

By the Committee on Business Regulation and Representative
Kyle

1 A bill to be entitled
2 An act relating to the Department of Business
3 and Professional Regulation; amending s.
4 20.165, F.S.; renaming the Division of Florida
5 Land Sales, Condominiums, and Mobile Homes as
6 the Division of Condominiums, Timeshare, and
7 Mobile Homes; including reference to the Board
8 of Barbering and Cosmetology; revising minimum
9 requirements for the number of consumer members
10 on professional licensing boards; amending ss.
11 326.001, 326.002, 326.003, 326.004, and
12 326.006, F.S.; transferring the regulation of
13 yacht and ship brokers and salespersons from
14 the Division of Florida Land Sales,
15 Condominiums, and Mobile Homes to the Division
16 of Professions; revising provisions relating to
17 criminal history checks and administrative and
18 civil penalties; requiring that all funds
19 collected pursuant to such regulation be
20 deposited into the Professional Regulation
21 Trust Fund; revising references; amending s.
22 455.213, F.S.; providing that all applications
23 for licensure be prescribed by the department;
24 providing for the electronic submission of
25 information to the department; providing that
26 all legal obligations must be met before the
27 issuance or renewal of a license; amending s.
28 455.224, F.S.; authorizing any division of the
29 department to issue citations in the
30 enforcement of its regulatory provisions in
31 accordance with the provisions established for

1 such purposes for the regulation of
2 professions; amending ss. 468.401, 468.402,
3 468.403, 468.404, 468.406, 468.407, 468.410,
4 468.412, 468.413, 468.414, and 468.415, F.S.;
5 providing for registration of talent agencies
6 in lieu of licensure; conforming provisions;
7 providing penalties; repealing ss. 468.405 and
8 468.408, F.S., relating to qualification for
9 talent agency license and bonding requirements;
10 amending s. 468.609, F.S.; authorizing direct
11 supervision by building code administrators by
12 telecommunications devices in certain
13 localities and under specified circumstances;
14 amending s. 468.627, F.S.; requiring the
15 payment of costs for certain building code
16 enforcement applicants who fail to appear for
17 scheduled examinations, subject to waiver in
18 case of hardship; amending s. 471.025, F.S.;
19 allowing for more than one type of seal to be
20 used by professional engineers; amending s.
21 472.003, F.S.; providing exemption from ch.
22 472, F.S., relating to land surveying and
23 mapping, for certain subordinate employees;
24 revising cross references; amending s. 472.005,
25 F.S.; revising and providing definitions;
26 revising cross references; amending s. 472.029,
27 F.S.; revising provisions relating to access to
28 lands of others for surveying or mapping
29 purposes; providing applicability to
30 subordinates; requiring certain notice;
31 amending s. 810.12, F.S.; revising provisions

1 relating to trespass, to conform; amending ss.
2 472.001, 472.011, 472.015, 472.021, 472.027,
3 472.031, and 472.037, F.S.; revising cross
4 references; amending s. 476.034, F.S.;
5 redefining the term "board"; amending s.
6 476.054, F.S.; creating the Board of Barbering
7 and Cosmetology; providing certain
8 compensation; requiring an oath and providing
9 for a certificate of appointment; providing for
10 officers, meetings, and quorum; amending s.
11 476.064, F.S.; conforming provisions; amending
12 ss. 476.014, 476.074, 476.154, 476.194,
13 476.214, and 476.234, F.S.; revising
14 references; amending s. 477.013, F.S.; defining
15 the term "board"; repealing s. 477.015, F.S.,
16 relating to the Board of Cosmetology;
17 abolishing the Barbers' Board and the Board of
18 Cosmetology; providing for appointment of all
19 members of the Board of Barbering and
20 Cosmetology to staggered terms; providing
21 savings clauses for rules and legal actions;
22 amending s. 477.019, F.S.; eliminating a
23 requirement for refresher courses and
24 examinations for failure of cosmetology
25 licensees to comply with continuing education
26 requirements; amending s. 477.026, F.S.;
27 providing authority for registration renewal
28 and delinquent fees for hair braiders, hair
29 wrappers, and body wrappers; amending s.
30 481.209, F.S.; revising requirements relating
31 to education for licensure as an architect;

1 amending s. 481.223, F.S.; providing for
2 injunctive relief for certain violations
3 relating to architecture and interior design;
4 amending s. 489.107, F.S.; reducing the number
5 of members on the Construction Industry
6 Licensing Board; relocating the offices of the
7 board; creating s. 489.1133, F.S.; providing
8 for temporary certificates and registrations;
9 amending s. 489.115, F.S.; eliminating
10 references to divisions of the Construction
11 Industry Licensing Board; amending s. 489.118,
12 F.S.; revising grandfathering provisions for
13 certification of registered contractors to
14 qualify persons holding certain registered
15 local specialty licenses; repealing s.
16 489.507(6), F.S., to delete a duplicate
17 provision relating to appointment of committees
18 of the Construction Industry Licensing Board
19 and the Electrical Contractors' Licensing Board
20 for the purpose of meeting jointly twice each
21 year; requiring the Electrical Contractors'
22 Licensing Board to develop a plan to reduce its
23 annual operating budget by a specified amount
24 and submit such plan to the department by a
25 specified date; amending s. 489.511, F.S.;
26 revising provisions relating to licensure as an
27 electrical or alarm system contractor by
28 endorsement; amending ss. 498.005, 498.019, and
29 498.049, F.S.; reassigning the regulation of
30 land sales from the Division of Florida Land
31 Sales, Condominiums, and Mobile Homes to the

