents, boards of directors must be elected by a plurality of
974 the votes cast by eligible voters.

975 ~~(b) A person who is delinquent in the payment of any fee,~~
976 ~~fine, or other monetary obligation to the association for more~~
977 ~~than 90 days is not eligible for board membership. A person who~~
978 ~~has been convicted of any felony in this state or in a United~~
979 ~~States District or Territorial Court, or has been convicted of~~
980 ~~any offense in another jurisdiction which would be considered a~~
981 ~~felony if committed in this state, is not eligible for board~~
982 ~~membership unless such felon's civil rights have been restored~~
983 ~~for at least 5 years as of the date on which such person seeks~~
984 ~~election to the board. The validity of any action by the board~~
985 ~~is not affected if it is later determined that a member of the~~
986 ~~board is ineligible for board membership.~~

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987 ~~(c) Any election dispute between a member and an~~
988 ~~association must be submitted to mandatory binding arbitration~~
989 ~~with the division. Such proceedings must be conducted in the~~
990 ~~manner provided by s. 718.1255 and the procedural rules adopted~~
991 ~~by the division. Unless otherwise provided in the bylaws, any~~
992 ~~vacancy occurring on the board before the expiration of a term~~
993 ~~may be filled by an affirmative vote of the majority of the~~
994 ~~remaining directors, even if the remaining directors constitute~~
995 ~~less than a quorum, or by the sole remaining director. In the~~
996 ~~alternative, a board may hold an election to fill the vacancy,~~
997 ~~in which case the election procedures must conform to the~~
998 ~~requirements of the governing documents. Unless otherwise~~
999 ~~provided in the bylaws, a board member appointed or elected~~
1000 ~~under this section is appointed for the unexpired term of the~~
1001 ~~seat being filled. Filling vacancies created by recall is~~
1002 ~~governed by s. 720.303(10) and rules adopted by the division.~~

1003 (10) RECORDING.—Any parcel owner may tape record or
1004 videotape meetings of the board of directors and meetings of the
1005 members. The board of directors of the association may adopt
1006 reasonable rules governing the taping of meetings of the board
1007 and the membership.

1008 Section 12. Subsection (1) of section 720.307, Florida
1009 Statutes, is amended and a new subsection (4) is added to that
1010 section, to read:

1011 720.307 Transition of association control in a community.—
1012 With respect to homeowners' associations:

1013 (1) Members other than the developer are entitled to elect
1014 at least a majority of the members of the board of directors of
1015 the homeowners' association when the earlier of the following

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1016 events occurs:

1017 (a) Three months after 90 percent of the parcels in all
1018 phases of the community which ~~that~~ will ultimately be operated
1019 by the homeowners' association have been conveyed to members; ~~or~~

1020 (b) The development of all of the parcels that will
1021 ultimately be operated by the homeowners' association have been
1022 completed, some of the parcels have been conveyed to members,
1023 and no other parcels are being offered for sale by the developer
1024 in the ordinary course of business;

1025 (c) Some of the parcels have been conveyed to members and
1026 no other parcels are being constructed or offered for sale by
1027 the developer in the ordinary course of business;

1028 (d) The developer files a petition seeking protection in
1029 bankruptcy;

1030 (e) A receiver for the developer is appointed by a circuit
1031 court and is not discharged within 30 days after such
1032 appointment, unless the court determines, within 30 days after
1033 the appointment, that transfer of control would be detrimental
1034 to the homeowners' association or its members; or

1035 (f) ~~(b)~~ Such other percentage of the parcels has been
1036 conveyed to members, or such other date or event has occurred,
1037 as is set forth in the governing documents in order to comply
1038 with the requirements of any governmentally chartered entity
1039 with regard to the mortgage financing of parcels.

1040
1041 For purposes of this section, the term "members other than the
1042 developer" does ~~shall~~ not include builders, contractors, or
1043 others who purchase a parcel for the purpose of constructing
1044 improvements thereon for resale.

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1045 (4) Upon transference of authorities, duties,
1046 responsibilities, and rights from the developer to the parcel
1047 owners, all amendments, alterations, or modifications to the
1048 governing documents must be approved by at least two-thirds of
1049 the parcel owners or homeowners' association members. The
1050 governing documents may not reduce this proportion of approval.
1051 The ombudsman may not engage the services of industry partisans
1052 who have a vested interest in the administration of deed-
1053 restricted communities or in the mandatory homeowners'
1054 association and who have practiced in this field within the last
1055 3 years, to implement its powers.

1056 Section 13. Subsection (9) is added to section 720.3085,
1057 Florida Statutes, to read:

1058 720.3085 Payment for assessments; lien claims.-

1059 (9) In any action by a homeowners' association for unpaid
1060 assessments, the parcel owner shall pay into the court registry
1061 the amount alleged in the complaint as unpaid, or if such amount
1062 is contested, such amount as is determined by the court, plus
1063 any assessments accruing during the pendency of the action, when
1064 due, unless the owner has interposed the defense of payment or
1065 satisfaction of the assessments in the amount the complaint
1066 alleges as unpaid. However, even if the defense of payment or
1067 satisfaction has been asserted, the court may order the owner to
1068 pay into the court registry the assessments accruing during the
1069 pendency of the action. If the owner does not dispute the amount
1070 of accrued assessments, the owner must pay the amount alleged in
1071 the complaint into the court registry on or before the date on
1072 which his or her answer to the claim for unpaid assessments is
1073 due. If the owner contests the amount of accrued assessments,

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1074 the owner must pay the amount determined by the court into the
1075 court registry on the day that the court makes its
1076 determination. The court may, however, extend these time periods
1077 to allow for later payment upon good cause shown.

1078 (a) If the owner contests the amount of money to be placed
1079 into the court registry, any hearing regarding such dispute
1080 shall be limited to only the factual or legal issues concerning:

1081 1. Whether the owner has been properly credited by the
1082 association with any assessment payments made; and

1083 2. What properly constitutes assessments under the
1084 governing documents.

1085 (b) The court, on its own motion, shall notify the owner
1086 that assessments must be paid into the court registry by order,
1087 which shall be issued immediately upon filing the owner's
1088 initial pleading, motion, or other paper.

1089 (c) The filing of a counterclaim for money damages does not
1090 relieve the owner from depositing assessments due into the
1091 registry of the court.

1092 (d) Failure of the owner to pay the assessments into the
1093 court registry pursuant to court order is an absolute waiver of
1094 the owner's defenses. In such case, the association is entitled
1095 to an immediate default without further notice or hearing
1096 thereon.

1097 (e) If the association is suffering hardship resulting from
1098 the loss of assessment income from the unit, the association may
1099 apply to the court for disbursement of all or part of the funds
1100 held in the court registry.

1101 Section 14. Subsection (2) of section 73.073, Florida
1102 Statutes, is amended to read:

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1103 73.073 Eminent domain procedure with respect to condominium
1104 common elements.-

1105 (2) With respect to the exercise of eminent domain or a
1106 negotiated sale for the purchase or taking of a portion of the
1107 common elements of a condominium, the condemning authority shall
1108 have the responsibility of contacting the condominium
1109 association and acquiring the most recent rolls indicating the
1110 names of the unit owners or contacting the appropriate taxing
1111 authority to obtain the names of the owners of record on the tax
1112 rolls. Notification shall be sent by certified mail, return
1113 receipt requested, to the unit owners of record of the
1114 condominium units by the condemning authority indicating the
1115 intent to purchase or take the required property and requesting
1116 a response from the unit owner. The condemning authority shall
1117 be responsible for the expense of sending notification pursuant
1118 to this section. Such notice must ~~shall~~, at a minimum, include:

- 1119 (a) The name and address of the condemning authority.
1120 (b) A written or visual description of the property.
1121 (c) The public purpose for which the property is needed.
1122 (d) The appraisal value of the property.
1123 (e) A clear, concise statement relating to the unit owner's
1124 right to object to the taking or appraisal value and the
1125 procedures and effects of exercising that right.
1126 (f) A clear, concise statement relating to the power of the
1127 association to convey the property on behalf of the unit owners
1128 if no objection to the taking or appraisal value is raised, and
1129 the effects of this alternative on the unit owner.

1130
1131 The Division of Florida Condominiums, Homeowners' Associations,

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1132 Timeshares, and Mobile Homes of the Department of Business and
1133 Professional Regulation may adopt, by rule, a standard form for
1134 such notice and may require the notice to include any additional
1135 relevant information.

1136 Section 15. Paragraph (e) of subsection (6) of section
1137 192.037, Florida Statutes, is amended to read:

1138 192.037 Fee timeshare real property; taxes and assessments;
1139 escrow.—

1140 (6)

1141 (e) On or before May 1 of each year, a statement of
1142 receipts and disbursements of the escrow account must be filed
1143 with the Division of Florida Condominiums, Homeowners'
1144 Associations, Timeshares, and Mobile Homes of the Department of
1145 Business and Professional Regulation, which may enforce this
1146 paragraph pursuant to s. 721.26. This statement must
1147 appropriately show the amount of principal and interest in such
1148 account.

1149 Section 16. Paragraph (i) of subsection (8) of section
1150 213.053, Florida Statutes, is amended to read:

1151 213.053 Confidentiality and information sharing.—

1152 (8) Notwithstanding any other provision of this section,
1153 the department may provide:

1154 (i) Information relative to chapters 212 and 326 to the
1155 Division of Florida Condominiums, Homeowners' Associations,
1156 Timeshares, and Mobile Homes of the Department of Business and
1157 Professional Regulation in the conduct of its official duties.

1158

1159 Disclosure of information under this subsection shall be
1160 pursuant to a written agreement between the executive director

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1161 and the agency. Such agencies, governmental or nongovernmental,
1162 shall be bound by the same requirements of confidentiality as
1163 the Department of Revenue. Breach of confidentiality is a
1164 misdemeanor of the first degree, punishable as provided by s.
1165 775.082 or s. 775.083.

1166 Section 17. Subsection (2) of section 326.002, Florida
1167 Statutes, is amended to read:

1168 326.002 Definitions.—As used in ss. 326.001–326.006, the
1169 term:

1170 (2) “Division” means the Division of Florida Condominiums,
1171 Homeowners’ Associations, Timeshares, and Mobile Homes of the
1172 Department of Business and Professional Regulation.

1173 Section 18. Paragraph (d) of subsection (2) and subsection
1174 (3) of section 326.006, Florida Statutes, is amended to read:

1175 326.006 Powers and duties of division.—

1176 (2) The division has the power to enforce and ensure
1177 compliance with the provisions of this chapter and rules adopted
1178 under this chapter relating to the sale and ownership of yachts
1179 and ships. In performing its duties, the division has the
1180 following powers and duties:

1181 (d) Notwithstanding any remedies available to a yacht or
1182 ship purchaser, if the division has reasonable cause to believe
1183 that a violation of any provision of this chapter or rule
1184 adopted under this chapter has occurred, the division may
1185 institute enforcement proceedings in its own name against any
1186 broker or salesperson or any of his or her assignees or agents,
1187 or against any unlicensed person or any of his or her assignees
1188 or agents, as follows:

1189 1. The division may permit a person whose conduct or

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1190 actions are under investigation to waive formal proceedings and
1191 enter into a consent proceeding whereby orders, rules, or
1192 letters of censure or warning, whether formal or informal, may
1193 be entered against the person.

1194 2. The division may issue an order requiring the broker or
1195 salesperson or any of his or her assignees or agents, or
1196 requiring any unlicensed person or any of his or her assignees
1197 or agents, to cease and desist from the unlawful practice and
1198 take such affirmative action as in the judgment of the division
1199 will carry out the purposes of this chapter.

1200 3. The division may bring an action in circuit court on
1201 behalf of a class of yacht or ship purchasers for declaratory
1202 relief, injunctive relief, or restitution.

1203 4. The division may impose a civil penalty against a broker
1204 or salesperson or any of his or her assignees or agents, or
1205 against an unlicensed person or any of his or her assignees or
1206 agents, for any violation of this chapter or a rule adopted
1207 under this chapter. A penalty may be imposed for each day of
1208 continuing violation, but in no event may the penalty for any
1209 offense exceed \$10,000. All amounts collected must be deposited
1210 with the Chief Financial Officer to the credit of the Division
1211 of Florida Condominiums, Homeowners' Associations, Timeshares,
1212 and Mobile Homes Trust Fund. If a broker, salesperson, or
1213 unlicensed person working for a broker, fails to pay the civil
1214 penalty, the division shall issue an order suspending the
1215 broker's license until such time as the civil penalty is paid or
1216 may pursue enforcement of the penalty in a court of competent
1217 jurisdiction. The order imposing the civil penalty or the order
1218 of suspension is ~~may~~ not ~~become~~ effective until 20 days after

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1219 the date of such order. Any action commenced by the division
1220 must be brought in the county in which the division has its
1221 executive offices or ~~in the county~~ where the violation occurred.

1222 (3) All fees must be deposited in the Division of Florida
1223 Condominiums, Homeowners' Associations, Timeshares, and Mobile
1224 Homes Trust Fund as provided by law.

1225 Section 19. Paragraph (a) of subsection (4) of section
1226 380.0651, Florida Statutes, is amended to read:

1227 380.0651 Statewide guidelines and standards.—

1228 (4) Two or more developments, represented by their owners
1229 or developers to be separate developments, shall be aggregated
1230 and treated as a single development under this chapter when they
1231 are determined to be part of a unified plan of development and
1232 are physically proximate to one other.

1233 (a) The criteria of three of the following subparagraphs
1234 must be met in order for the state land planning agency to
1235 determine that there is a unified plan of development:

1236 1.a. The same person has retained or shared control of the
1237 developments;

1238 b. The same person has ownership or a significant legal or
1239 equitable interest in the developments; or

1240 c. There is common management of the developments
1241 controlling the form of physical development or disposition of
1242 parcels of the development.

1243 2. There is a reasonable closeness in time between the
1244 completion of 80 percent or less of one development and the
1245 submission to a governmental agency of a master plan or series
1246 of plans or drawings for the other development which is
1247 indicative of a common development effort.

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1248 3. A master plan or series of plans or drawings exists
1249 covering the developments sought to be aggregated which have
1250 been submitted to a local general-purpose government, water
1251 management district, the Florida Department of Environmental
1252 Protection, or the Division of Florida Condominiums, Homeowners'
1253 Associations, Timeshares, and Mobile Homes for authorization to
1254 commence development. The existence or implementation of a
1255 utility's master utility plan required by the Public Service
1256 Commission or general-purpose local government or a master
1257 drainage plan may ~~shall~~ not be the sole determinant of the
1258 existence of a master plan.

1259 4. There is a common advertising scheme or promotional plan
1260 in effect for the developments sought to be aggregated.

1261 Section 20. Subsection (5) of section 455.116, Florida
1262 Statutes, is amended to read:

1263 455.116 Regulation trust funds.—The following trust funds
1264 shall be placed in the department:

1265 (5) ~~Division of~~ Florida Condominiums, Homeowners'
1266 Associations, Timeshares, and Mobile Homes Trust Fund.

1267 Section 21. Section 475.455, Florida Statutes, is amended
1268 to read:

1269 475.455 Exchange of disciplinary information.—The
1270 commission shall inform the Division of Florida Condominiums,
1271 Homeowners' Associations, Timeshares, and Mobile Homes of the
1272 department ~~of Business and Professional Regulation~~ of any
1273 disciplinary action the commission has taken against any of its
1274 licensees. The division shall inform the commission of any
1275 disciplinary action the division has taken against any broker or
1276 sales associate registered with the division.

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1277 Section 22. Section 509.512, Florida Statutes, is amended
1278 to read:

1279 509.512 Timeshare plan developer and exchange company
1280 exemption.—Sections 509.501-509.511 do not apply to a developer
1281 of a timeshare plan or an exchange company approved by the
1282 Division of Florida Condominiums, Homeowners' Associations,
1283 Timeshares, and Mobile Homes pursuant to chapter 721, unless ~~but~~
1284 ~~only to the extent that~~ the developer or exchange company
1285 engages in conduct regulated under chapter 721.

1286 Section 23. Subsection (17) of section 718.103, Florida
1287 Statutes, is amended to read:

1288 718.103 Definitions.—As used in this chapter, the term:
1289 (17) "Division" means the Division of Florida Condominiums,
1290 Homeowners' Associations, Timeshares, and Mobile Homes of the
1291 Department of Business and Professional Regulation.