1 Division of Real Estate; requiring all funds
2 collected by the department pursuant to the
3 regulation of land sales to be deposited in the
4 Professional Regulation Trust Fund; amending s.
5 190.009, F.S.; conforming terminology; amending
6 ss. 718.103, 718.105, 718.1255, 718.501,
7 718.502, 718.504, 718.508, 718.509, 718.608,
8 719.103, 719.1255, 719.501, 719.502, 719.504,
9 719.508, 719.608, 721.05, 721.07, 721.08,
10 721.26, 721.28, 721.301, 721.50, 723.003,
11 723.006, 723.0065, and 723.009, F.S.; renaming
12 the Division of Florida Land Sales,
13 Condominiums, and Mobile Homes as the Division
14 of Condominiums, Timeshare, and Mobile Homes;
15 renaming the Division of Florida Land Sales,
16 Condominiums, and Mobile Homes Trust Fund as
17 the Division of Condominiums, Timeshare, and
18 Mobile Homes Trust Fund; conforming provisions;
19 providing division enforcement powers and
20 duties; providing for injunction, restitution,
21 and civil penalties; providing certain
22 immunity; providing for use of certain
23 documents as evidence; providing for certain
24 notice; providing for intervention in suits;
25 locating the executive offices of the division
26 in Tallahassee; authorizing branch offices;
27 providing for adoption and use of a seal;
28 providing applicability to specified chapters
29 of the Florida Statutes; amending ss. 73.073,
30 192.037, 213.053, 215.20, 380.0651, 455.116,
31

1 475.455, 509.512, and 559.935, F.S.; conforming
2 terminology; providing effective dates.

3

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

5

6 Section 1. Paragraph (d) of subsection (2), paragraph
7 (a) of subsection (4), and subsection (6) of section 20.165,
8 Florida Statutes, are amended to read:

9 20.165 Department of Business and Professional
10 Regulation.--There is created a Department of Business and
11 Professional Regulation.

12 (2) The following divisions of the Department of
13 Business and Professional Regulation are established:

14 (d) Division of ~~Florida Land Sales~~, Condominiums,
15 Timeshare, and Mobile Homes.

16 (4)(a) The following boards are established within the
17 Division of Professions:

18 1. Board of Architecture and Interior Design, created
19 under part I of chapter 481.

20 2. Florida Board of Auctioneers, created under part VI
21 of chapter 468.

22 3. ~~Barbers~~ Board of Barbering and Cosmetology,
23 created under chapter 476.

24 4. Florida Building Code Administrators and Inspectors
25 Board, created under part XII of chapter 468.

26 5. Construction Industry Licensing Board, created
27 under part I of chapter 489.

28 ~~6. Board of Cosmetology, created under chapter 477.~~

29 ~~6.7.~~ Electrical Contractors' Licensing Board, created
30 under part II of chapter 489.

31

1 ~~7.8.~~ Board of Employee Leasing Companies, created
2 under part XI of chapter 468.
3 ~~8.9.~~ Board of Funeral Directors and Embalmers, created
4 under chapter 470.
5 ~~9.10.~~ Board of Landscape Architecture, created under
6 part II of chapter 481.
7 ~~10.11.~~ Board of Pilot Commissioners, created under
8 chapter 310.
9 ~~11.12.~~ Board of Professional Engineers, created under
10 chapter 471.
11 ~~12.13.~~ Board of Professional Geologists, created under
12 chapter 492.
13 ~~13.14.~~ Board of Professional Surveyors and Mappers,
14 created under chapter 472.
15 ~~14.15.~~ Board of Veterinary Medicine, created under
16 chapter 474.
17 (6) Each board with ~~five or~~ more than seven members
18 shall have at least two consumer members who are not, and have
19 never been, members or practitioners of the profession
20 regulated by such board or of any closely related profession.
21 Each board with seven or fewer ~~than five~~ members shall have at
22 least one consumer member who is not, and has never been, a
23 member or practitioner of the profession regulated by such
24 board or of any closely related profession.
25 Section 2. Section 326.001, Florida Statutes, is
26 amended to read:
27 326.001 Short title.--This chapter Sections
28 ~~326.001-326.006~~ may be cited as the "Yacht and Ship Brokers'
29 Act."
30 Section 3. Section 326.002, Florida Statutes, is
31 amended to read:

1 326.002 Definitions.--As used in this chapter ~~ss.~~
2 ~~326.001-326.006~~, the term:
3 (1) "Broker" means a person who, for or in expectation
4 of compensation: sells, offers, or negotiates to sell; buys,
5 offers, or negotiates to buy; solicits or obtains listings of;
6 or negotiates the purchase, sale, or exchange of, yachts for
7 other persons.
8 (2) "Department" ~~"Division"~~ means the ~~Division of~~
9 ~~Florida Land Sales, Condominiums, and Mobile Homes of the~~
10 Department of Business and Professional Regulation.
11 (3) "Salesperson" means a person who, for or in
12 expectation of compensation, is employed by a broker to
13 perform any acts of a broker.
14 (4) "Yacht" means any vessel which is propelled by
15 sail or machinery in the water which exceeds 32 feet in
16 length, and which weighs less than 300 gross tons.
17 (5) "Person" means an individual, partnership, firm,
18 corporation, association, or other entity.
19 Section 4. Section 326.003, Florida Statutes, is
20 amended to read:
21 326.003 Administration.--The department ~~division~~
22 shall:
23 (1) Administer ~~ss. 326.001-326.006~~ and collect fees
24 sufficient to administer this chapter ~~ss. 326.001-326.006~~.
25 (2) Adopt rules pursuant to ss. 120.536(1) and 120.54
26 necessary to administer this chapter ~~implement ss.~~
27 ~~326.001-326.006~~ and to classify brokers and salespersons and
28 regulate their activities.
29 (3) Enforce the provisions of this chapter ~~ss.~~
30 ~~326.001-326.006~~ against any person who operates as a broker or
31 salesperson without a license.

1 Section 5. Section 326.004, Florida Statutes, is
2 amended to read:

3 326.004 Licensing.--

4 (1) A person may not act as a broker or salesperson
5 unless licensed under the Yacht and Ship Brokers' Act. The
6 department ~~division~~ shall adopt rules establishing a procedure
7 for the biennial renewal of licenses.

8 (2) A broker may not engage in business as a broker
9 under a fictitious name unless his or her license is issued in
10 such name.

11 (3) A license is not required for:

12 (a) A person who sells his or her own yacht.

13 (b) An attorney at law for services rendered in his or
14 her professional capacity.

15 (c) A receiver, trustee, or other person acting under
16 a court order.

17 (d) A transaction involving the sale of a new yacht.

18 (e) A transaction involving the foreclosure of a
19 security interest in a yacht.

20 (4) Any person who purchases a used yacht for resale
21 must transfer title to such yacht into his or her name and
22 maintain the title or bill of sale in his or her possession to
23 be exempt from licensure.

24 (5) The department ~~division~~ by rule shall establish
25 fees for application, initial licensing, biennial renewal, and
26 reinstatement of licenses in an amount not to exceed \$500.
27 The fees must be set in an amount that is adequate to
28 proportionately fund the expenses of the department ~~division~~
29 in this chapter ~~ss. 326.001-326.006~~.

30 (6) The department ~~division~~ may deny a license or
31 license renewal to any applicant who does not:

- 1 (a) Furnish proof satisfactory to the department
2 ~~division~~ that he or she is of good moral character.
- 3 (b) Certify that he or she has never been convicted of
4 a felony.
- 5 (c) Post the bond required by the Yacht and Ship
6 Brokers' Act.
- 7 (d) Demonstrate that he or she is a resident of this
8 state or that he or she conducts business in this state.
- 9 (e) Furnish a full set of fingerprints taken within
10 the 6 months immediately preceding the submission of the
11 application.
- 12 (f) Have a current license and has operated as a
13 broker or salesperson without a license.
- 14 (7)(a) Before any license may be issued to a yacht or
15 ship broker, he or she must deliver to the department ~~division~~
16 a good and sufficient surety bond or irrevocable letter of
17 credit, executed by the broker as principal, in the sum of
18 \$25,000.
- 19 (b) Surety bonds and irrevocable letters of credit
20 must be in a form to be approved by the department ~~division~~
21 and must be conditioned upon the broker complying with the
22 terms of any written contract made by such broker in
23 connection with the sale or exchange of any yacht or ship and
24 not violating any of the provisions of the Yacht and Ship
25 Brokers' Act in the conduct of the business for which he or
26 she is licensed. The bonds and letters of credit must be
27 delivered to the department ~~division~~ and in favor of any
28 person in a transaction who suffers any loss as a result of
29 any violation of the conditions in this chapter ~~ss.~~
30 ~~326.001-326.006~~. When the department ~~division~~ determines that
31 a person has incurred a loss as a result of a violation of the

1 Yacht and Ship Brokers' Act, it shall notify the person in
2 writing of the existence of the bond or letter of credit. The
3 bonds and letters of credit must cover the license period, and
4 a new bond or letter of credit or a proper continuation
5 certificate must be delivered to the department ~~division~~ at
6 the beginning of each license period. However, the aggregate
7 liability of the surety in any one year may not exceed the sum
8 of the bond or, in the case of a letter of credit, the
9 aggregate liability of the issuing bank may not exceed the sum
10 of the credit.