1292 Section 24. Paragraph (c) of subsection (4) of section
1293 718.105, Florida Statutes, is amended to read:

1294 718.105 Recording of declaration.—

1295 (4)

1296 (c) If the sum of money held by the clerk has not been paid
1297 to the developer or association as provided in paragraph (b)
1298 within 3 years after the date the declaration was originally
1299 recorded, the clerk may notify, in writing, the registered agent
1300 of the association that the sum is still available and the
1301 purpose for which it was deposited. If the association does not
1302 record the certificate within 90 days after the clerk has given
1303 ~~the~~ notice, the clerk may disburse the money to the developer.
1304 If the developer cannot be located, the clerk shall disburse the
1305 money to the Division of Florida Condominiums, Homeowners'

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1306 Associations, Timeshares, and Mobile Homes for deposit in the
1307 ~~Division of Florida Condominiums, Homeowners' Associations,~~
1308 Timeshares, and Mobile Homes Trust Fund.

1309 Section 25. Subsection (4) of section 718.1255, Florida
1310 Statutes, is amended to read:

1311 718.1255 Alternative dispute resolution; voluntary
1312 mediation; mandatory nonbinding arbitration; legislative
1313 findings.—

1314 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
1315 DISPUTES.—~~The division of Florida Condominiums, Timeshares, and~~
1316 ~~Mobile Homes of the Department of Business and Professional~~
1317 ~~Regulation~~ shall employ full-time attorneys to act as
1318 arbitrators to conduct the arbitration hearings under ~~provided~~
1319 ~~by~~ this chapter. The division may also certify attorneys who are
1320 not employed by the division to act as arbitrators to conduct
1321 the arbitration hearings provided by this section. No person may
1322 be employed by the department as a full-time arbitrator unless
1323 he or she is a member in good standing of The Florida Bar. The
1324 department shall adopt rules of procedure to govern such
1325 arbitration hearings including mediation incident thereto. The
1326 decision of an arbitrator is ~~shall be~~ final; however, a decision
1327 may ~~shall~~ not be deemed final agency action. ~~Nothing in~~ This
1328 provision does not ~~shall be construed to~~ foreclose parties from
1329 proceeding in a trial de novo unless the parties have agreed
1330 that the arbitration is binding. If judicial proceedings are
1331 initiated, the final decision of the arbitrator is ~~shall be~~
1332 admissible in evidence in the trial de novo.

1333 (a) Before ~~Prior to~~ the institution of court litigation, a
1334 party to a dispute shall petition the division for nonbinding

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1335 arbitration. The petition must be accompanied by a filing fee in
1336 the amount of \$50. Filing fees collected under this section must
1337 be used to defray the expenses of the alternative dispute
1338 resolution program.

1339 (b) The petition must recite, and have attached thereto,
1340 supporting proof that the petitioner gave the respondents:

1341 1. Advance written notice of the specific nature of the
1342 dispute;

1343 2. A demand for relief, and a reasonable opportunity to
1344 comply or to provide the relief; and

1345 3. Notice of the intention to file an arbitration petition
1346 or other legal action in the absence of a resolution of the
1347 dispute.

1348
1349 Failure to include the allegations or proof of compliance with
1350 these prerequisites requires dismissal of the petition without
1351 prejudice.

1352 (c) Upon receipt, the petition shall be promptly reviewed
1353 by the division to determine the existence of a dispute and
1354 compliance with the requirements of paragraphs (a) and (b). If
1355 emergency relief is required and is not available through
1356 arbitration, a motion to stay the arbitration may be filed. The
1357 motion must be accompanied by a verified petition alleging facts
1358 that, if proven, would support entry of a temporary injunction,
1359 and if an appropriate motion and supporting papers are filed,
1360 the division may abate the arbitration pending a court hearing
1361 and disposition of a motion for temporary injunction.

1362 (d) Upon determination by the division that a dispute
1363 exists and that the petition substantially meets the

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1364 requirements of paragraphs (a) and (b) and any other applicable
1365 rules, a copy of the petition shall be served by the division
1366 upon all respondents.

1367 (e) Before or after the filing of the respondents' answer
1368 to the petition, any party may request that the arbitrator refer
1369 the case to mediation under this section and ~~any~~ rules adopted
1370 by the division. Upon receipt of a request for mediation, the
1371 division shall promptly contact the parties to determine if
1372 there is agreement that mediation would be appropriate. If all
1373 parties agree, the dispute must be referred to mediation.
1374 Notwithstanding a lack of an agreement by all parties, the
1375 arbitrator may refer a dispute to mediation at any time.

1376 (f) Upon referral of a case to mediation, the parties must
1377 select a mutually acceptable mediator. To assist in the
1378 selection, the arbitrator shall provide the parties with a list
1379 of both volunteer and paid mediators that have been certified by
1380 the division under s. 718.501. If the parties are unable to
1381 agree on a mediator within the time allowed by the arbitrator,
1382 the arbitrator shall appoint a mediator from the list of
1383 certified mediators. If a case is referred to mediation, the
1384 parties shall attend a mediation conference, as scheduled by the
1385 parties and the mediator. If any party fails to attend a duly
1386 noticed mediation conference, without the permission or approval
1387 of the arbitrator or mediator, the arbitrator must impose
1388 sanctions against the party, including the striking of any
1389 pleadings filed, the entry of an order of dismissal or default
1390 if appropriate, and the award of costs and attorneys' fees
1391 incurred by the other parties. Unless otherwise agreed to by the
1392 parties or as provided by order of the arbitrator, a party is

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1393 deemed to have appeared at a mediation conference by the
1394 physical presence of the party or its representative having full
1395 authority to settle without further consultation if, provided
1396 ~~that~~ an association may comply by having one or more
1397 representatives present with full authority to negotiate a
1398 settlement and recommend that the board of administration ratify
1399 and approve such a settlement within 5 days after ~~from~~ the date
1400 of the mediation conference. The parties shall share equally the
1401 expense of mediation, unless they agree otherwise.

1402 (g) The purpose of mediation as provided for by this
1403 section is to present the parties with an opportunity to resolve
1404 the underlying dispute in good faith, and with a minimum
1405 expenditure of time and resources.

1406 (h) Mediation proceedings must generally be conducted in
1407 accordance with the Florida Rules of Civil Procedure, and these
1408 proceedings are privileged and confidential to the same extent
1409 as court-ordered mediation. Persons who are not parties to the
1410 dispute may ~~are not allowed to~~ attend the mediation conference
1411 without the consent of all parties, except for ~~with the~~
1412 ~~exception of~~ counsel for the parties and corporate
1413 representatives designated to appear for a party. If the
1414 mediator declares an impasse after a mediation conference has
1415 been held, the arbitration proceeding terminates, unless all
1416 parties agree in writing to continue the arbitration proceeding,
1417 in which case the arbitrator's decision shall be binding or
1418 nonbinding, as agreed upon by the parties; in the arbitration
1419 proceeding, the arbitrator may ~~shall~~ not consider any evidence
1420 relating to the unsuccessful mediation except in a proceeding to
1421 impose sanctions for failure to appear at the mediation

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1422 conference. If the parties do not agree to continue arbitration,
1423 the arbitrator shall enter an order of dismissal, and either
1424 party may institute a suit in a court of competent jurisdiction.
1425 The parties may seek to recover any costs and attorneys' fees
1426 incurred in connection with arbitration and mediation
1427 proceedings under this section as part of the costs and fees
1428 that may be recovered by the prevailing party in any subsequent
1429 litigation.

1430 (i) Arbitration shall be conducted according to rules
1431 adopted by the division. The filing of a petition for
1432 arbitration tolls ~~shall toll~~ the applicable statute of
1433 limitations.

1434 (j) At the request of any party to the arbitration, the
1435 arbitrator shall issue subpoenas for the attendance of witnesses
1436 and the production of books, records, documents, and other
1437 evidence and any party on whose behalf a subpoena is issued may
1438 apply to the court for orders compelling such attendance and
1439 production. Subpoenas shall be served and are ~~shall be~~
1440 enforceable in the manner provided by the Florida Rules of Civil
1441 Procedure. Discovery may, in the discretion of the arbitrator,
1442 be permitted in the manner provided by the Florida Rules of
1443 Civil Procedure. Rules adopted by the division may authorize any
1444 reasonable sanctions except contempt for a violation of the
1445 arbitration procedural rules of the division or for the failure
1446 of a party to comply with a reasonable nonfinal order issued by
1447 an arbitrator which is not under judicial review.

1448 (k) The arbitration decision shall be presented to the
1449 parties in writing. An arbitration decision is final in those
1450 disputes in which the parties have agreed to be bound. An

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1451 arbitration decision is also final if a complaint for a trial de
1452 novo is not filed in a court of competent jurisdiction in which
1453 the condominium is located within 30 days. The right to file for
1454 a trial de novo entitles the parties to file a complaint in the
1455 appropriate trial court for a judicial resolution of the
1456 dispute. The prevailing party in an arbitration proceeding shall
1457 be awarded the costs of the arbitration and reasonable attorney
1458 ~~attorney's~~ fees in an amount determined by the arbitrator. Such
1459 an award shall include the costs and reasonable attorney
1460 ~~attorney's~~ fees incurred in the arbitration proceeding as well
1461 as the costs and reasonable attorney ~~attorney's~~ fees incurred in
1462 preparing for and attending any scheduled mediation.

1463 (l) The party who files a complaint for a trial de novo
1464 shall be assessed the other party's arbitration costs, court
1465 costs, and other reasonable costs, including attorney ~~attorney's~~
1466 fees, investigation expenses, and expenses for expert or other
1467 testimony or evidence incurred after the arbitration hearing if
1468 the judgment upon the trial de novo is not more favorable than
1469 the arbitration decision. If the judgment is more favorable, the
1470 party who filed a complaint for trial de novo shall be awarded
1471 reasonable court costs and attorney ~~attorney's~~ fees.

1472 (m) Any party to an arbitration proceeding may enforce an
1473 arbitration award by filing a petition in a court of competent
1474 jurisdiction in which the condominium is located. A petition may
1475 not be granted unless the time for appeal by the filing of a
1476 complaint for trial de novo has expired. If a complaint for a
1477 trial de novo has been filed, a petition may not be granted with
1478 respect to an arbitration award that has been stayed. If the
1479 petition for enforcement is granted, the petitioner shall

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1480 recover reasonable attorney ~~attorney's~~ fees and costs incurred
1481 in enforcing the arbitration award. A mediation settlement may
1482 also be enforced through the county or circuit court, as
1483 applicable, and any costs and fees incurred in the enforcement
1484 of a settlement agreement reached at mediation must be awarded
1485 to the prevailing party in any enforcement action.

1486 Section 26. Section 718.501, Florida Statutes, is amended
1487 to read:

1488 718.501 Authority, responsibility, and duties of the
1489 ~~division of Florida Condominiums, Timeshares, and Mobile Homes.~~

1490 (1) The division may enforce and ensure compliance with the
1491 provisions of this chapter and rules relating to the
1492 development, construction, sale, lease, ownership, operation,
1493 and management of residential condominium units. In performing
1494 its duties, the division has complete jurisdiction to
1495 investigate complaints and enforce compliance with respect to
1496 associations that are still under developer control or the
1497 control of a bulk assignee or bulk buyer pursuant to part VII of
1498 this chapter and complaints against developers, bulk assignees,
1499 or bulk buyers involving improper turnover or failure to
1500 turnover, pursuant to s. 718.301. However, after turnover has
1501 occurred, the division has jurisdiction to investigate
1502 complaints related only to financial issues, elections, and unit
1503 owner access to association records pursuant to s. 718.111(12).

1504 (a)1. The division may make necessary public or private
1505 investigations within or outside this state to determine whether
1506 any person has violated this chapter or any rule or order
1507 hereunder, to aid in the enforcement of this chapter, or to aid
1508 in the adoption of rules or forms.

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1509 2. The division may submit any official written report,
1510 worksheet, or other related paper, or a ~~duly~~ certified copy
1511 thereof, compiled, prepared, drafted, or otherwise made by and
1512 ~~duly~~ authenticated by a financial examiner or analyst to be
1513 admitted as competent evidence in any hearing in which the
1514 financial examiner or analyst is available for cross-examination
1515 and attests under oath that such documents were prepared as a
1516 result of an examination or inspection conducted pursuant to
1517 this chapter.

1518 (b) The division may require or permit any person to file a
1519 statement in writing, under oath or otherwise, as the division
1520 determines, as to the facts and circumstances concerning a
1521 matter to be investigated.

1522 (c) For the purpose of any investigation under this
1523 chapter, the division director or any officer or employee
1524 designated by the division director may administer oaths or
1525 affirmations, subpoena witnesses and compel their attendance,
1526 take evidence, and require the production of any matter that
1527 ~~which~~ is relevant to the investigation, including the existence,
1528 description, nature, custody, condition, and location of any
1529 books, documents, or other tangible things and the identity and
1530 location of persons having knowledge of relevant facts or any
1531 other matter reasonably calculated to lead to the discovery of
1532 material evidence. Upon the failure by a person to obey a
1533 subpoena or to answer questions propounded by the investigating
1534 officer and upon reasonable notice to all affected persons, the
1535 division may apply to the circuit court for an order compelling
1536 compliance.

1537 (d) Notwithstanding any remedies available to unit owners

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1538 and associations, if the division has reasonable cause to
1539 believe that a violation of ~~any provision of~~ this chapter or
1540 related rule has occurred, the division may institute
1541 enforcement proceedings in its own name against any developer,
1542 bulk assignee, bulk buyer, association, officer, or member of
1543 the board of administration, or its assignees or agents, as
1544 follows:

1545 1. The division may permit a person whose conduct or
1546 actions may be under investigation to waive formal proceedings
1547 and enter into a consent proceeding whereby orders, rules, or
1548 letters of censure or warning, whether formal or informal, may
1549 be entered against the person.

1550 2. The division may issue an order requiring the developer,
1551 bulk assignee, bulk buyer, association, developer-designated
1552 officer, or developer-designated member of the board of
1553 administration, developer-designated assignees or agents, bulk
1554 assignee-designated assignees or agents, bulk buyer-designated
1555 assignees or agents, community association manager, or community
1556 association management firm to cease and desist from the
1557 unlawful practice and take such affirmative action as in the
1558 judgment of the division carry out the purposes of this chapter.
1559 If the division finds that a developer, bulk assignee, bulk
1560 buyer, association, officer, or member of the board of
1561 administration, or its assignees or agents, is violating or is
1562 about to violate any provision of this chapter, any rule adopted
1563 or order issued by the division, or any written agreement
1564 entered into with the division, and presents an immediate danger
1565 to the public requiring an immediate final order, it may issue
1566 an emergency cease and desist order reciting with particularity

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1567 the facts underlying such findings. The emergency cease and
1568 desist order is effective for 90 days. If the division begins
1569 nonemergency cease and desist proceedings, the emergency cease
1570 and desist order remains effective until the conclusion of the
1571 proceedings under ss. 120.569 and 120.57.

1572 3. If a developer, bulk assignee, or bulk buyer, fails to
1573 pay any restitution determined by the division to be owed, plus
1574 any accrued interest at the highest rate permitted by law,
1575 within 30 days after expiration of any appellate time period of
1576 a final order requiring payment of restitution or the conclusion
1577 of any appeal thereof, whichever is later, the division must
1578 bring an action in circuit or county court on behalf of any
1579 association, class of unit owners, lessees, or purchasers for
1580 restitution, declaratory relief, injunctive relief, or any other
1581 available remedy. The division may also temporarily revoke its
1582 acceptance of the filing for the developer to which the
1583 restitution relates until payment of restitution is made.

1584 4. The division may petition the court for appointment of a
1585 receiver or conservator. If appointed, the receiver or
1586 conservator may take action to implement the court order to
1587 ensure the performance of the order and to remedy any breach
1588 thereof. In addition to all other means provided by law for the
1589 enforcement of an injunction or temporary restraining order, the
1590 circuit court may impound or sequester the property of a party
1591 defendant, including books, papers, documents, and related
1592 records, and allow the examination and use of the property by
1593 the division and a court-appointed receiver or conservator.

1594 5. The division may apply to the circuit court for an order
1595 of restitution whereby the defendant in an action brought

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1596 pursuant to subparagraph 4. is ordered to make restitution of
1597 those sums shown by the division to have been obtained by the
1598 defendant in violation of this chapter. At the option of the
1599 court, such restitution is payable to the conservator or
1600 receiver appointed pursuant to subparagraph 4. or directly to
1601 the persons whose funds or assets were obtained in violation of
1602 this chapter.

1603 6. The division may impose a civil penalty against a
1604 developer, bulk assignee, or bulk buyer, or association, or its
1605 assignee or agent, for any violation of this chapter or related
1606 rule. The division may impose a civil penalty individually
1607 against an officer or board member who willfully and knowingly
1608 violates a provision of this chapter, adopted rule, or a final
1609 order of the division; may order the removal of such individual
1610 as an officer or from the board of administration or as an
1611 officer of the association; and may prohibit such individual
1612 from serving as an officer or on the board of a community
1613 association for a period of time. The term "willfully and
1614 knowingly" means that the division informed the officer or board
1615 member that his or her action or intended action violates this
1616 chapter, a rule adopted under this chapter, or a final order of
1617 the division and that the officer or board member refused to
1618 comply with the requirements of this chapter, a rule adopted
1619 under this chapter, or a final order of the division. The
1620 division, before initiating formal agency action under chapter
1621 120, must afford the officer or board member an opportunity to
1622 voluntarily comply, and an officer or board member who complies
1623 within 10 days is not subject to a civil penalty. A penalty may
1624 be imposed on the basis of each day of continuing violation, but

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1625 ~~the penalty for any offense~~ may not exceed a total of \$5,000. By
1626 January 1, 1998, the division shall adopt, by rule, penalty
1627 guidelines applicable to possible violations or to categories of
1628 violations of this chapter or rules adopted by the division. The
1629 guidelines must specify a meaningful range of civil penalties
1630 for each such violation of the statute and rules and must be
1631 based upon the harm caused by the violation, the repetition of
1632 the violation, and upon such other factors deemed relevant by
1633 the division such as. ~~For example, the division may consider~~
1634 whether the violations were committed by a developer, bulk
1635 assignee, or bulk buyer, or owner-controlled association, the
1636 size of the association, and other factors. The guidelines must
1637 designate the possible mitigating or aggravating circumstances
1638 that justify a departure from the range of penalties provided by
1639 the rules. It is the Legislature's legislative intent that minor
1640 violations be distinguished from those that ~~which~~ endanger the
1641 health, safety, or welfare of the condominium residents or other
1642 persons and that such guidelines provide reasonable and
1643 meaningful notice to the public of likely penalties that may be
1644 imposed for proscribed conduct. This subsection does not limit
1645 the ability of the division to informally dispose of
1646 administrative actions or complaints by stipulation, agreed
1647 settlement, or consent order. All amounts collected shall be
1648 deposited with the Chief Financial Officer to the credit of the
1649 ~~Division of~~ Florida Condominiums, Homeowners' Associations,
1650 Timeshares, and Mobile Homes Trust Fund. If a developer, bulk
1651 assignee, or bulk buyer fails to pay the civil penalty and the
1652 amount deemed to be owed to the association, the division shall
1653 issue an order directing that such developer, bulk assignee, or

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1654 bulk buyer cease and desist from further operation until such
1655 time as the civil penalty is paid or may pursue enforcement of
1656 the penalty in a court of competent jurisdiction. If an
1657 association fails to pay the civil penalty, the division shall
1658 pursue enforcement in a court of competent jurisdiction, and the
1659 order imposing the civil penalty or the cease and desist order
1660 is not effective until 20 days after the date of such order. Any
1661 action commenced by the division shall be brought in the county
1662 in which the division has its executive offices or in the county
1663 where the violation occurred.

1664 7. If a unit owner presents the division with proof that
1665 the unit owner has requested access to official records in
1666 writing by certified mail, and that after 10 days the unit owner
1667 again made the same request for access to official records in
1668 writing by certified mail, and that more than 10 days has
1669 elapsed since the second request and the association has still
1670 failed or refused to provide access to official records as
1671 required by this chapter, the division shall issue a subpoena
1672 requiring production of the requested records where the records
1673 are kept pursuant to s. 718.112.

1674 8. In addition to subparagraph 6., the division may seek
1675 the imposition of a civil penalty through the circuit court for
1676 any violation for which the division may issue a notice to show
1677 cause under paragraph (r). The civil penalty shall be at least
1678 \$500 but no more than \$5,000 for each violation. The court may
1679 also award to the prevailing party court costs and reasonable
1680 attorney ~~attorney's~~ fees and, if the division prevails, may also
1681 award reasonable costs of investigation.

1682 (e) The division may prepare and disseminate a prospectus

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1683 and other information to assist prospective owners, purchasers,
1684 lessees, and developers of residential condominiums in assessing
1685 the rights, privileges, and related duties ~~pertaining thereto~~.

1686 (f) The division may adopt rules to administer and enforce
1687 ~~the provisions of~~ this chapter.

1688 (g) The division shall establish procedures for providing
1689 notice to an association and the developer, bulk assignee, or
1690 bulk buyer during the period in which the developer, bulk
1691 assignee, or bulk buyer controls the association if the division
1692 is considering the issuance of a declaratory statement with
1693 respect to the declaration of condominium or any related
1694 document governing such condominium community.

1695 (h) The division shall furnish each association that pays
1696 the fees required by paragraph (2) (a) a copy of this chapter, as
1697 amended, and ~~the~~ rules adopted thereto on an annual basis.

1698 (i) The division shall annually provide each association
1699 with a summary of declaratory statements and formal legal
1700 opinions relating to the operations of condominiums which were
1701 rendered by the division during the previous year.

1702 (j) The division shall provide training and educational
1703 programs for condominium association board members and unit
1704 owners. The training may, in the division's discretion, include
1705 web-based electronic media, and live training and seminars in
1706 various locations throughout the state. The division may review
1707 and approve education and training programs for board members
1708 and unit owners offered by providers and shall maintain a
1709 current list of approved programs and providers and make such
1710 list available to board members and unit owners in a reasonable
1711 and cost-effective manner.

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1712 (k) The division shall maintain a toll-free telephone
1713 number accessible to condominium unit owners.

1714 (l) The division shall develop a program to certify both
1715 volunteer and paid mediators to provide mediation of condominium
1716 disputes. The division shall provide, upon request, a list of
1717 such mediators to any association, unit owner, or other
1718 participant in arbitration proceedings under s. 718.1255
1719 requesting a copy of the list. The division shall include on the
1720 list of volunteer mediators only the names of persons who have
1721 received at least 20 hours of training in mediation techniques
1722 or who have mediated at least 20 disputes. In order to become
1723 initially certified by the division, paid mediators must be
1724 certified by the Supreme Court to mediate court cases in county
1725 or circuit courts. However, the division may adopt, by rule,
1726 additional factors for the certification of paid mediators,
1727 ~~which must be~~ related to experience, education, or background.
1728 Any person initially certified as a paid mediator by the
1729 division must, in order to continue to be certified, comply with
1730 the factors or requirements adopted by rule.

1731 (m) If a complaint is made, the division must conduct its
1732 inquiry with due regard for the interests of the affected
1733 parties. Within 30 days after receipt of a complaint, the
1734 division shall acknowledge the complaint in writing and notify
1735 the complainant whether the complaint is within the jurisdiction
1736 of the division and whether additional information is needed by
1737 the division from the complainant. The division shall conduct
1738 its investigation and, within 90 days after receipt of the
1739 original complaint or of timely requested additional
1740 information, take action upon the complaint. However, the

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1741 failure to complete the investigation within 90 days does not
1742 prevent the division from continuing the investigation,
1743 accepting or considering evidence obtained or received after 90
1744 days, or taking administrative action if reasonable cause exists
1745 to believe that a violation of this chapter or a rule has
1746 occurred. If an investigation is not completed within the time
1747 limits established in this paragraph, the division shall, on a
1748 monthly basis, notify the complainant in writing of the status
1749 of the investigation. When reporting its action to the
1750 complainant, the division shall inform the complainant of any
1751 right to a hearing pursuant to ss. 120.569 and 120.57.

1752 (n) Condominium association directors, officers, and
1753 employees; condominium developers; bulk assignees, bulk buyers,
1754 and community association managers; and community association
1755 management firms have an ongoing duty to reasonably cooperate
1756 with the division in any investigation pursuant to this section.
1757 The division shall refer to local law enforcement authorities
1758 any person whom the division believes has altered, destroyed,
1759 concealed, or removed any record, document, or thing required to
1760 be kept or maintained by this chapter in order ~~with the purpose~~
1761 to impair its verity or availability in the department's
1762 investigation.

1763 (o) The division may:

- 1764 1. Contract with agencies in this state or other
1765 jurisdictions to perform investigative functions; or
1766 2. Accept grants-in-aid from any source.

1767 (p) The division shall cooperate with similar agencies in
1768 other jurisdictions to establish uniform filing procedures and
1769 forms, public offering statements, advertising standards, and

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1770 rules and common administrative practices.

1771 (q) The division shall consider notice to a developer, bulk
1772 assignee, or bulk buyer to be complete when it is delivered to
1773 the address of the developer, bulk assignee, or bulk buyer
1774 currently on file with the division.

1775 (r) In addition to its enforcement authority, the division
1776 may issue a notice to show cause, which must provide for a
1777 hearing, upon written request, in accordance with chapter 120.

1778 (s) The division shall submit to the Governor, the
1779 President of the Senate, the Speaker of the House of
1780 Representatives, and the chairs of the legislative
1781 appropriations committees an annual report that includes, but is
1782 ~~need~~ not ~~be~~ limited to, the number of training programs provided
1783 for condominium association board members and unit owners, the
1784 number of complaints received by type, the number and percent of
1785 complaints acknowledged in writing within 30 days and the number
1786 and percent of investigations acted upon within 90 days in
1787 accordance with paragraph (m), and the number of investigations
1788 exceeding the 90-day requirement. The annual report must also
1789 include an evaluation of the division's core business processes
1790 and make recommendations for improvements, including statutory
1791 changes. The report shall be submitted by September 30 following
1792 the end of the fiscal year.

1793 (2) (a) Each condominium association that ~~which~~ operates
1794 more than two units shall pay to the division an annual fee in
1795 the amount of \$4 for each residential unit in condominiums
1796 operated by the association. If the fee is not paid by March 1,
1797 the association shall be assessed a penalty of 10 percent of the
1798 amount due, and the association will not have standing to

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1799 maintain or defend any action in the courts of this state until
1800 the amount due, plus any penalty, is paid.

1801 (b) All fees shall be deposited in the ~~Division of~~ Florida
1802 Condominiums, Homeowners' Associations, Timeshares, and Mobile
1803 Homes Trust Fund as provided by law.

1804 Section 27. Subsection (1) of section 718.5011, Florida
1805 Statutes, is amended to read:

1806 718.5011 Ombudsman; appointment; administration.-

1807 (1) ~~There is created~~ An Office of the Condominium Ombudsman
1808 is created. The office shall, ~~to~~ be located for administrative
1809 purposes within the division ~~of Florida Condominiums,~~
1810 ~~Timeshares, and Mobile Homes~~. The functions of the office shall
1811 be funded by the ~~Division of~~ Florida Condominiums, Homeowners'
1812 Associations, Timeshares, and Mobile Homes Trust Fund. The
1813 ombudsman shall be a bureau chief of the division, and the
1814 office shall be set within the division in the same manner as
1815 any other bureau is staffed and funded.

1816 Section 28. Paragraph (a) of subsection (2) of section
1817 718.502, Florida Statutes, is amended to read:

1818 718.502 Filing prior to sale or lease.-

1819 (2) (a) Prior to filing as required by subsection (1), and
1820 before ~~prior to~~ acquiring an ownership, leasehold, or
1821 contractual interest in the land upon which the condominium is
1822 to be developed, a developer may ~~shall~~ not offer a contract for
1823 purchase of a unit or lease of a unit for more than 5 years.
1824 However, the developer may accept deposits for reservations upon
1825 the approval of a fully executed escrow agreement and
1826 reservation agreement form properly filed with the division ~~of~~
1827 ~~Florida Condominiums, Timeshares, and Mobile Homes~~. Each filing

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1828 of a proposed reservation program must ~~shall~~ be accompanied by a
1829 filing fee of \$250. Reservations may ~~shall~~ not be taken on a
1830 proposed condominium unless the developer has an ownership,
1831 leasehold, or contractual interest in the land upon which the
1832 condominium is to be developed. The division shall notify the
1833 developer within 20 days after ~~of~~ receipt of the reservation
1834 filing of any deficiencies contained therein. Such notification
1835 does ~~shall~~ not preclude the determination of reservation filing
1836 deficiencies at a later date, nor shall it relieve the developer
1837 of any responsibility under the law. The escrow agreement and
1838 the reservation agreement form must ~~shall~~ include a statement of
1839 the right of the prospective purchaser to an immediate
1840 unqualified refund of the reservation deposit moneys upon
1841 written request to the escrow agent by the prospective purchaser
1842 or the developer.

1843 Section 29. Paragraph (a) of subsection (2) of section
1844 718.503, Florida Statutes, is amended to read:

1845 718.503 Developer disclosure prior to sale; nondeveloper
1846 unit owner disclosure prior to sale; voidability.—

1847 (2) NONDEVELOPER DISCLOSURE.—

1848 (a) Each unit owner who is not a developer as defined by
1849 this chapter must ~~shall~~ comply with ~~the provisions of~~ this
1850 subsection before ~~prior to~~ the sale of his or her unit. Each
1851 prospective purchaser who has entered into a contract for the
1852 purchase of a condominium unit is entitled, at the seller's
1853 expense, to a current copy of the declaration of condominium,
1854 articles of incorporation of the association, bylaws and rules
1855 of the association, financial information required by s.
1856 718.111, and the document entitled "Frequently Asked Questions

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1857 and Answers" required by s. 718.504. On and after January 1,
1858 2009, the prospective purchaser is ~~shall~~ also ~~be~~ entitled to
1859 receive from the seller a copy of a governance form. Such form
1860 shall be provided by the division summarizing governance of
1861 condominium associations. In addition to such other information
1862 as the division considers helpful to a prospective purchaser in
1863 understanding association governance, the governance form must
1864 ~~shall~~ address ~~the following subjects~~:

1865 1. The role of the board in conducting the day-to-day
1866 affairs of the association on behalf of, and in the best
1867 interests of, the owners.

1868 2. The board's responsibility to provide advance notice of
1869 board and membership meetings.

1870 3. The rights of owners to attend and speak at board and
1871 membership meetings.

1872 4. The responsibility of the board and of owners with
1873 respect to maintenance of the condominium property.

1874 5. The responsibility of the board and owners to abide by
1875 the condominium documents, this chapter, rules adopted by the
1876 division, and reasonable rules adopted by the board.

1877 6. Owners' rights to inspect and copy association records
1878 and the limitations on such rights.

1879 7. Remedies available to owners with respect to actions by
1880 the board which may be abusive or beyond the board's power and
1881 authority.

1882 8. The right of the board to hire a property management
1883 firm, subject to its own primary responsibility for such
1884 management.

1885 9. The responsibility of owners with regard to payment of

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1886 regular or special assessments necessary for the operation of
1887 the property and the potential consequences of failure to pay
1888 such assessments.

1889 10. The voting rights of owners.

1890 11. Rights and obligations of the board in enforcement of
1891 rules in the condominium documents and rules adopted by the
1892 board.

1893

1894 The governance form must ~~shall~~ also include the following
1895 statement in conspicuous type: "This publication is intended as
1896 an informal educational overview of condominium governance. In
1897 the event of a conflict, the provisions of chapter 718, Florida
1898 Statutes, rules adopted by the Division of Florida Condominiums,
1899 Homeowners' Associations, Timeshares, and Mobile Homes of the
1900 Department of Business and Professional Regulation, the
1901 provisions of the condominium documents, and reasonable rules
1902 adopted by the condominium association's board of administration
1903 prevail over the contents of this publication."