11 (c) Surety bonds must be executed by a surety company
12 authorized to do business in the state as surety, and
13 irrevocable letters of credit must be issued by a bank
14 authorized to do business in the state as a bank.

15 (d) Irrevocable letters of credit must be engaged by a
16 bank as an agreement to honor demands for payment as specified
17 in this section.

18
19 The security for a broker must remain on deposit for a period
20 of 1 year after he or she ceases to be a broker.

21 (8) A person may not be licensed as a broker unless he
22 or she has been a salesperson for at least 2 consecutive
23 years, and may not be licensed as a broker after October 1,
24 1990, unless he or she has been licensed as a salesperson for
25 at least 2 consecutive years.

26 (9) An applicant for a salesperson's license or its
27 renewal must deposit with the department ~~division~~ a bond or
28 equivalent securities in the sum of \$10,000 subject to the
29 conditions in subsection (7).

30 (10) Upon a final judgment being rendered against a
31 yacht broker or salesperson for a violation of this chapter

1 ~~ss. 326.001-326.006~~ which results in any action being
2 commenced on the bond or letter of credit, the department
3 ~~division~~ may require the filing of a new bond or letter of
4 credit and immediately on the recovery in any action on such
5 bond or letter of credit, the broker or salesperson involved
6 must file a new bond or letter of credit. His or her failure
7 to do so within 10 days constitutes grounds for the suspension
8 or revocation of his or her license.

9 (11) Any person injured by the fraud, deceit, or
10 willful negligence of any broker or salesperson or by the
11 failure of any broker or salesperson to comply with the Yacht
12 and Ship Brokers' Act or other law may file an action for
13 damages upon the respective bonds against the principals and
14 the surety.

15 (12) If a surety notifies the department ~~division~~ that
16 it is no longer the surety for a licensee, the department
17 ~~division~~ shall notify the licensee of such withdrawal by
18 certified mail, return receipt requested, addressed to the
19 licensee's principal office. Upon the termination of such
20 surety the licensee's license is automatically suspended until
21 he or she files a new bond with the department ~~division~~.

22 (13) Each broker must maintain a principal place of
23 business in this state and may establish branch offices in the
24 state. A separate license must be maintained for each branch
25 office. The department ~~division~~ shall establish by rule a fee
26 not to exceed \$100 for each branch office license.

27 (14)(a) Each license must be prominently displayed in
28 the office of the broker.

29 (b) Each salesperson's license must remain in the
30 possession of the employing broker until canceled or until the
31 salesperson leaves such employment. Immediately upon a

1 salesperson's withdrawal from the employment of a broker, the
2 broker must return the salesperson's license to the department
3 ~~division~~ for cancellation.

4 (15) The department ~~division~~ shall provide by rule for
5 the issuance of a temporary 90-day license to an applicant
6 while the Florida Department of Law Enforcement and the
7 Federal Bureau of Investigation ~~conduct~~ ~~conducts~~ a national
8 criminal history analysis of the applicant by means of
9 fingerprint identification.

10 Section 6. Section 326.006, Florida Statutes, is
11 amended to read:

12 326.006 Powers and duties of department ~~division~~.--

13 (1) Proceedings under the Yacht and Ship Brokers' Act
14 shall be conducted pursuant to chapter 120.

15 (2) The department ~~may~~ ~~division~~ ~~has~~ ~~the~~ ~~power~~ ~~to~~
16 enforce and ensure compliance with the provisions of this
17 chapter and rules adopted under this chapter relating to the
18 sale and ownership of yachts and ships. In performing its
19 duties, the department ~~division~~ has the following powers and
20 duties:

21 (a) The department ~~division~~ may make necessary public
22 or private investigations within or outside this state to
23 determine whether any person has violated this chapter or any
24 rule or order issued under this chapter, to aid in the
25 enforcement of this chapter, or to aid in the adoption of
26 rules or forms under this chapter.

27 (b) The department ~~division~~ may require or permit any
28 person to file a statement in writing, under oath or
29 otherwise, as the department ~~division~~ determines, as to the
30 facts and circumstances concerning a matter to be
31 investigated.

1 (c) For the purpose of any investigation under this
2 chapter, the secretary of the department ~~division director~~ or
3 any officer or employee designated by the secretary ~~division~~
4 ~~director~~ may administer oaths or affirmations, subpoena
5 witnesses and compel their attendance, take evidence, and
6 require the production of any matter that is relevant to the
7 investigation, including the existence, description, nature,
8 custody, condition, and location of any books, documents, or
9 other tangible things and the identity and location of persons
10 having knowledge of relevant facts or any other matter
11 reasonably calculated to lead to the discovery of material
12 evidence. Upon the failure by a person to obey a subpoena or
13 to answer questions propounded by the department ~~investigating~~
14 ~~officer~~ and upon reasonable notice to all persons affected
15 thereby, the department ~~division~~ may apply to the circuit
16 court for an order compelling compliance, may impose a civil
17 penalty, and may suspend or revoke the licensee's license.