1904 Section 30. Section 718.504, Florida Statutes, is amended
1905 to read:

1906 718.504 Prospectus or offering circular.—Every developer of
1907 a residential condominium that ~~which~~ contains more than 20
1908 residential units, or that ~~which~~ is part of a group of
1909 residential condominiums that ~~which~~ will be served by property
1910 to be used in common by unit owners of more than 20 residential
1911 units, shall prepare a prospectus or offering circular and file
1912 it with the division before ~~of Florida Condominiums, Timeshares,~~
1913 ~~and Mobile Homes~~ prior to entering into an enforceable contract
1914 of purchase and sale of any unit or lease of a unit for more

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1915 than 5 years and shall furnish a copy of the prospectus or
1916 offering circular to each buyer. In addition ~~to the prospectus~~
1917 ~~or offering circular~~, each buyer shall be furnished a separate
1918 page entitled "Frequently Asked Questions and Answers," which is
1919 ~~shall be~~ in accordance with a format approved by the division,
1920 and a copy of the financial information required by s. 718.111.
1921 This page ~~shall~~, in readable language, must inform prospective
1922 purchasers regarding their voting rights and unit use
1923 restrictions, including restrictions on the leasing of a unit;
1924 ~~shall~~ indicate whether and in what amount the unit owners or the
1925 association is obligated to pay rent or land use fees for
1926 recreational or other commonly used facilities; ~~shall~~ contain a
1927 statement identifying that amount of assessment which, pursuant
1928 to the budget, would be levied upon each unit type, exclusive of
1929 any special assessments, and ~~which shall further identify~~ the
1930 basis upon which assessments are levied, whether monthly,
1931 quarterly, or otherwise; ~~shall~~ state and identify any court
1932 cases in which the association is currently a party of record in
1933 which the association may face liability in excess of \$100,000;
1934 and which ~~shall~~ further state whether membership in a
1935 recreational facilities association is mandatory, and if so,
1936 ~~shall~~ identify the fees currently charged per unit type. The
1937 division shall by rule require such other disclosure it
1938 determines ~~as in its judgment~~ will assist prospective
1939 purchasers. The prospectus or offering circular may include more
1940 than one condominium, although not all such units are being
1941 offered for sale as of the date of the prospectus or offering
1942 circular. The prospectus or offering circular must contain the
1943 following information:

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- 1944 (1) The front cover or the first page must contain only:
1945 (a) The name of the condominium.
1946 (b) The following statements in conspicuous type:
- 1947 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
1948 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.
1949 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
1950 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
1951 ALL EXHIBITS ~~HERETO~~, THE CONTRACT DOCUMENTS, AND SALES
1952 MATERIALS.
1953 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
1954 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
1955 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
1956 REPRESENTATIONS.
- 1957 (2) Summary: The next page must contain all statements
1958 required to be in conspicuous type in the prospectus or offering
1959 circular.
- 1960 (3) A separate index of the contents and exhibits of the
1961 prospectus.
- 1962 (4) Beginning on the first page of the text, (not including
1963 the summary and index), a description of the condominium,
1964 including, but not limited to, ~~the following information:~~
- 1965 (a) Its name and location.
1966 (b) A description of the condominium property, including,
1967 without limitation:
- 1968 1. The number of buildings, the number of units in each
1969 building, the number of bathrooms and bedrooms in each unit, and
1970 the total number of units, if the condominium is not a phase
1971 condominium; 7 or the maximum number of buildings that may be
1972 contained within the condominium, the minimum and maximum

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1973 numbers of units in each building, the minimum and maximum
1974 numbers of bathrooms and bedrooms that may be contained in each
1975 unit, and the maximum number of units that may be contained
1976 within the condominium, if the condominium is a phase
1977 condominium.

1978 2. The page in the condominium documents where a copy of
1979 the plot plan and survey of the condominium is located.

1980 3. The estimated latest date of completing the construction
1981 ~~completion of constructing~~, finishing, and equipping of the
1982 condominium. In lieu of a date, the description must ~~shall~~
1983 include a statement that the estimated date of completion ~~of the~~
1984 ~~condominium~~ is in the purchase agreement and a reference to the
1985 article or paragraph containing that information.

1986 (c) The maximum number of units that will use facilities in
1987 common with the condominium. If the maximum number of units will
1988 vary, a description of the basis for variation and the minimum
1989 amount of dollars per unit to be spent for additional
1990 recreational facilities or enlargement of such facilities. If
1991 the addition or enlargement of facilities will result in a
1992 material increase of a unit owner's maintenance expense or
1993 rental expense, if any, the maximum increase and limitations
1994 must ~~thereon shall~~ be stated.

1995 (5) (a) A statement in conspicuous type describing whether
1996 the condominium is created and being sold as fee simple
1997 interests or as leasehold interests. If the condominium is
1998 created or being sold on a leasehold, the location of the lease
1999 in the disclosure materials must ~~shall~~ be stated.

2000 (b) If timeshare estates are or may be created with respect
2001 to any unit in the condominium, a statement in conspicuous type

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2002 stating that timeshare estates are created and being sold in
2003 units in the condominium.

2004 (6) A description of the recreational and other commonly
2005 used facilities that will be used only by unit owners of the
2006 condominium, including, but not limited to, the following:

2007 (a) Each room and its intended purposes, location,
2008 approximate floor area, and capacity in numbers of people.

2009 (b) Each swimming pool, as to its general location,
2010 approximate size and depths, approximate deck size and capacity,
2011 and whether heated.

2012 (c) Additional facilities, as to the number of each
2013 facility, its approximate location, approximate size, and
2014 approximate capacity.

2015 (d) A general description of the items of personal property
2016 and the approximate number of each item of personal property
2017 which ~~that~~ the developer is committing to furnish for each room
2018 or other facility or, in the alternative, a representation as to
2019 the minimum amount of expenditure which ~~that~~ will be made to
2020 purchase the personal property for the facility.

2021 (e) The estimated date when each room or other facility
2022 will be available for use by the unit owners.

2023 (f)1. An identification of each room or other facility to
2024 be used by unit owners which ~~that~~ will not be owned by the unit
2025 owners or the association;

2026 2. A reference to the location in the disclosure materials
2027 of the lease or other agreements providing for the use of those
2028 facilities; and

2029 3. A description of the terms of the lease or other
2030 agreements, including the length of the term; the rent payable,

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2031 directly or indirectly, by each unit owner, and the total rent
2032 payable to the lessor, stated in monthly and annual amounts for
2033 the entire term of the lease; and a description of any option to
2034 purchase the property leased under any such lease, including the
2035 time the option may be exercised, the purchase price or how it
2036 is to be determined, the manner of payment, and whether the
2037 option may be exercised for a unit owner's share or only as to
2038 the entire leased property.

2039 (g) A statement as to whether the developer may provide
2040 additional facilities not described above; their general
2041 locations and types; improvements or changes that may be made;
2042 the approximate dollar amount to be expended; and the maximum
2043 additional common expense or cost to the individual unit owners
2044 which ~~that~~ may be charged during the first annual period of
2045 operation of the modified or added facilities.

2046
2047 Descriptions as to locations, areas, capacities, numbers,
2048 volumes, or sizes may be stated as approximations or minimums.

2049 (7) A description of the recreational and other facilities
2050 that will be used in common with other condominiums, community
2051 associations, or planned developments that ~~which~~ require the
2052 payment of the maintenance and expenses of such facilities,
2053 directly or indirectly, by the unit owners. The description must
2054 ~~shall~~ include, but is not ~~be~~ limited to, ~~the following:~~

2055 (a) Each building and facility committed to be built.

2056 (b) Facilities not committed to be built except under
2057 certain conditions, and a statement of those conditions or
2058 contingencies.

2059 (c) As to each facility committed to be built, or which

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2060 will be committed to be built if ~~upon the happening of~~ one of
2061 the conditions in paragraph (b) occurs, a statement of whether
2062 it will be owned by the unit owners having the use thereof or by
2063 an association or other entity that ~~which~~ will be controlled by
2064 them, or others, and the location in the exhibits of the lease
2065 or other document providing for use of those facilities.

2066 (d) The year in which each facility will be available for
2067 use by the unit owners or, in the alternative, the maximum
2068 number of unit owners in the project at the time each of all of
2069 the facilities is committed to be completed.

2070 (e) A general description of the items of personal
2071 property, and the approximate number of each item of personal
2072 property which, ~~that~~ the developer is committing to furnish for
2073 each room or other facility or, in the alternative, a
2074 representation as to the minimum amount of expenditure which
2075 ~~that~~ will be made to purchase the personal property for the
2076 facility.

2077 (f) If there are leases, a description thereof, including
2078 the length of the term, the rent payable, and a description of
2079 any option to purchase.

2080
2081 Descriptions must ~~shall~~ include location, areas, capacities,
2082 numbers, volumes, or sizes and may be stated as approximations
2083 or minimums.

2084 (8) Recreation lease or associated club membership:

2085 (a) If any recreational facilities or other facilities
2086 offered by the developer and available to, or to be used by,
2087 unit owners are to be leased or have club membership associated,
2088 the following statement in conspicuous type must ~~shall~~ be

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2089 included: THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED
 2090 WITH THIS CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED
 2091 WITH THIS CONDOMINIUM. There must ~~shall~~ be a reference to the
 2092 location in the disclosure materials where the recreation lease
 2093 or club membership is described in detail.

2094 (b) If it is mandatory that unit owners pay a fee, rent,
 2095 dues, or other charges under a recreational facilities lease or
 2096 club membership for the use of facilities, one of the following
 2097 statements ~~there shall be~~ in conspicuous type ~~the applicable~~
 2098 ~~statement~~:

2099 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 2100 MANDATORY FOR UNIT OWNERS; ~~or~~

2101 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 2102 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; ~~or~~

2103 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS
 2104 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,
 2105 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE
 2106 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2107 4. A similar statement of the nature of the organization or
 2108 the manner in which the use rights are created, and which ~~that~~
 2109 unit owners are required to pay.

2110
 2111 Immediately following the applicable statement, the location in
 2112 the disclosure materials where the development is described in
 2113 detail must ~~shall~~ be stated.

2114 (c) If the developer, or any other person other than the
 2115 unit owners and other persons having use rights in the
 2116 facilities, reserves, or is entitled to receive, any rent, fee,
 2117 or other payment for the use of the facilities, ~~then there shall~~

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2118 ~~be~~ the following statement in conspicuous type: THE UNIT OWNERS
2119 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
2120 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately
2121 following this statement, the location in the disclosure
2122 materials where the rent or land use fees are described in
2123 detail must ~~shall~~ be stated.

2124 (d) If, in any recreation format, whether leasehold, club,
2125 or other, any person other than the association has the right to
2126 a lien on the units to secure the payment of assessments, rent,
2127 or other exactions, one of the following statements must ~~there~~
2128 ~~shall~~ appear ~~a statement~~ in conspicuous type in substantially
2129 the following form:

2130 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2131 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
2132 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
2133 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2134 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2135 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
2136 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
2137 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE
2138 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2139

2140 Immediately following the applicable statement, the location in
2141 the disclosure materials where the lien or lien right is
2142 described in detail must ~~shall~~ be stated.

2143 (9) If the developer or any other person has the right to
2144 increase or add to the recreational facilities at any time after
2145 the establishment of the condominium whose unit owners have use
2146 rights therein, ~~without~~ without the consent of the unit owners or

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2147 associations being required, the following statement must ~~there~~
2148 ~~shall~~ appear ~~a statement~~ in conspicuous type in substantially
2149 the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR
2150 ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S).
2151 Immediately following this statement, the location in the
2152 disclosure materials where such reserved rights are described
2153 must ~~shall~~ be stated.

2154 (10) A statement of whether the developer's plan includes a
2155 program of leasing units rather than selling them, or leasing
2156 units and selling them subject to such leases. If so, there must
2157 ~~shall~~ be a description of the plan, including the number and
2158 identification of the units and the provisions and term of the
2159 proposed leases, and a statement in boldfaced type that: THE
2160 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2161 (11) The arrangements for management of the association and
2162 maintenance and operation of the condominium property and of
2163 other property that will serve the unit owners of the
2164 condominium property, and a description of the management
2165 contract and all other contracts for these purposes having a
2166 term in excess of 1 year, including the following:

2167 (a) The names of contracting parties.

2168 (b) The term of the contract.

2169 (c) The nature of the services included.

2170 (d) The compensation, stated on a monthly and annual basis,
2171 and provisions for increases in the compensation.

2172 (e) A reference to the volumes and pages of the condominium
2173 documents and of the exhibits containing copies of such
2174 contracts.

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2176 Copies of all described contracts must ~~shall~~ be attached as
2177 exhibits. If there is a contract for the management of the
2178 condominium property, then a statement in conspicuous type in
2179 substantially the following form must ~~shall~~ appear, identifying
2180 the proposed or existing contract manager: THERE IS (IS TO BE) A
2181 CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH
2182 (NAME OF THE CONTRACT MANAGER). Immediately following this
2183 statement, the location in the disclosure materials of the
2184 contract for management of the condominium property must ~~shall~~
2185 be stated.

2186 (12) If the developer or any other person or persons other
2187 than the unit owners has the right to retain control of the
2188 board of administration of the association for a period of time
2189 which can exceed 1 year after the closing of the sale of a
2190 majority of the units in that condominium to persons other than
2191 successors or alternate developers, then a statement in
2192 conspicuous type in substantially the following form must ~~shall~~
2193 be included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
2194 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
2195 HAVE BEEN SOLD. Immediately following this statement, the
2196 location in the disclosure materials where this right to control
2197 is described in detail must ~~shall~~ be stated.

2198 (13) If there are any restrictions upon the sale, transfer,
2199 conveyance, or leasing of a unit, then a statement in
2200 conspicuous type in substantially the following form must ~~shall~~
2201 be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED
2202 OR CONTROLLED. Immediately following this statement, the
2203 location in the disclosure materials where the restriction,
2204 limitation, or control on the sale, lease, or transfer of units

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2205 is described in detail must ~~shall~~ be stated.

2206 (14) If the condominium is part of a phase project, the
2207 following information must ~~shall~~ be stated:

2208 (a) A statement in conspicuous type in substantially the
2209 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
2210 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
2211 this statement, the location in the disclosure materials where
2212 the phasing is described must ~~shall~~ be stated.

2213 (b) A summary of the provisions of the declaration which
2214 provide for the phasing.

2215 (c) A statement as to whether or not residential buildings
2216 and units that ~~which~~ are added to the condominium may be
2217 substantially different from the residential buildings and units
2218 originally in the condominium. If the added residential
2219 buildings and units may be substantially different, there must
2220 ~~shall~~ be a general description of the extent to which such added
2221 residential buildings and units may differ, and a statement in
2222 conspicuous type in substantially the following form must ~~shall~~
2223 be included: BUILDINGS AND UNITS THAT ~~WHICH~~ ARE ADDED TO THE
2224 CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER
2225 BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following
2226 this statement, the location in the disclosure materials where
2227 the extent to which added residential buildings and units may
2228 substantially differ is described must ~~shall~~ be stated.

2229 (d) A statement of the maximum number of buildings
2230 containing units, the maximum and minimum numbers of units in
2231 each building, the maximum number of units, and the minimum and
2232 maximum square footage of the units that may be contained within
2233 each parcel of land which may be added to the condominium.

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2234 (15) If a condominium created on or after July 1, 2000, is
2235 or may become part of a multicondominium, the following
2236 information must be provided:

2237 (a) A statement in conspicuous type in substantially the
2238 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
2239 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
2240 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
2241 this statement, the location in the prospectus or offering
2242 circular and its exhibits where the multicondominium aspects of
2243 the offering are described must be stated.

2244 (b) A summary of the provisions in the declaration,
2245 articles of incorporation, and bylaws which establish and
2246 provide for the operation of the multicondominium, including a
2247 statement as to whether unit owners in the condominium will have
2248 the right to use recreational or other facilities located or
2249 planned to be located in other condominiums operated by the same
2250 association, and the manner of sharing the common expenses
2251 related to such facilities.

2252 (c) A statement of the minimum and maximum number of
2253 condominiums, and the minimum and maximum number of units in
2254 each of those condominiums, which will or may be operated by the
2255 association, and the latest date by which the exact number will
2256 be finally determined.

2257 (d) A statement as to whether any of the condominiums in
2258 the multicondominium may include units intended to be used for
2259 nonresidential purposes and the purpose or purposes permitted
2260 for such use.

2261 (e) A general description of the location and approximate
2262 acreage of any land on which any additional condominiums to be

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operated by the association may be located.

(16) If the condominium is created by conversion of existing improvements, the following information must ~~shall~~ be stated:

(a) The information required by s. 718.616.

(b) A caveat that there are no express warranties unless they are stated in writing by the developer.

(17) A summary of the restrictions, if any, to be imposed on units concerning the use of any of the condominium property, including statements as to whether there are restrictions upon children and pets, and reference to the volumes and pages of the condominium documents where such restrictions are found, or if such restrictions are contained elsewhere, ~~then~~ a copy of the documents containing the restrictions must ~~shall~~ be attached as an exhibit.

(18) If there is any land that is offered by the developer for use by the unit owners and that is neither owned by them nor leased to them, the association, or any entity controlled by unit owners and other persons having the use rights to such land, a statement must ~~shall~~ be made as to how such land will serve the condominium. If any part of such land will serve the condominium, the statement must ~~shall~~ describe the land and the nature and term of service, and the declaration or other instrument creating such servitude must ~~shall~~ be included as an exhibit.

(19) The manner in which utility and other services, including, but not limited to, sewage and waste disposal, water supply, and storm drainage, will be provided and the person or entity furnishing them.

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2292 (20) An explanation of the manner in which the
2293 apportionment of common expenses and ownership of the common
2294 elements has been determined.

2295 (21) An estimated operating budget for the condominium and
2296 the association, and a schedule of the unit owner's expenses
2297 must ~~shall~~ be attached as an exhibit and ~~shall~~ contain the
2298 following information:

2299 (a) The estimated monthly and annual expenses of the
2300 condominium and the association that are collected from unit
2301 owners by assessments.

2302 (b) The estimated monthly and annual expenses of each unit
2303 owner for a unit, other than common expenses paid by all unit
2304 owners, payable by the unit owner to persons or entities other
2305 than the association, as well as to the association, including
2306 fees assessed pursuant to s. 718.113(1) for maintenance of
2307 limited common elements where such costs are shared only by
2308 those entitled to use the limited common element, and the total
2309 estimated monthly and annual expense. Expenses ~~There~~ may be
2310 excluded from this estimate ~~expenses~~ which are not provided for
2311 or contemplated by the condominium documents, including, but not
2312 limited to, the costs of private telephone; maintenance of the
2313 interior of condominium units, which is not the obligation of
2314 the association; maid or janitorial services privately
2315 contracted for by the unit owners; utility bills billed directly
2316 to each unit owner for utility services to his or her unit;
2317 insurance premiums other than those incurred for policies
2318 obtained by the condominium; and similar personal expenses of
2319 the unit owner. A unit owner's estimated payments for
2320 assessments must ~~shall~~ also be stated in the estimated amounts

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2321 for the times when they will be due.

2322 (c) The estimated items of expenses of the condominium and
2323 the association, except as excluded under paragraph (b),
2324 including, but not limited to, the following items, which must
2325 ~~shall~~ be stated as an association expense collectible by
2326 assessments or as unit owners' expenses payable to persons other
2327 than the association:

2328 1. Expenses for the association and condominium:

2329 a. Administration of the association.

2330 b. Management fees.

2331 c. Maintenance.

2332 d. Rent for recreational and other commonly used
2333 facilities.

2334 e. Taxes upon association property.

2335 f. Taxes upon leased areas.

2336 g. Insurance.

2337 h. Security provisions.

2338 i. Other expenses.

2339 j. Operating capital.

2340 k. Reserves.

2341 1. Fees payable to the division.

2342 2. Expenses for a unit owner:

2343 a. Rent for the unit, if subject to a lease.

2344 b. Rent payable by the unit owner directly to the lessor or
2345 agent under any recreational lease or lease for the use of
2346 commonly used facilities, which use and payment is a mandatory
2347 condition of ownership and is not included in the common expense
2348 or assessments for common maintenance paid by the unit owners to
2349 the association.

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2350 (d) The following statement in conspicuous type: THE BUDGET
2351 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
2352 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
2353 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
2354 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
2355 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
2356 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
2357 THE OFFERING.

2358 (e) Each budget for an association prepared by a developer
2359 consistent with this subsection shall be prepared in good faith
2360 and ~~shall~~ reflect accurate estimated amounts for the required
2361 items in paragraph (c) at the time of the filing of the offering
2362 circular with the division, and subsequent increased amounts of
2363 any item included in the association's estimated budget which
2364 ~~that~~ are beyond the control of the developer may ~~shall~~ not be
2365 considered an amendment that would give rise to rescission
2366 rights set forth in s. 718.503(1)(a) or (b), nor shall such
2367 increases modify, void, or otherwise affect any guarantee of the
2368 developer contained in the offering circular or any purchase
2369 contract. It is the intent of this paragraph to clarify existing
2370 law.

2371 (f) The estimated amounts shall be stated for ~~a period of~~
2372 at least 12 months and may distinguish between the period prior
2373 to the time unit owners other than the developer elect a
2374 majority of the board of administration and the period after
2375 that date.

2376 (22) A schedule of estimated closing expenses to be paid by
2377 a buyer or lessee of a unit and a statement of whether title
2378 opinion or title insurance policy is available to the buyer and,

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2379 if so, at whose expense.

2380 (23) The identity of the developer and the chief operating
2381 officer or principal directing the creation and sale of the
2382 condominium and a statement of its and his or her experience in
2383 this field.

2384 (24) Copies of the following, if ~~to the extent they are~~
2385 applicable, must ~~shall~~ be included as exhibits:

2386 (a) The declaration of condominium, or the proposed
2387 declaration if the declaration has not been recorded.

2388 (b) The articles of incorporation creating the association.

2389 (c) The bylaws of the association.

2390 (d) The ground lease or other underlying lease of the
2391 condominium.

2392 (e) The management agreement and all maintenance and other
2393 contracts for management of the association and operation of the
2394 condominium and facilities used by the unit owners having a
2395 service term in excess of 1 year.

2396 (f) The estimated operating budget for the condominium and
2397 the required schedule of unit owners' expenses.

2398 (g) A copy of the floor plan of the unit and the plot plan
2399 showing the location of the residential buildings and the
2400 recreation and other common areas.

2401 (h) The lease of recreational and other facilities that
2402 will be used only by unit owners of the subject condominium.

2403 (i) The lease of facilities used by owners and others.

2404 (j) The form of unit lease, if the offer is of a leasehold.

2405 (k) A declaration of servitude of properties serving the
2406 condominium but not owned by unit owners or leased to them or
2407 the association.

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2408 (l) The statement of condition of the existing building or
2409 buildings, if the offering is of units in an operation being
2410 converted to condominium ownership.

2411 (m) The statement of inspection for termite damage and
2412 treatment of the existing improvements, if the condominium is a
2413 conversion.

2414 (n) The form of agreement for sale or lease of units.

2415 (o) A copy of the agreement for escrow of payments made to
2416 the developer before ~~prior to~~ closing.

2417 (p) A copy of the documents containing any restrictions on
2418 use of the property required by subsection (17).

2419 (25) Any prospectus or offering circular complying, prior
2420 to the effective date of this act, with the provisions of former
2421 ss. 711.69 and 711.802 may continue to be used without amendment
2422 or may be amended to comply with this chapter.

2423 (26) A brief narrative description of the location and
2424 effect of all existing and intended easements located or to be
2425 located on the condominium property other than those described
2426 in the declaration.

2427 (27) If the developer is required by state or local
2428 authorities to obtain acceptance or approval of any dock or
2429 marina facilities intended to serve the condominium, a copy of
2430 any such acceptance or approval acquired by the time of filing
2431 with the division under s. 718.502(1) or a statement that such
2432 acceptance or approval has not been acquired or received.

2433 (28) Evidence demonstrating that the developer has an
2434 ownership, leasehold, or contractual interest in the land upon
2435 which the condominium is to be developed.

2436 Section 31. Section 718.508, Florida Statutes, is amended

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2437 to read:

2438 718.508 Regulation by Division of Hotels and Restaurants.-
2439 In addition to the authority, regulation, or control exercised
2440 by the division ~~of Florida Condominiums, Timeshares, and Mobile~~
2441 ~~Homes~~ pursuant to this chapter ~~act~~ with respect to condominiums,
2442 buildings included in a condominium property are subject to the
2443 authority, regulation, or control of the Division of Hotels and
2444 Restaurants of the Department of Business and Professional
2445 Regulation, to the extent provided in chapter 399.

2446 Section 32. Paragraph (a) of subsection (2) of section
2447 718.608, Florida Statutes, is amended to read:

2448 718.608 Notice of intended conversion; time of delivery;
2449 content.-

2450 (2) (a) Each notice of intended conversion must ~~shall~~ be
2451 dated and in writing. The notice must ~~shall~~ contain the
2452 following statement, with the phrases of the following statement
2453 which appear in upper case and printed in conspicuous type:

2454

2455 These apartments are being converted to condominium by
2456 ... (name of developer) ..., the developer.

2457 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
2458 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
2459 AGREEMENT AS FOLLOWS:

2460 a. If you have continuously been a resident of these
2461 apartments during the last 180 days and your rental agreement
2462 expires during the next 270 days, you may extend your rental
2463 agreement for up to 270 days after the date of this notice.

2464 b. If you have not been a continuous resident of these
2465 apartments for the last 180 days and your rental agreement

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2466 expires during the next 180 days, you may extend your rental
2467 agreement for up to 180 days after the date of this notice.

2468 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
2469 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
2470 DATE OF THIS NOTICE.

2471 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
2472 you may extend your rental agreement for up to 45 days after the
2473 date of this notice while you decide whether to extend your
2474 rental agreement as explained above. To do so, you must notify
2475 the developer in writing. You will then have the full 45 days to
2476 decide whether to extend your rental agreement as explained
2477 above.

2478 3. During the extension of your rental agreement you will
2479 be charged the same rent that you are now paying.

2480 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
2481 OF THE RENTAL AGREEMENT AS FOLLOWS:

2482 a. If your rental agreement began or was extended or
2483 renewed after May 1, 1980, and your rental agreement, including
2484 extensions and renewals, has an unexpired term of 180 days or
2485 less, you may cancel your rental agreement upon 30 days' written
2486 notice and move. Also, upon 30 days' written notice, you may
2487 cancel any extension of the rental agreement.

2488 b. If your rental agreement was not begun or was not
2489 extended or renewed after May 1, 1980, you may not cancel the
2490 rental agreement without the consent of the developer. If your
2491 rental agreement, including extensions and renewals, has an
2492 unexpired term of 180 days or less, you may, however, upon 30
2493 days' written notice cancel any extension of the rental
2494 agreement.

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2495 5. All notices must be given in writing and sent by mail,
2496 return receipt requested, or delivered in person to the
2497 developer at this address: ...(name and address of
2498 developer)....

2499 6. If you have continuously been a resident of these
2500 apartments during the last 180 days:

2501 a. You have the right to purchase your apartment and will
2502 have 45 days to decide whether to purchase. If you do not buy
2503 the unit at that price and the unit is later offered at a lower
2504 price, you will have the opportunity to buy the unit at the
2505 lower price. However, in all events your right to purchase the
2506 unit ends when the rental agreement or any extension of the
2507 rental agreement ends or when you waive this right in writing.

2508 b. Within 90 days you will be provided purchase information
2509 relating to your apartment, including the price of your unit and
2510 the condition of the building. If you do not receive this
2511 information within 90 days, your rental agreement and any
2512 extension will be extended 1 day for each day over 90 days until
2513 you are given the purchase information. If you do not want this
2514 rental agreement extension, you must notify the developer in
2515 writing.

2516 7. If you have any questions regarding this conversion or
2517 the Condominium Act, you may contact the developer or the state
2518 agency that ~~which~~ regulates condominiums: The Division of
2519 Florida Condominiums, Homeowners' Associations, Timeshares, and
2520 Mobile Homes, ...(Tallahassee address and telephone number of
2521 division)....

2522 Section 33. Subsection (17) of section 719.103, Florida
2523 Statutes, is amended to read:

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2524 719.103 Definitions.—As used in this chapter:

2525 (17) "Division" means the Division of Florida Condominiums,
2526 Homeowners' Associations, Timeshares, and Mobile Homes of the
2527 Department of Business and Professional Regulation.

2528 Section 34. Section 719.1255, Florida Statutes, is amended
2529 to read:

2530 719.1255 Alternative resolution of disputes.—The division
2531 ~~of Florida Condominiums, Timeshares, and Mobile Homes of the~~
2532 ~~Department of Business and Professional Regulation~~ shall provide
2533 for alternative dispute resolution in accordance with s.
2534 718.1255.

2535 Section 35. Section 719.501, Florida Statutes, is amended
2536 to read:

2537 719.501 Powers and duties of the division ~~of Florida~~
2538 ~~Condominiums, Timeshares, and Mobile Homes.~~—

2539 (1) ~~The Division of Florida Condominiums, Timeshares, and~~
2540 ~~Mobile Homes of the Department of Business and Professional~~
2541 ~~Regulation, referred to as the "division" in this part,~~ In
2542 addition to other powers and duties prescribed by chapter 718,
2543 the division has the power to enforce and ensure compliance with
2544 this chapter and adopted rules relating to the development,
2545 construction, sale, lease, ownership, operation, and management
2546 of residential cooperative units. In performing its duties, the
2547 division shall have the following powers and duties:

2548 (a) The division may make necessary public or private
2549 investigations within or outside this state to determine whether
2550 any person has violated this chapter or any rule or order
2551 hereunder, to aid in the enforcement of this chapter, or to aid
2552 in the adoption of rules or forms hereunder.

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2553 (b) The division may require or permit any person to file a
2554 statement in writing, under oath or otherwise, as the division
2555 determines, as to the facts and circumstances concerning a
2556 matter to be investigated.

2557 (c) For the purpose of any investigation under this
2558 chapter, the division director or any officer or employee
2559 designated by the division director may administer oaths or
2560 affirmations, subpoena witnesses and compel their attendance,
2561 take evidence, and require the production of any matter that
2562 ~~which~~ is relevant to the investigation, including the existence,
2563 description, nature, custody, condition, and location of any
2564 books, documents, or other tangible things and the identity and
2565 location of persons having knowledge of relevant facts or any
2566 other matter reasonably calculated to lead to the discovery of
2567 material evidence. Upon failure by a person to obey a subpoena
2568 or to answer questions propounded by the investigating officer
2569 and upon reasonable notice to all persons affected thereby, the
2570 division may apply to the circuit court for an order compelling
2571 compliance.

2572 (d) Notwithstanding any remedies available to unit owners
2573 and associations, if the division has reasonable cause to
2574 believe that a violation of ~~any provision of~~ this chapter or
2575 related rule has occurred, the division may institute
2576 enforcement proceedings in its own name against a developer,
2577 association, officer, or member of the board, or its assignees
2578 or agents, as follows:

2579 1. The division may permit a person whose conduct or
2580 actions may be under investigation to waive formal proceedings
2581 and enter into a consent proceeding whereby orders, rules, or

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2582 letters of censure or warning, whether formal or informal, may
2583 be entered against the person.

2584 2. The division may issue an order requiring the developer,
2585 association, officer, or member of the board, or its assignees
2586 or agents, to cease and desist from the unlawful practice and
2587 take such affirmative action as in the judgment of the division
2588 will carry out the purposes of this chapter. Such affirmative
2589 action may include, but is not limited to, an order requiring a
2590 developer to pay moneys determined to be owed to a condominium
2591 association.

2592 3. The division may bring an action in circuit court on
2593 behalf of a class of unit owners, lessees, or purchasers for
2594 declaratory relief, injunctive relief, or restitution.