18 (d) Notwithstanding any remedies available to a yacht
19 or ship purchaser, if the department ~~division~~ has reasonable
20 cause to believe that a violation of any provision of this
21 chapter or rule adopted under this chapter has occurred, the
22 department ~~division~~ may institute enforcement proceedings in
23 its own name against any broker or salesperson or any of his
24 or her assignees or agents, or against any unlicensed person
25 or any of his or her assignees or agents, as follows:

26 1. The department ~~division~~ may permit a person whose
27 conduct or actions are under investigation to waive formal
28 proceedings and enter into a consent proceeding whereby
29 orders, rules, or letters of censure or warning, whether
30 formal or informal, may be entered against the person.

31

1 2. The department ~~division~~ may issue an order
2 requiring the broker or salesperson or any of his or her
3 assignees or agents, or requiring any unlicensed person or any
4 of his or her assignees or agents, to cease and desist from
5 the unlawful practice and take such affirmative action as in
6 the judgment of the department ~~division~~ will carry out the
7 purposes of this chapter.

8 3. The department ~~division~~ may bring an action in
9 circuit court on behalf of a class of yacht or ship purchasers
10 for declaratory relief, injunctive relief, or restitution.

11 4. The department ~~division~~ may impose a civil penalty
12 against a broker or salesperson or any of his or her assignees
13 or agents, or against an unlicensed person or any of his or
14 her assignees or agents, for any violation of this chapter or
15 a rule adopted under this chapter. A penalty may be imposed
16 for each day of continuing violation, but in no event may the
17 penalty for any offense exceed \$10,000. All amounts collected
18 must be deposited with the Treasurer to the credit of the
19 Professional Regulation Division of Florida Land Sales,
20 ~~Condominiums, and Mobile Homes~~ Trust Fund. If a broker,
21 salesperson, or unlicensed person working for a broker, fails
22 to pay the civil penalty, the department ~~division~~ shall
23 thereupon issue an order suspending the broker's license until
24 such time as the civil penalty is paid or may pursue
25 enforcement of the penalty in a court of competent
26 jurisdiction. The order imposing the civil penalty or the
27 order of suspension may not become effective until 20 days
28 after the date of such order. Any action commenced by the
29 department ~~division~~ must be brought in the county in which the
30 department ~~division~~ has its executive offices or in the county
31 where the violation occurred.

1 (e) The department ~~division~~ may suspend or revoke the
2 license of a broker or salesperson who:

3 1. Makes a substantial and intentional
4 misrepresentation, with respect to a transaction involving a
5 yacht, upon which any person has relied.

6 2. Makes a false warranty, with respect to a
7 transaction involving a yacht, of a character likely to
8 influence, persuade, or induce any person with whom business
9 is transacted.

10 3. Engages in continued misrepresentation or makes
11 false warranties with respect to transactions involving a
12 yacht, whether or not relied upon by another person.

13 4. Acts for both the buyer and seller in a transaction
14 involving a yacht without the knowledge and written consent of
15 both parties.

16 5. Commingles the money or other property of his or
17 her principal with his or her own.

18 6. Commits fraud or dishonest acts in the conduct of
19 any transaction involving a yacht.

20 7. Allows an unlicensed person to use his or her name
21 to evade the provisions of the Yacht and Ship Brokers' Act.

22 8. Violates any law governing the transactions
23 involving a yacht, including any provision relating to the
24 collection or payment of sales or use taxes.

25 9. Engages in acts that are evidence of a lack of good
26 moral character.

27 10. Is convicted of a felony.

28 (f) The department ~~division~~ may suspend or revoke the
29 license of a broker or salesperson who has:

30 1. Procured a license for himself or herself or
31 another by fraud, misrepresentation, falsification, or deceit.

1 2. Been found guilty of a felony or a crime of moral
2 turpitude.

3 3. Had a license or registration revoked, suspended,
4 or sanctioned in another state.

5 (3) All fees must be deposited in the Professional
6 Regulation Division of Florida Land Sales, Condominiums, and
7 Mobile Homes Trust Fund as provided by law.

8 Section 7. The regulation of yacht and ship brokers
9 and salespersons is reassigned within the Department of
10 Business and Professional Regulation from the Division of
11 Florida Land Sales, Condominiums, and Mobile Homes to the
12 Division of Professions. All funds collected by the department
13 pursuant to the regulation of yacht and ship brokers and
14 salespersons and all funds in the account created within the
15 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund
16 for such regulation shall be deposited in an account created
17 within the Professional Regulation Trust Fund for the same
18 purpose.