2595 4. The division may impose a civil penalty against a
2596 developer or association, or its assignees or agents, for any
2597 violation of this chapter or related rule. The division may
2598 impose a civil penalty individually against any officer or board
2599 member who willfully and knowingly violates a provision of this
2600 chapter, a rule adopted pursuant to this chapter, or a final
2601 order of the division. The term "willfully and knowingly" means
2602 that the division informed the officer or board member that his
2603 or her action or intended action violates this chapter, a rule
2604 adopted under this chapter, or a final order of the division,
2605 and that the officer or board member refused to comply with the
2606 requirements of this chapter, a rule adopted under this chapter,
2607 or a final order of the division. The division, before ~~prior to~~
2608 initiating formal agency action under chapter 120, shall afford
2609 the officer or board member an opportunity to voluntarily comply
2610 with this chapter, a rule adopted under this chapter, or a final

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2611 order of the division. An officer or board member who complies
2612 within 10 days is not subject to a civil penalty. A penalty may
2613 be imposed on the basis of each day of continuing violation, but
2614 may not ~~in no event shall the penalty for any offense~~ exceed
2615 \$5,000. By January 1, 1998, the division shall adopt, by rule,
2616 penalty guidelines applicable to possible violations or to
2617 categories of violations of this chapter or rules adopted by the
2618 division. The guidelines must specify a meaningful range of
2619 civil penalties for each such violation of the statute and rules
2620 and must be based upon the harm caused by the violation, the
2621 repetition of the violation, and upon such other factors deemed
2622 relevant by the division. For example, the division may consider
2623 whether the violations were committed by a developer or owner-
2624 controlled association, the size of the association, and other
2625 factors. The guidelines must designate the possible mitigating
2626 or aggravating circumstances that justify a departure from the
2627 range of penalties provided by the rules. It is the legislative
2628 intent that minor violations be distinguished from those which
2629 endanger the health, safety, or welfare of the cooperative
2630 residents or other persons and that such guidelines provide
2631 reasonable and meaningful notice to the public of likely
2632 penalties that may be imposed for proscribed conduct. This
2633 subsection does not limit the ability of the division to
2634 informally dispose of administrative actions or complaints by
2635 stipulation, agreed settlement, or consent order. All amounts
2636 collected shall be deposited with the Chief Financial Officer to
2637 the credit of the ~~Division of~~ Florida Condominiums, Homeowners'
2638 Associations, Timeshares, and Mobile Homes Trust Fund. If a
2639 developer fails to pay the civil penalty, the division shall

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2640 ~~thereupon~~ issue an order directing that such developer cease and
2641 desist from further operation until such time as the civil
2642 penalty is paid or may pursue enforcement of the penalty in a
2643 court of competent jurisdiction. If an association fails to pay
2644 the civil penalty, the division shall ~~thereupon~~ pursue
2645 enforcement in a court of competent jurisdiction, and the order
2646 imposing the civil penalty or the cease and desist order shall
2647 not become effective until 20 days after the date of such order.
2648 Any action commenced by the division shall be brought in the
2649 county in which the division has its executive offices or in the
2650 county where the violation occurred.

2651 (e) The division may prepare and disseminate a prospectus
2652 and other information to assist prospective owners, purchasers,
2653 lessees, and developers of residential cooperatives in assessing
2654 the rights, privileges, and duties pertaining thereto.

2655 (f) The division may ~~has authority to~~ adopt rules pursuant
2656 ~~to ss. 120.536(1) and 120.54 to~~ administer ~~implement~~ and enforce
2657 ~~the provisions of~~ this chapter.

2658 (g) The division shall establish procedures for providing
2659 notice to an association when the division is considering the
2660 issuance of a declaratory statement with respect to the
2661 cooperative documents governing such cooperative community.

2662 (h) The division shall annually furnish each association
2663 that ~~which~~ pays the fees required by paragraph (2) (a) a copy of
2664 this chapter, as amended, act, ~~subsequent changes to this act on~~
2665 ~~an annual basis, an amended version of this act as it becomes~~
2666 ~~available from the Secretary of State's office on a biennial~~
2667 ~~basis, and the rules adopted thereto on an annual basis.~~

2668 (i) The division shall annually provide each association

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2669 with a summary of declaratory statements and formal legal
2670 opinions relating to the operations of cooperatives which were
2671 rendered by the division during the previous year.

2672 (j) The division shall adopt uniform accounting principles,
2673 policies, and standards to be used by all associations in the
2674 preparation and presentation of all financial statements
2675 required by this chapter. The principles, policies, and
2676 standards shall take into consideration the size of the
2677 association and the total revenue collected by the association.

2678 (k) The division shall provide training programs for
2679 cooperative association board members and unit owners.

2680 (l) The division shall maintain a toll-free telephone
2681 number accessible to cooperative unit owners.

2682 (m) If ~~When~~ a complaint is made to the division, the
2683 division shall conduct its inquiry with reasonable dispatch and
2684 with due regard to the interests of the affected parties. Within
2685 30 days after receipt of a complaint, the division shall
2686 acknowledge the complaint in writing and notify the complainant
2687 whether the complaint is within the jurisdiction of the division
2688 and whether additional information is needed by the division
2689 from the complainant. The division shall conduct its
2690 investigation and ~~shall~~, within 90 days after receipt of the
2691 original complaint or timely requested additional information,
2692 take action upon the complaint. However, the failure to complete
2693 the investigation within 90 days does not prevent the division
2694 from continuing the investigation, accepting or considering
2695 evidence obtained or received after 90 days, or taking
2696 administrative action if reasonable cause exists to believe that
2697 a violation of this chapter or a rule ~~of the division~~ has

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2698 occurred. If an investigation is not completed within the time
2699 limits established in this paragraph, the division shall, on a
2700 monthly basis, notify the complainant in writing of the status
2701 of the investigation. When reporting its action to the
2702 complainant, the division shall inform the complainant of any
2703 right to a hearing pursuant to ss. 120.569 and 120.57.

2704 (n) The division shall develop a program to certify both
2705 volunteer and paid mediators to provide mediation of cooperative
2706 disputes. The division shall provide, upon request, a list of
2707 such mediators to any association, unit owner, or other
2708 participant in arbitration proceedings under s. 718.1255
2709 requesting a copy of the list. The division shall include on the
2710 list of voluntary mediators only persons who have received at
2711 least 20 hours of training in mediation techniques or have
2712 mediated at least 20 disputes. In order to become initially
2713 certified by the division, paid mediators must be certified by
2714 the Supreme Court to mediate court cases in county or circuit
2715 courts. However, the division may adopt, by rule, additional
2716 factors for the certification of paid mediators, ~~which factors~~
2717 ~~must be~~ related to experience, education, or background. Any
2718 person initially certified as a paid mediator by the division
2719 must, in order to continue to be certified, comply with the
2720 factors or requirements imposed by rules adopted by the
2721 division.

2722 (2) (a) Each cooperative association shall pay to the
2723 division, on or before January 1 of each year, an annual fee in
2724 the amount of \$4 for each residential unit in cooperatives
2725 operated by the association. If the fee is not paid by March 1,
2726 ~~then~~ the association shall be assessed a penalty of 10 percent

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2727 of the amount due, and the association does ~~shall~~ not have the
2728 standing to maintain or defend any action in the courts of this
2729 state until the amount due is paid.

2730 (b) All fees shall be deposited in the ~~Division of~~ Florida
2731 Condominiums, Homeowners' Associations, Timeshares, and Mobile
2732 Homes Trust Fund as provided by law.

2733 Section 36. Paragraph (a) of subsection (2) of section
2734 719.502, Florida Statutes, is amended to read:

2735 719.502 Filing prior to sale or lease.—

2736 (2) (a) Prior to filing as required by subsection (1), and
2737 before ~~prior to~~ acquiring an ownership, leasehold, or
2738 contractual interest in the land upon which the cooperative is
2739 to be developed, a developer may ~~shall~~ not offer a contract for
2740 purchase or lease of a unit for more than 5 years. However, the
2741 developer may accept deposits for reservations upon the approval
2742 of a fully executed escrow agreement and reservation agreement
2743 form properly filed with the division ~~of Florida Condominiums,~~
2744 ~~Timeshares, and Mobile Homes.~~ Each filing of a proposed
2745 reservation program must ~~shall~~ be accompanied by a filing fee of
2746 \$250. Reservations may ~~shall~~ not be taken on a proposed
2747 cooperative unless the developer has an ownership, leasehold, or
2748 contractual interest in the land upon which the cooperative is
2749 to be developed. The division shall notify the developer within
2750 20 days after ~~of~~ receipt of the reservation filing of any
2751 deficiencies contained therein. Such notification does ~~shall~~ not
2752 preclude the determination of reservation filing deficiencies at
2753 a later date, nor shall it relieve the developer of any
2754 responsibility under the law. The escrow agreement and the
2755 reservation agreement form must ~~shall~~ include a statement of the

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2756 right of the prospective purchaser to an immediate unqualified
2757 refund of the reservation deposit moneys upon written request to
2758 the escrow agent by the prospective purchaser or the developer.

2759 Section 37. Section 719.504, Florida Statutes, is amended
2760 to read:

2761 719.504 Prospectus or offering circular.—A ~~Every~~ developer
2762 of a residential cooperative that ~~which~~ contains more than 20
2763 residential units, or that ~~which~~ is part of a group of
2764 residential cooperatives that ~~which~~ will be served by property
2765 to be used in common by unit owners of more than 20 residential
2766 units, must ~~shall~~ prepare a prospectus or offering circular and
2767 file it with the division before ~~of Florida Condominiums,~~
2768 ~~Timeshares, and Mobile Homes prior to~~ entering into an
2769 enforceable contract of purchase and sale of any unit or lease
2770 of a unit for more than 5 years and ~~shall~~ furnish a copy of the
2771 prospectus or offering circular to each buyer. In addition ~~to~~
2772 ~~the prospectus or offering circular,~~ each buyer shall be
2773 furnished a separate page entitled "Frequently Asked Questions
2774 and Answers," which must be in accordance with a format approved
2775 by the division. This page must, in readable language: inform
2776 prospective purchasers regarding their voting rights and unit
2777 use restrictions, including restrictions on the leasing of a
2778 unit; indicate whether and in what amount the unit owners or the
2779 association is obligated to pay rent or land use fees for
2780 recreational or other commonly used facilities; contain a
2781 statement identifying that amount of assessment which, pursuant
2782 to the budget, would be levied upon each unit type, exclusive of
2783 any special assessments, and which identifies the basis upon
2784 which assessments are levied, whether monthly, quarterly, or

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2785 otherwise; state and identify any court cases in which the
2786 association is currently a party of record in which the
2787 association may face liability in excess of \$100,000; and state
2788 whether membership in a recreational facilities association is
2789 mandatory and, if so, identify the fees currently charged per
2790 unit type. The division shall by rule require such other
2791 disclosure as it determines ~~in its judgment~~ will assist
2792 prospective purchasers. The prospectus or offering circular may
2793 include more than one cooperative, although not all such units
2794 are being offered for sale as of the date of the prospectus or
2795 offering circular. The prospectus or offering circular must
2796 contain the following information:

2797 (1) The front cover or the first page must contain only:

2798 (a) The name of the cooperative.

2799 (b) The following statements in conspicuous type:

2800 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
2801 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2802 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
2803 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
2804 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
2805 MATERIALS.

2806 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
2807 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
2808 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
2809 REPRESENTATIONS.

2810 (2) Summary: The next page must contain all statements
2811 required to be in conspicuous type in the prospectus or offering
2812 circular.

2813 (3) A separate index of the contents and exhibits of the

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2814 prospectus.

2815 (4) Beginning on the first page of the text (not including
2816 the summary and index), a description of the cooperative,
2817 including, but not limited to, the following information:

2818 (a) Its name and location.

2819 (b) A description of the cooperative property, including,
2820 without limitation:

2821 1. The number of buildings, the number of units in each
2822 building, the number of bathrooms and bedrooms in each unit, and
2823 the total number of units, if the cooperative is not a phase
2824 cooperative; or, if the cooperative is a phase cooperative, the
2825 maximum number of buildings that may be contained within the
2826 cooperative, the minimum and maximum number of units in each
2827 building, the minimum and maximum number of bathrooms and
2828 bedrooms that may be contained in each unit, and the maximum
2829 number of units that may be contained within the cooperative.

2830 2. The page in the cooperative documents where a copy of
2831 the survey and plot plan of the cooperative is located.

2832 3. The estimated latest date of completion of constructing,
2833 finishing, and equipping. In lieu of a date, a statement that
2834 the estimated date of completion of the cooperative is in the
2835 purchase agreement and a reference to the article or paragraph
2836 containing that information.

2837 (c) The maximum number of units that will use facilities in
2838 common with the cooperative. If the maximum number of units will
2839 vary, a description of the basis for variation and the minimum
2840 amount of dollars per unit to be spent for additional
2841 recreational facilities or enlargement of such facilities. If
2842 the addition or enlargement of facilities will result in a

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2843 material increase of a unit owner's maintenance expense or
2844 rental expense, if any, the maximum increase and limitations
2845 thereon must ~~shall~~ be stated.

2846 (5) (a) A statement in conspicuous type describing whether
2847 the cooperative is created and being sold as fee simple
2848 interests or as leasehold interests. If the cooperative is
2849 created or being sold on a leasehold, the location of the lease
2850 in the disclosure materials must ~~shall~~ be stated.

2851 (b) If timeshare estates are or may be created with respect
2852 to any unit in the cooperative, a statement in conspicuous type
2853 stating that timeshare estates are created and being sold in
2854 such specified units in the cooperative.

2855 (6) A description of the recreational and other common
2856 areas that will be used only by unit owners of the cooperative,
2857 including, but not limited to, ~~the following:~~

2858 (a) Each room and its intended purposes, location,
2859 approximate floor area, and capacity in numbers of people.

2860 (b) Each swimming pool, as to its general location,
2861 approximate size and depths, approximate deck size and capacity,
2862 and whether heated.

2863 (c) Additional facilities, as to the number of each
2864 facility, its approximate location, approximate size, and
2865 approximate capacity.

2866 (d) A general description of the items of personal property
2867 and the approximate number of each item of personal property
2868 which ~~that~~ the developer is committing to furnish for each room
2869 or other facility or, in the alternative, a representation as to
2870 the minimum amount of expenditure which ~~that~~ will be made to
2871 purchase the personal property for the facility.

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2872 (e) The estimated date when each room or other facility
2873 will be available for use by the unit owners.

2874 (f)1. An identification of each room or other facility to
2875 be used by unit owners that will not be owned by the unit owners
2876 or the association;

2877 2. A reference to the location in the disclosure materials
2878 of the lease or other agreements providing for the use of those
2879 facilities; and

2880 3. A description of the terms of the lease or other
2881 agreements, including the length of the term; the rent payable,
2882 directly or indirectly, by each unit owner, and the total rent
2883 payable to the lessor, stated in monthly and annual amounts for
2884 the entire term of the lease; and a description of any option to
2885 purchase the property leased under any such lease, including the
2886 time the option may be exercised, the purchase price or how it
2887 is to be determined, the manner of payment, and whether the
2888 option may be exercised for a unit owner's share or only as to
2889 the entire leased property.

2890 (g) A statement as to whether the developer may provide
2891 additional facilities not described above, their general
2892 locations and types, improvements or changes that may be made,
2893 the approximate dollar amount to be expended, and the maximum
2894 additional common expense or cost to the individual unit owners
2895 that may be charged during the first annual period of operation
2896 of the modified or added facilities.

2897
2898 Descriptions as to locations, areas, capacities, numbers,
2899 volumes, or sizes may be stated as approximations or minimums.

2900 (7) A description of the recreational and other facilities

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2901 that will be used in common with other cooperatives, community
2902 associations, or planned developments that ~~which~~ require the
2903 payment of the maintenance and expenses of such facilities,
2904 directly or indirectly, by the unit owners. The description must
2905 ~~shall~~ include, but is not be limited to, ~~the following:~~

2906 (a) Each building and facility committed to be built.

2907 (b) Facilities not committed to be built except under
2908 certain conditions, and a statement of those conditions or
2909 contingencies.

2910 (c) As to each facility committed to be built, or which
2911 will be committed to be built upon the happening of one of the
2912 conditions in paragraph (b), a statement of whether it will be
2913 owned by the unit owners having the use thereof or by an
2914 association or other entity that ~~which~~ will be controlled by
2915 them, or others, and the location in the exhibits of the lease
2916 or other document providing for use of those facilities.

2917 (d) The year in which each facility will be available for
2918 use by the unit owners or, in the alternative, the maximum
2919 number of unit owners in the project at the time each of all of
2920 the facilities is committed to be completed.

2921 (e) A general description of the items of personal
2922 property, and the approximate number of each item of personal
2923 property, that the developer is committing to furnish for each
2924 room or other facility or, in the alternative, a representation
2925 as to the minimum amount of expenditure which ~~that~~ will be made
2926 to purchase the personal property for the facility.

2927 (f) If there are leases, a description thereof, including
2928 the length of the term, the rent payable, and a description of
2929 any option to purchase.

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2930
 2931 Descriptions must ~~shall~~ include location, areas, capacities,
 2932 numbers, volumes, or sizes and may be stated as approximations
 2933 or minimums.

2934 (8) Recreation lease or associated club membership:

2935 (a) If any recreational facilities or other common areas
 2936 offered by the developer and available to, or to be used by,
 2937 unit owners are to be leased or have club membership associated,
 2938 the following statement in conspicuous type must ~~shall~~ be
 2939 included: THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED
 2940 WITH THIS COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED
 2941 WITH THIS COOPERATIVE. There must ~~shall~~ be a reference to the
 2942 location in the disclosure materials where the recreation lease
 2943 or club membership is described in detail.

2944 (b) If it is mandatory that unit owners pay a fee, rent,
 2945 dues, or other charges under a recreational facilities lease or
 2946 club membership for the use of facilities, one of the following
 2947 statements, as applicable, must be provided ~~there shall be in~~
 2948 conspicuous type ~~the applicable statement~~:

2949 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 2950 MANDATORY FOR UNIT OWNERS; ~~or~~

2951 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 2952 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; ~~or~~

2953 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS
 2954 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,
 2955 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE
 2956 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2957 4. A similar statement of the nature of the organization or
 2958 manner in which the use rights are created, and that unit owners

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2959 are required to pay.

2960
2961 Immediately following the applicable statement, the location in
2962 the disclosure materials where the development is described in
2963 detail must ~~shall~~ be stated.

2964 (c) If the developer, or any other person other than the
2965 unit owners and other persons having use rights in the
2966 facilities, reserves, or is entitled to receive, any rent, fee,
2967 or other payment for the use of the facilities, ~~then~~ there must
2968 ~~shall~~ be the following statement in conspicuous type: THE UNIT
2969 OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
2970 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this
2971 statement, the location in the disclosure materials where the
2972 rent or land use fees are described in detail must ~~shall~~ be
2973 stated.

2974 (d) If, in any recreation format, whether leasehold, club,
2975 or other, any person other than the association has the right to
2976 a lien on the units to secure the payment of assessments, rent,
2977 or other exactions, ~~there shall appear~~ a statement must appear
2978 in conspicuous type in substantially the following form:

2979 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2980 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
2981 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
2982 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2983 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2984 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
2985 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
2986 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE
2987 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

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2988
2989 Immediately following the applicable statement, the location in
2990 the disclosure materials where the lien or lien right is
2991 described in detail must ~~shall~~ be stated.

2992 (9) If the developer or any other person has the right to
2993 increase or add to the recreational facilities at any time after
2994 the establishment of the cooperative whose unit owners have use
2995 rights therein, without the consent of the unit owners or
2996 associations being required, ~~there shall appear~~ a statement in
2997 conspicuous type must appear in substantially the following
2998 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT
2999 CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately
3000 following this statement, the location in the disclosure
3001 materials where such reserved rights are described must ~~shall~~ be
3002 stated.

3003 (10) A statement of whether the developer's plan includes a
3004 program of leasing units rather than selling them, or leasing
3005 units and selling them subject to such leases. If so, there must
3006 ~~shall~~ be a description of the plan, including the number and
3007 identification of the units and the provisions and term of the
3008 proposed leases, and a statement in boldfaced type that: THE
3009 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

3010 (11) The arrangements for management of the association and
3011 maintenance and operation of the cooperative property and of
3012 other property that will serve the unit owners of the
3013 cooperative property, and a description of the management
3014 contract and all other contracts for these purposes having a
3015 term in excess of 1 year, including ~~the following~~:

3016 (a) The names of contracting parties.

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3017 (b) The term of the contract.

3018 (c) The nature of the services included.

3019 (d) The compensation, stated on a monthly and annual basis,
3020 and provisions for increases in the compensation.

3021 (e) A reference to the volumes and pages of the cooperative
3022 documents and of the exhibits containing copies of such
3023 contracts.

3024

3025 Copies of all described contracts must ~~shall~~ be attached as
3026 exhibits. If there is a contract for the management of the
3027 cooperative property, ~~then~~ a statement in conspicuous type in
3028 substantially the following form must ~~shall~~ appear, identifying
3029 the proposed or existing contract manager: THERE IS (IS TO BE) A
3030 CONTRACT FOR THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH
3031 (NAME OF THE CONTRACT MANAGER). Immediately following this
3032 statement, the location in the disclosure materials of the
3033 contract for management of the cooperative property must ~~shall~~
3034 be stated.

3035 (12) If the developer or any other person or persons other
3036 than the unit owners has the right to retain control of the
3037 board of administration of the association for a period of time
3038 which can exceed 1 year after the closing of the sale of a
3039 majority of the units in that cooperative to persons other than
3040 successors or alternate developers, then a statement in
3041 conspicuous type in substantially the following form must ~~shall~~
3042 be included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
3043 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
3044 HAVE BEEN SOLD. Immediately following this statement, the
3045 location in the disclosure materials where this right to control

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3046 is described in detail must ~~shall~~ be stated.

3047 (13) If there are any restrictions upon the sale, transfer,
3048 conveyance, or leasing of a unit, then a statement in
3049 conspicuous type in substantially the following form must ~~shall~~
3050 be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED
3051 OR CONTROLLED. Immediately following this statement, the
3052 location in the disclosure materials where the restriction,
3053 limitation, or control on the sale, lease, or transfer of units
3054 is described in detail must ~~shall~~ be stated.

3055 (14) If the cooperative is part of a phase project, the
3056 following shall be stated:

3057 (a) A statement in conspicuous type in substantially the
3058 following form must ~~shall~~ be included: THIS IS A PHASE
3059 COOPERATIVE. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS
3060 COOPERATIVE. Immediately following this statement, the location
3061 in the disclosure materials where the phasing is described must
3062 ~~shall~~ be stated.

3063 (b) A summary of the provisions of the declaration
3064 providing for the phasing.

3065 (c) A statement as to whether or not residential buildings
3066 and units that ~~which~~ are added to the cooperative may be
3067 substantially different from the residential buildings and units
3068 originally in the cooperative, and, if the added residential
3069 buildings and units may be substantially different, ~~there shall~~
3070 ~~be~~ a general description of the extent to which such added
3071 residential buildings and units may differ must be included, and
3072 a statement in conspicuous type in substantially the following
3073 form must ~~shall~~ be included: BUILDINGS AND UNITS THAT ~~WHICH~~ ARE
3074 ADDED TO THE COOPERATIVE MAY BE SUBSTANTIALLY DIFFERENT FROM THE

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3075 OTHER BUILDINGS AND UNITS IN THE COOPERATIVE. Immediately
3076 following this statement, the location in the disclosure
3077 materials where the extent to which added residential buildings
3078 and units may substantially differ is described must ~~shall~~ be
3079 stated.

3080 (d) A statement of the maximum number of buildings
3081 containing units, the maximum and minimum number of units in
3082 each building, the maximum number of units, and the minimum and
3083 maximum square footage of the units that may be contained within
3084 each parcel of land which may be added to the cooperative.

3085 (15) If the cooperative is created by conversion of
3086 existing improvements, the following information must ~~shall~~ be
3087 stated:

3088 (a) The information required by s. 719.616.

3089 (b) A caveat that there are no express warranties unless
3090 they are stated in writing by the developer.

3091 (16) A summary of the restrictions, if any, to be imposed
3092 on units concerning the use of any of the cooperative property,
3093 including statements as to whether there are restrictions upon
3094 children and pets, and reference to the volumes and pages of the
3095 cooperative documents where such restrictions are found, or if
3096 such restrictions are contained elsewhere, then a copy of the
3097 documents containing the restrictions shall be attached as an
3098 exhibit.

3099 (17) If there is any land that is offered by the developer
3100 for use by the unit owners and that is neither owned by them nor
3101 leased to them, the association, or any entity controlled by
3102 unit owners and other persons having the use rights to such
3103 land, a statement ~~shall be made~~ as to how such land will serve

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3104 the cooperative must be included. If any part of such land will
3105 serve the cooperative, the statement must ~~shall~~ describe the
3106 land and the nature and term of service, and the cooperative
3107 documents or other instrument creating such servitude must ~~shall~~
3108 be included as an exhibit.

3109 (18) The manner in which utility and other services,
3110 including, but not limited to, sewage and waste disposal, water
3111 supply, and storm drainage, will be provided and the person or
3112 entity furnishing them.

3113 (19) An explanation of the manner in which the
3114 apportionment of common expenses and ownership of the common
3115 areas have been determined.

3116 (20) An estimated operating budget for the cooperative and
3117 the association, and a schedule of the unit owner's expenses
3118 must ~~shall~~ be attached as an exhibit and ~~shall~~ contain the
3119 following information:

3120 (a) The estimated monthly and annual expenses of the
3121 cooperative and the association that are collected from unit
3122 owners by assessments.

3123 (b) The estimated monthly and annual expenses of each unit
3124 owner for a unit, other than assessments payable to the
3125 association, payable by the unit owner to persons or entities
3126 other than the association, and the total estimated monthly and
3127 annual expense. Expenses ~~There~~ may be excluded from this
3128 estimate which ~~expenses that~~ are personal to unit owners, ~~which~~
3129 are not uniformly incurred by all unit owners, or ~~which~~ are not
3130 provided for or contemplated by the cooperative documents,
3131 including, but not limited to, the costs of private telephone;
3132 maintenance of the interior of cooperative units, which is not

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3133 the obligation of the association; maid or janitorial services
3134 privately contracted for by the unit owners; utility bills
3135 billed directly to each unit owner for utility services to his
3136 or her unit; insurance premiums other than those incurred for
3137 policies obtained by the cooperative; and similar personal
3138 expenses of the unit owner. A unit owner's estimated payments
3139 for assessments must ~~shall~~ also be stated in the estimated
3140 amounts for the times when they will be due.

3141 (c) The estimated items of expenses of the cooperative and
3142 the association, except as excluded under paragraph (b),
3143 including, but not limited to, the following items, which must
3144 ~~shall~~ be stated as an association expense collectible by
3145 assessments or as unit owners' expenses payable to persons other
3146 than the association:

- 3147 1. Expenses for the association and cooperative:
- 3148 a. Administration of the association.
 - 3149 b. Management fees.
 - 3150 c. Maintenance.
 - 3151 d. Rent for recreational and other commonly used areas.
 - 3152 e. Taxes upon association property.
 - 3153 f. Taxes upon leased areas.
 - 3154 g. Insurance.
 - 3155 h. Security provisions.
 - 3156 i. Other expenses.
 - 3157 j. Operating capital.
 - 3158 k. Reserves.
- 3159 1. Fee payable to the division.
- 3160 2. Expenses for a unit owner:
- 3161 a. Rent for the unit, if subject to a lease.

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3162 b. Rent payable by the unit owner directly to the lessor or
3163 agent under any recreational lease or lease for the use of
3164 commonly used areas, ~~which use and payment~~ are a mandatory
3165 condition of ownership and are not included in the common
3166 expense or assessments for common maintenance paid by the unit
3167 owners to the association.

3168 (d) The following statement in conspicuous type: THE BUDGET
3169 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
3170 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
3171 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
3172 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
3173 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
3174 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
3175 THE OFFERING.

3176 (e) Each budget for an association prepared by a developer
3177 consistent with this subsection shall be prepared in good faith
3178 and ~~shall~~ reflect accurate estimated amounts for the required
3179 items in paragraph (c) at the time of the filing of the offering
3180 circular with the division, and subsequent increased amounts of
3181 any item included in the association's estimated budget which
3182 ~~that~~ are beyond the control of the developer may ~~shall~~ not be
3183 considered an amendment that would give rise to rescission
3184 rights set forth in s. 719.503(1)(a) or (b), nor shall such
3185 increases modify, void, or otherwise affect any guarantee of the
3186 developer contained in the offering circular or any purchase
3187 contract. It is the intent of this paragraph to clarify existing
3188 law.

3189 (f) The estimated amounts shall be stated for ~~a period of~~
3190 at least 12 months and may distinguish between the period prior

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3191 to the time unit owners other than the developer elect a
3192 majority of the board of administration and the period after
3193 that date.

3194 (21) A schedule of estimated closing expenses to be paid by
3195 a buyer or lessee of a unit and a statement of whether title
3196 opinion or title insurance policy is available to the buyer and,
3197 if so, at whose expense.

3198 (22) The identity of the developer and the chief operating
3199 officer or principal directing the creation and sale of the
3200 cooperative and a statement of its and his or her experience in
3201 this field.

3202 (23) Copies of the following, to the extent they are
3203 applicable, must ~~shall~~ be included as exhibits:

3204 (a) The cooperative documents, or the proposed cooperative
3205 documents if the documents have not been recorded.

3206 (b) The articles of incorporation creating the association.

3207 (c) The bylaws of the association.

3208 (d) The ground lease or other underlying lease of the
3209 cooperative.

3210 (e) The management agreement and all maintenance and other
3211 contracts for management of the association and operation of the
3212 cooperative and facilities used by the unit owners having a
3213 service term in excess of 1 year.

3214 (f) The estimated operating budget for the cooperative and
3215 the required schedule of unit owners' expenses.

3216 (g) A copy of the floor plan of the unit and the plot plan
3217 showing the location of the residential buildings and the
3218 recreation and other common areas.

3219 (h) The lease of recreational and other facilities that

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- 3220 will be used only by unit owners of the subject cooperative.
- 3221 (i) The lease of facilities used by owners and others.
- 3222 (j) The form of unit lease, if the offer is of a leasehold.
- 3223 (k) A declaration of servitude of properties serving the
- 3224 cooperative but not owned by unit owners or leased to them or
- 3225 the association.
- 3226 (l) The statement of condition of the existing building or
- 3227 buildings, if the offering is of units in an operation being
- 3228 converted to cooperative ownership.
- 3229 (m) The statement of inspection for termite damage and
- 3230 treatment of the existing improvements, if the cooperative is a
- 3231 conversion.
- 3232 (n) The form of agreement for sale or lease of units.
- 3233 (o) A copy of the agreement for escrow of payments made to
- 3234 the developer before ~~prior to~~ closing.
- 3235 (p) A copy of the documents containing any restrictions on
- 3236 use of the property required by subsection (16).
- 3237 (24) Any prospectus or offering circular complying with ~~the~~
- 3238 ~~provisions of~~ former ss. 711.69 and 711.802 may continue to be
- 3239 used without amendment, or may be amended to comply with this
- 3240 chapter.
- 3241 (25) A brief narrative description of the location and
- 3242 effect of all existing and intended easements located or to be
- 3243 located on the cooperative property other than those in the
- 3244 declaration.
- 3245 (26) If the developer is required by state or local
- 3246 authorities to obtain acceptance or approval of any dock or
- 3247 marina facility intended to serve the cooperative, a copy of
- 3248 such acceptance or approval acquired by the time of filing with

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3249 the division pursuant to s. 719.502 or a statement that such
3250 acceptance has not been acquired or received.

3251 (27) Evidence demonstrating that the developer has an
3252 ownership, leasehold, or contractual interest in the land upon
3253 which the cooperative is to be developed.

3254 Section 38. Section 719.508, Florida Statutes, is amended
3255 to read:

3256 719.508 Regulation by Division of Hotels and Restaurants.-
3257 In addition to the authority, regulation, or control exercised
3258 by the division ~~of Florida Condominiums, Timeshares, and Mobile~~
3259 ~~Homes~~ pursuant to this chapter ~~act~~ with respect to cooperatives,
3260 buildings included in a cooperative property are ~~shall be~~
3261 subject to the authority, regulation, or control of the Division
3262 of Hotels and Restaurants of the Department of Business and
3263 Professional Regulation, to the extent provided in chapters 399
3264 and 509.

3265 Section 39. Paragraph (a) of subsection (2) of section
3266 719.608, Florida Statutes, is amended to read:

3267 719.608 Notice of intended conversion; time of delivery;
3268 content.-

3269 (2) (a) Each notice of intended conversion shall be dated
3270 and in writing. The notice must ~~shall~~ contain the following
3271 statement, with the phrases of the following statement which
3272 appear in upper case printed in conspicuous type:

3273

3274 These apartments are being converted to cooperative by
3275 ...(name of developer)..., the developer.

3276 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
3277 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL

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3278 AGREEMENT AS FOLLOWS:

3279 a. If you have continuously been a resident of these
3280 apartments during the last 180 days and your rental agreement
3281 expires during the next 270 days, you may extend your rental
3282 agreement for up to 270 days after the date of this notice.