19 Section 8. Effective July 1, 2001, subsection (1) of
20 section 455.213, Florida Statutes, is amended, and subsections
21 (11) and (12) are added to said section, to read:

22 455.213 General licensing provisions.--

23 (1) Any person desiring to be licensed shall apply to
24 the department in writing. The application for licensure shall
25 be made on a form prepared and furnished by the department and
26 include the applicant's social security number. All initial
27 licensure and licensure renewal forms must be adopted by
28 departmental rule. The application shall be supplemented as
29 needed to reflect any material change in any circumstance or
30 condition stated in the application which takes place between
31 the initial filing of the application and the final grant or

1 denial of the license and which might affect the decision of
2 the department. In order to further the economic development
3 goals of the state, and notwithstanding any law to the
4 contrary, the department may enter into an agreement with the
5 county tax collector for the purpose of appointing the county
6 tax collector as the department's agent to accept applications
7 for licenses and applications for renewals of licenses. The
8 agreement must specify the time within which the tax collector
9 must forward any applications and accompanying application
10 fees to the department. In cases where a person applies or
11 schedules directly with a national examination organization or
12 examination vendor to take an examination required for
13 licensure, any organization- or vendor-related fees associated
14 with the examination may be paid directly to the organization
15 or vendor.

16 (11) Any submission required to be in writing may be
17 made by electronic means.

18 (12) The department may not issue or renew a license
19 to any person who has not complied with all provisions of a
20 final order of a board or the department until that person
21 complies with all terms and conditions of the final order. The
22 department may not issue or renew a license to any person who
23 has not complied with all legal obligations under this chapter
24 or the relevant practice act, including, but not limited to,
25 the obligation to pay all fees and assessments that are owed
26 and to complete all continuing education requirements.

27 Section 9. Section 455.224, Florida Statutes, is
28 amended to read:

29 455.224 Authority to issue citations.--

30 (1) Notwithstanding s. 455.225, the board or the
31 department shall adopt rules to permit the issuance of

1 citations. The citation shall be issued to the subject and
2 shall contain the subject's name and address, the subject's
3 license number if applicable, a brief factual statement, the
4 sections of the law allegedly violated, and the penalty
5 imposed. The citation must clearly state that the subject may
6 choose, in lieu of accepting the citation, to follow the
7 procedure under s. 455.225. If the subject disputes the matter
8 in the citation, the procedures set forth in s. 455.225 must
9 be followed. However, if the subject does not dispute the
10 matter in the citation with the department within 30 days
11 after the citation is served, the citation becomes a final
12 order and constitutes discipline. The penalty shall be a fine
13 or other conditions as established by rule.

14 (2) The board, or the department when there is no
15 board, shall adopt rules designating violations for which a
16 citation may be issued. Such rules shall designate as
17 citation violations those violations for which there is no
18 substantial threat to the public health, safety, and welfare.

19 (3) The department shall be entitled to recover the
20 costs of investigation, in addition to any penalty provided
21 according to board or department rule, as part of the penalty
22 levied pursuant to the citation.

23 (4) A citation must be issued within 6 months after
24 the filing of the complaint that is the basis for the
25 citation.

26 (5) Service of a citation may be made by personal
27 service or certified mail, restricted delivery, to the subject
28 at the subject's last known address.

29 (6) Within its jurisdiction, the department has
30 exclusive authority to, and shall adopt rules to, designate
31 those violations for which the licensee is subject to the

1 issuance of a citation and designate the penalties for those
2 violations if any board fails to incorporate this section into
3 rules by January 1, 1992. A board created on or after January
4 1, 1992, has 6 months in which to enact rules designating
5 violations and penalties appropriate for citation offenses.
6 Failure to enact such rules gives the department exclusive
7 authority to adopt rules as required for implementing this
8 section. A board has continuous authority to amend its rules
9 adopted pursuant to this section.

10 (7) Notwithstanding s. 455.017, any division within
11 the department may establish a citation program pursuant to
12 the provisions of this section in the enforcement of its
13 regulatory provisions. Any citation issued by a division
14 pursuant to this section must clearly state that the subject
15 may choose, in lieu of accepting the citation, to follow the
16 existing procedures established by law. If the subject does
17 not dispute the matter in the citation with the division
18 within 30 days after the citation is served, the citation
19 becomes a final order and constitutes discipline. The penalty
20 shall be a fine or other conditions as established by rule of
21 the appropriate division.

22 Section 10. Subsections (10) and (11) of section
23 468.401, Florida Statutes, are amended to read:

24 468.401 Regulation of talent agencies;
25 definitions.--As used in this part or any rule adopted
26 pursuant hereto:

27 (10) "Registration"~~License~~ means a registration
28 license issued by the department of ~~Business and Professional~~
29 ~~Regulation~~ to carry on the business of a talent agency under
30 this part.

31

1 (11) "Registrant"~~"Licensee"~~ means a talent agency
2 ~~that which~~ holds a valid unrevoked and unforfeited
3 registration license issued under this part.

4 Section 11. Section 468.402, Florida Statutes, is
5 amended to read:

6 468.402 Operation of a talent agency ~~Duties of the~~
7 ~~department; authority to issue and revoke license; adoption of~~
8 ~~rules.--~~

9 (1) It is unlawful to have ~~The department may take any~~
10 ~~one or more of the actions specified in subsection (5) against~~
11 ~~any person who has:~~

12 (a) Obtained or attempted to obtain a registration ~~any~~
13 ~~license~~ by means of fraud, misrepresentation, or concealment.

14 (b) Violated any provision of this part, chapter 455,
15 any lawful disciplinary order of the department, or any rule
16 of the department.