3283 b. If you have not been a continuous resident of these
3284 apartments for the last 180 days and your rental agreement
3285 expires during the next 180 days, you may extend your rental
3286 agreement for up to 180 days after the date of this notice.

3287 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
3288 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
3289 DATE OF THIS NOTICE.

3290 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
3291 you may extend your rental agreement for up to 45 days after the
3292 date of this notice while you decide whether to extend your
3293 rental agreement as explained above. To do so, you must notify
3294 the developer in writing. You will then have the full 45 days to
3295 decide whether to extend your rental agreement as explained
3296 above.

3297 3. During the extension of your rental agreement you will
3298 be charged the same rent that you are now paying.

3299 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
3300 OF THE RENTAL AGREEMENT AS FOLLOWS:

3301 a. If your rental agreement began or was extended or
3302 renewed after May 1, 1980, and your rental agreement, including
3303 extensions and renewals, has an unexpired term of 180 days or
3304 less, you may cancel your rental agreement upon 30 days' written
3305 notice and move. Also, upon 30 days' written notice, you may
3306 cancel any extension of the rental agreement.

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3307 b. If your rental agreement was not begun or was not
3308 extended or renewed after May 1, 1980, you may not cancel the
3309 rental agreement without the consent of the developer. If your
3310 rental agreement, including extensions and renewals, has an
3311 unexpired term of 180 days or less, you may, however, upon 30
3312 days' written notice cancel any extension of the rental
3313 agreement.

3314 5. All notices must be given in writing and sent by mail,
3315 return receipt requested, or delivered in person to the
3316 developer at this address: ... (name and address of
3317 developer)....

3318 6. If you have continuously been a resident of these
3319 apartments during the last 180 days:

3320 a. You have the right to purchase your apartment and will
3321 have 45 days to decide whether to purchase. If you do not buy
3322 the unit at that price and the unit is later offered at a lower
3323 price, you will have the opportunity to buy the unit at the
3324 lower price. However, ~~in all events~~ your right to purchase the
3325 unit ends when the rental agreement or any extension of the
3326 rental agreement ends or when you waive this right in writing.

3327 b. Within 90 days you will be provided purchase information
3328 relating to your apartment, including the price of your unit and
3329 the condition of the building. If you do not receive this
3330 information within 90 days, your rental agreement and any
3331 extension will be extended 1 day for each day over 90 days until
3332 you are given the purchase information. If you do not want this
3333 rental agreement extension, you must notify the developer in
3334 writing.

3335 7. If you have any questions regarding this conversion or

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3336 the Cooperative Act, you may contact the developer or the state
3337 agency that ~~which~~ regulates cooperatives: The Division of
3338 Florida Condominiums, Homeowners' Associations, Timeshares, and
3339 Mobile Homes, ... (Tallahassee address and telephone number of
3340 division)....

3341 Section 40. Subsection (11) of section 721.05, Florida
3342 Statutes, is amended to read:

3343 721.05 Definitions.—As used in this chapter, the term:

3344 (11) "Division" means the Division of Florida Condominiums,
3345 Homeowners' Associations, Timeshares, and Mobile Homes of the
3346 Department of Business and Professional Regulation.

3347 Section 41. Paragraph (d) of subsection (2) of section
3348 721.07, Florida Statutes, is amended to read:

3349 721.07 Public offering statement.—Before ~~Prior to~~ offering
3350 any timeshare plan, the developer must submit a filed public
3351 offering statement to the division for approval as prescribed by
3352 s. 721.03, s. 721.55, or this section. Until the division
3353 approves such filing, any contract regarding the sale of that
3354 timeshare plan is subject to cancellation by the purchaser
3355 pursuant to s. 721.10.

3356 (2)

3357 (d) A developer may ~~shall have the authority to~~ deliver to
3358 purchasers any purchaser public offering statement that is not
3359 yet approved by the division if, ~~provided that~~ the following
3360 applies ~~shall apply~~:

3361 1. At the time the developer delivers an unapproved
3362 purchaser public offering statement to a purchaser pursuant to
3363 this paragraph, the developer shall deliver a fully completed
3364 and executed copy of the purchase contract required by s. 721.06

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3365 which ~~that~~ contains the following statement in conspicuous type
3366 in substantially the following form which replaces ~~shall replace~~
3367 the statements required by s. 721.06(1)(g):

3368
3369 *The developer is delivering to you a public offering statement*
3370 *that has been filed with but not yet approved by the Division of*
3371 *Florida Condominiums, Homeowners' Associations, Timeshares, and*
3372 *Mobile Homes. Any revisions to the unapproved public offering*
3373 *statement you have received must be delivered to you, but only*
3374 *if the revisions materially alter or modify the offering in a*
3375 *manner adverse to you. After the division approves the public*
3376 *offering statement, you will receive notice of the approval from*
3377 *the developer and the required revisions, if any.*

3378
3379 *Your statutory right to cancel this transaction without any*
3380 *penalty or obligation expires 10 calendar days after the date*
3381 *you signed your purchase contract or the date on which you*
3382 *receive the last of all documents required to be given to you*
3383 *pursuant to section 721.07(6), Florida Statutes, or 10 calendar*
3384 *days after you receive revisions required to be delivered to*
3385 *you, if any, whichever is later. If you decide to cancel this*
3386 *contract, you must notify the seller in writing of your intent*
3387 *to cancel. Your notice of cancellation shall be effective upon*
3388 *the date sent and shall be sent to ... (Name of Seller) ... at*
3389 *... (Address of Seller) ... Any attempt to obtain a waiver of*
3390 *your cancellation right is void and of no effect. While you may*
3391 *execute all closing documents in advance, the closing, as*
3392 *evidenced by delivery of the deed or other document, before*
3393 *expiration of your 10-day cancellation period, is prohibited.*

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3394

3395 2. After receipt of approval from the division and before
3396 ~~prior to~~ closing, if any revisions made to the documents
3397 contained in the purchaser public offering statement materially
3398 alter or modify the offering in a manner adverse to a purchaser,
3399 the developer shall send the purchaser such revisions, together
3400 with a notice containing a statement in conspicuous type in
3401 substantially the following form:

3402

3403 *The unapproved public offering statement previously delivered to*
3404 *you, together with the enclosed revisions, has been approved by*
3405 *the Division of Florida Condominiums, Homeowners' Associations,*
3406 *Timeshares, and Mobile Homes. Accordingly, your cancellation*
3407 *right expires 10 calendar days after you sign your purchase*
3408 *contract or 10 calendar days after you receive these revisions,*
3409 *whichever is later. If you have any questions regarding your*
3410 *cancellation rights, you may contact the division at [insert*
3411 *division's current address].*

3412

3413 3. After receipt of approval from the division and before
3414 ~~prior to~~ closing, if no revisions have been made to the
3415 documents contained in the unapproved purchaser public offering
3416 statement, or if such revisions do not materially alter or
3417 modify the offering in a manner adverse to a purchaser, the
3418 developer shall send the purchaser a notice containing a
3419 statement in conspicuous type in substantially the following
3420 form:

3421

3422 *The unapproved public offering statement previously delivered to*

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3423 you has been approved by the Division of Florida Condominiums,
3424 Homeowners' Associations, Timeshares, and Mobile Homes.
3425 Revisions made to the unapproved public offering statement, if
3426 any, are not required to be delivered to you or are not deemed
3427 by the developer, in its opinion, to materially alter or modify
3428 the offering in a manner that is adverse to you. Accordingly,
3429 your cancellation right expired 10 days after you signed your
3430 purchase contract. A complete copy of the approved public
3431 offering statement is available through the managing entity for
3432 inspection as part of the books and records of the plan. If you
3433 have any questions regarding your cancellation rights, you may
3434 contact the division at [insert division's current address].

3435 Section 42. Subsection (8) of section 721.08, Florida
3436 Statutes, is amended to read:

3437 721.08 Escrow accounts; nondisturbance instruments;
3438 alternate security arrangements; transfer of legal title.—

3439 (8) An escrow agent holding escrowed funds pursuant to this
3440 chapter which ~~that~~ have not been claimed for ~~a period of~~ 5 years
3441 after the date of deposit shall make at least one reasonable
3442 attempt to deliver such unclaimed funds to the purchaser who
3443 submitted such funds to escrow. In making such attempt, an
3444 escrow agent is entitled to rely on a purchaser's last known
3445 address as set forth in the books and records of the escrow
3446 agent and is not required to conduct any further search for the
3447 purchaser. If an escrow agent's attempt to deliver unclaimed
3448 funds to any purchaser is unsuccessful, the escrow agent may
3449 deliver the ~~such~~ unclaimed funds to the division and the
3450 division shall deposit such ~~unclaimed~~ funds in the ~~Division of~~
3451 Florida Condominiums, Homeowners' Associations, Timeshares, and

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3452 Mobile Homes Trust Fund, 30 days after giving notice in a
3453 publication of general circulation in the county in which the
3454 timeshare property containing the purchaser's timeshare interest
3455 is located. The purchaser may claim the same at any time before
3456 ~~prior to~~ the delivery of such funds to the division. After
3457 delivery of such funds ~~to the division~~, the purchaser has ~~shall~~
3458 ~~have~~ no more rights to the unclaimed funds. The escrow agent is
3459 ~~shall~~ not be liable for any claims from any party arising out of
3460 the escrow agent's delivery of the unclaimed funds to the
3461 division pursuant to this section.

3462 Section 43. Paragraph (e) of subsection (5) of section
3463 721.26, Florida Statutes, is amended to read:

3464 721.26 Regulation by division.—The division has the power
3465 to enforce and ensure compliance with this chapter, except for
3466 parts III and IV, using the powers provided in this chapter, as
3467 well as the powers prescribed in chapters 718 and 719. In
3468 performing its duties, the division shall have the following
3469 powers and duties:

3470 (5) Notwithstanding any remedies available to purchasers,
3471 if the division has reasonable cause to believe that a violation
3472 of this chapter, or of any division rule adopted or order issued
3473 pursuant to this chapter, has occurred, the division may
3474 institute enforcement proceedings in its own name against any
3475 regulated party, as such term is defined in this subsection:

3476 (e)1. The division may impose a penalty against any
3477 regulated party for a violation of this chapter or any rule
3478 adopted thereunder. A penalty may be imposed on the basis of
3479 each day of continuing violation, but ~~in no event~~ may not ~~the~~
3480 ~~penalty for any offense~~ exceed \$10,000. All accounts collected

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3481 shall be deposited with the Chief Financial Officer to the
3482 credit of the ~~Division of~~ Florida Condominiums, Homeowners'
3483 Associations, Timeshares, and Mobile Homes Trust Fund.

3484 2.a. If a regulated party fails to pay a penalty, the
3485 division shall ~~thereupon~~ issue an order directing that such
3486 regulated party cease and desist from further operation until
3487 ~~such time as~~ the penalty is paid; or the division may pursue
3488 court enforcement of the penalty ~~in a court of competent~~
3489 ~~jurisdiction.~~

3490 b. If an owners' association or managing entity fails to
3491 pay a civil penalty, the division may pursue court enforcement
3492 ~~in a court of competent jurisdiction.~~

3493 Section 44. Section 721.28, Florida Statutes, is amended to
3494 read:

3495 721.28 ~~Division of~~ Florida Condominiums, Homeowners'
3496 Associations, Timeshares, and Mobile Homes Trust Fund.—All funds
3497 collected by the division and any amounts paid as fees, fines,
3498 or penalties or from costs awarded to the division by a court or
3499 administrative final order under this chapter shall be deposited
3500 in the State Treasury to the credit of the ~~Division of~~ Florida
3501 Condominiums, Homeowners' Associations, Timeshares, and Mobile
3502 Homes Trust Fund created by s. 718.509.

3503 Section 45. Paragraph (c) of subsection (1) of section
3504 721.301, Florida Statutes, is amended to read:

3505 721.301 Florida Timesharing, Vacation Club, and Hospitality
3506 Program.—

3507 (1)

3508 (c) The director may designate up to \$50,000 annually funds
3509 from the ~~Division of~~ Florida Condominiums, Homeowners'

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3510 Associations, Timeshares, and Mobile Homes Trust Fund, ~~not to~~
3511 ~~exceed \$50,000 annually,~~ to support the projects and proposals
3512 undertaken pursuant to paragraph (b). All state trust funds to
3513 be expended pursuant to this section must be matched equally
3514 with private moneys and ~~shall~~ comprise no more than half of the
3515 total moneys expended annually.

3516 Section 46. Subsection (1) of section 723.003, Florida
3517 Statutes, is amended to read:

3518 723.003 Definitions.—As used in this chapter, the following
3519 words and terms have the following meanings unless clearly
3520 indicated otherwise:

3521 (1) The term "division" means the Division of Florida
3522 Condominiums, Homeowners' Associations, Timeshares, and Mobile
3523 Homes of the Department of Business and Professional Regulation.

3524 Section 47. Paragraph (e) of subsection (5) of section
3525 723.006, Florida Statutes, is amended to read:

3526 723.006 Powers and duties of division.—In performing its
3527 duties, the division has the following powers and duties:

3528 (5) Notwithstanding any remedies available to mobile home
3529 owners, mobile home park owners, and homeowners' associations,
3530 if the division has reasonable cause to believe that a violation
3531 of any provision of this chapter or related rule has occurred,
3532 the division may institute enforcement proceedings in its own
3533 name against a developer, mobile home park owner, or homeowners'
3534 association, or its assignee or agent, as follows:

3535 (e)1. The division may impose a civil penalty against a
3536 mobile home park owner or homeowners' association, or its
3537 assignee or agent, for any violation of this chapter, related
3538 rule, or a properly adopted park rule ~~or regulation, or a rule~~

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3539 ~~adopted pursuant hereto.~~ A penalty may be imposed on the basis
3540 of each separate violation and, if the violation is a continuing
3541 one, for each day of continuing violation, but in no event may
3542 the penalty for each separate violation or for each day of
3543 continuing violation exceed \$5,000. All amounts collected shall
3544 be deposited with the Chief Financial Officer to the credit of
3545 the ~~Division of~~ Florida Condominiums, Homeowners' Associations,
3546 Timeshares, and Mobile Homes Trust Fund.

3547 2. If a violator fails to pay the civil penalty, the
3548 division shall ~~thereupon~~ issue an order directing that such
3549 violator cease and desist from further violation until such time
3550 as the civil penalty is paid or may pursue enforcement of the
3551 penalty in a court of competent jurisdiction. If a homeowners'
3552 association fails to pay the civil penalty, the division shall
3553 ~~thereupon~~ pursue court enforcement ~~in a court of competent~~
3554 ~~jurisdiction,~~ and the order imposing the civil penalty or the
3555 cease and desist order does ~~shall~~ not become effective until 20
3556 days after the date of such order. Any action commenced by the
3557 division shall be brought in the county in which the division
3558 has its executive offices or in which the violation occurred.

3559 Section 48. Section 723.009, Florida Statutes, is amended
3560 to read:

3561 723.009 ~~Division of~~ Florida Condominiums, Homeowners'
3562 Associations, Timeshares, and Mobile Homes Trust Fund.—All
3563 proceeds from the fees, penalties, and fines imposed pursuant to
3564 this chapter shall be deposited into the ~~Division of~~ Florida
3565 Condominiums, Homeowners' Associations, Timeshares, and Mobile
3566 Homes Trust Fund created by s. 718.509. Moneys in the ~~this~~ fund,
3567 as appropriated by the Legislature pursuant to chapter 216, may

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3568 be used to defray the expenses incurred by the division in
3569 administering the provisions of this chapter.

3570 Section 49. Paragraph (c) of subsection (2) of section
3571 723.0611, Florida Statutes, is amended to read:

3572 723.0611 Florida Mobile Home Relocation Corporation.—

3573 (2)

3574 (c) The corporation shall, for purposes of s. 768.28, be
3575 considered an agency of the state. Agents or employees of the
3576 corporation, members of the board of directors of the
3577 corporation, or representatives of the division ~~of Florida~~
3578 ~~Condominiums, Timeshares, and Mobile Homes~~ shall be considered
3579 officers, employees, or agents of the state, and actions against
3580 them and the corporation are ~~shall be~~ governed by s. 768.28.

3581 Section 50. This act shall take effect July 1, 2013.