17 (c) Been found guilty of, or entered a plea of nolo
18 contendere to, regardless of adjudication, a crime involving
19 moral turpitude or dishonest dealings under the laws of this
20 state or any other state or government.

21 (d) Made, printed, published, distributed, or caused,
22 authorized, or knowingly permitted the making, printing,
23 publication, or distribution of any false statement,
24 description, or promise of such a character as to reasonably
25 induce any person to act to his or her damage or injury, if
26 such statement, description, or promises were purported to be
27 performed by the talent agency and if the owner or operator
28 then knew, or by the exercise of reasonable care and inquiry,
29 could have known, of the falsity of the statement,
30 description, or promise.

31

1 (e) Knowingly committed or been a party to any
2 material fraud, misrepresentation, concealment, conspiracy,
3 collusion, trick, scheme, or device whereby any other person
4 lawfully relying upon the work, representation, or conduct of
5 the talent agency acts or has acted to his or her injury or
6 damage.

7 (f) Failed or refused upon demand to disclose any
8 information, as required by this part, within his or her
9 knowledge, or failed or refused to produce any document, book,
10 or record in his or her possession for inspection as required
11 ~~by to the department or any authorized agent thereof acting~~
12 ~~within its jurisdiction or by authority of law.~~

13 (g) Established the talent agency within any place
14 where intoxicating liquors are sold, any place where gambling
15 is permitted, or any house of prostitution.

16 (h) Charged, collected, or received compensation for
17 any service performed by the talent agency greater than
18 specified in its schedule of maximum fees, charges, and
19 commissions ~~previously filed with the department.~~

20 (i) Had a license or registration to operate a talent
21 agency revoked, suspended, or otherwise acted against,
22 including, but not limited to, having been denied a license or
23 registration for good cause by the licensing authority of
24 another state, territory, or country.

25 (j) Willfully made or filed a report or record that
26 the registrant ~~licensee~~ knew to be false, failed to file a
27 report or record required by state or federal law, impeded or
28 obstructed such filing, or induced another person to impede or
29 obstruct such filing. Such reports or records shall include
30 only those that are signed in the registrant's ~~licensee's~~
31 capacity as a registered ~~licensed~~ talent agency.

1 (k) Advertised goods or services in a manner that was
2 fraudulent, false, deceptive, or misleading in form or
3 content.

4 (l) Advertised, operated, or attempted to operate
5 under a name other than the name appearing on the registration
6 license.

7 (m) Been found guilty of fraud or deceit in the
8 operation of a talent agency.

9 (n) Operated with a revoked, suspended, inactive, or
10 delinquent registration license.

11 (o) Permitted, aided, assisted, procured, or advised
12 any ~~unlicensed~~ person to operate a talent agency contrary to
13 this part or other law ~~to a rule of the department~~.

14 (p) Failed to perform any statutory or legal
15 obligation placed on a ~~licensed~~ talent agency.

16 (q) Practiced or offered to practice beyond the scope
17 permitted by law or has accepted and performed professional
18 responsibilities that the registrant licensee knows or has
19 reason to know that he or she is not competent to perform.

20 (r) Conspired with ~~another licensee or with~~ any other
21 person to commit an act, or has committed an act, that would
22 tend to coerce, intimidate, or preclude another registrant
23 licensee from advertising his or her services.

24 (s) Solicited business, either personally or through
25 an agent or through any other person, through the use of fraud
26 or deception or by other means; through the use of misleading
27 statements; or through the exercise of intimidation or undue
28 influence.

29 (t) Exercised undue influence on the artist in such a
30 manner as to exploit the artist for financial gain of the
31 registrant licensee or a third party, which includes, but is

1 not limited to, the promoting or selling of services to the
2 artist.

3 ~~(2) The department may revoke any license that is~~
4 ~~issued as a result of the mistake or inadvertence of the~~
5 ~~department.~~

6 (2)(3) The department may ~~has~~ authority to adopt rules
7 pursuant to ss. 120.536(1) and 120.54 necessary to administer
8 ~~implement the provisions of this part.~~

9 (3)(4) A revoked or suspended registration license
10 must be returned to the department within 7 days after the
11 time for appeal has elapsed.

12 (4)(5) Upon a finding of a violation of any one or
13 more of the grounds enumerated in subsection (1) or any other
14 section of this part, the department may ~~take the following~~
15 ~~actions:~~

16 (a) Deny an application for registration licensure as
17 a talent agency.

18 (b) ~~Permanently~~ Revoke or suspend the registration
19 ~~license~~ of a talent agency.

20 ~~(c) Impose an administrative fine, not to exceed~~
21 ~~\$5,000, for each count or separate offense.~~

22 ~~(d) Require restitution.~~

23 ~~(e) Issue a public reprimand.~~

24 ~~(f) Place the licensee on probation, subject to such~~
25 ~~conditions as the department may specify.~~

26 ~~(6) A person shall be subject to the disciplinary~~
27 ~~actions specified in subsection (5) for violations of~~
28 ~~subsection (1) by that person's agents or employees in the~~
29 ~~course of their employment with that person.~~

30 (5)(7) The department may deny a registration license
31 if any owner or operator listed on the application has been

1 associated with a talent agency whose registration license has
2 been revoked or otherwise disciplined.

3 Section 12. Section 468.403, Florida Statutes, is
4 amended to read:

5 468.403 Registration License requirements.--

6 (1) A person may not own, operate, solicit business,
7 or otherwise engage in or carry on the occupation of a talent
8 agency in this state unless such person first registers with
9 ~~procures a license for the talent agency from the department.~~
10 However, a registration license is not required for a person
11 who acts as an agent for herself or himself, a family member,
12 or exclusively for one artist.

13 (2) Each application for a registration license must
14 be accompanied by an application fee set by the department not
15 to exceed \$300, ~~plus the actual cost for fingerprint analysis~~
16 ~~for each owner application, to cover the costs of~~
17 ~~investigating the applicant.~~ Each application for a change of
18 operator must be accompanied by an application fee of \$150.
19 These fees are not refundable.

20 ~~(3)(a) Each owner of a talent agency if other than a~~
21 ~~corporation and each operator of a talent agency shall submit~~
22 ~~to the department with the application for licensure of the~~
23 ~~agency a full set of fingerprints and a photograph of herself~~
24 ~~or himself taken within the preceding 2 years. The department~~
25 ~~shall conduct an examination of fingerprint records and police~~
26 ~~records.~~

27 ~~(b) Each owner of a talent agency that is a~~
28 ~~corporation shall submit to the department, with the~~
29 ~~application for licensure of the agency, a full set of~~
30 ~~fingerprints of the principal officer signing the application~~
31 ~~form and the bond form, and a full set of fingerprints of each~~

1 ~~operator, and a photograph of each taken within the preceding~~
2 ~~2 years. The department shall conduct an examination of~~
3 ~~fingerprint records and police records.~~

4 (3)~~(4)~~ Each application must include:

5 (a) The name and address of the owner of the talent
6 agency.

7 ~~(b) Proof of at least 1 year of direct experience or~~
8 ~~similar experience of the operator of such agency in the~~
9 ~~talent agency business or as a subagent, casting director,~~
10 ~~producer, director, advertising agency, talent coordinator, or~~
11 ~~musical booking agent.~~

12 (b)~~(c)~~ The street and number of the building or place
13 where the talent agency is to be located.

14 ~~(5) The department shall investigate the owner of an~~
15 ~~applicant talent agency only to determine her or his ability~~
16 ~~to comply with this part and shall investigate the operator of~~
17 ~~an applicant talent agency to determine her or his employment~~
18 ~~experience and qualifications.~~

19 (4)~~(6)~~ If the applicant is other than a corporation,
20 the application shall also include the names and addresses of
21 all persons, except bona fide employees on stated salaries,
22 financially interested, either as partners, associates, or
23 profit sharers, in the operation of the talent agency in
24 question, together with the amount of their respective
25 interest.

26 (5)~~(7)~~ If the applicant is a corporation, the
27 application shall include the corporate name and the names,
28 residential addresses, and telephone numbers of all persons
29 actively participating in the business of the corporation and
30 shall include the names of all persons exercising managing
31

1 responsibility in the applicant's or registrant's licensee's
2 office.

3 ~~(8) The application must be accompanied by affidavits~~
4 ~~of at least five reputable persons, other than artists, who~~
5 ~~have known or have been associated with the applicant for at~~
6 ~~least 3 years, stating that the applicant is a person of good~~
7 ~~moral character or, in the case of a corporation, has a~~
8 ~~reputation for fair dealing.~~

9 (6)(9) If any information in the application supplied
10 to the department by the applicant or registrant licensee
11 changes in any manner whatsoever, the applicant or registrant
12 licensee shall submit such changes to the department within 30
13 days after the date of such change or after the date such
14 change is known or should have been known to the applicant or
15 registrant licensee.

16 Section 13. Section 468.404, Florida Statutes, is
17 amended to read:

18 468.404 Registration License; fees; renewals.--

19 (1) The department by rule shall establish biennial
20 fees for initial registration licensing, renewal of
21 registration license, and reinstatement of registration
22 license, none of which fees shall exceed \$400. The department
23 may by rule establish a delinquency fee of no more than \$50.
24 The fees shall be adequate to proportionately fund the
25 expenses of the department which are allocated to the
26 registering regulation of talent agencies and shall be based
27 on the department's estimate of the revenue required to
28 administer this part.

29 (2) If one or more individuals on the basis of whose
30 qualifications a talent agency registration license has been
31 obtained cease to be connected with the agency for any reason,

1 the agency business may be carried on for a temporary period,
2 not to exceed 90 days, under such terms and conditions as the
3 department provides by rule for the orderly closing of the
4 business or the replacement and qualifying of a new owner or
5 operator. The registrant's licensee's good standing under this
6 part shall be contingent upon the department's approval of any
7 such new owner or operator.

8 (3) No registration license shall be valid to protect
9 any business transacted under any name other than that
10 designated on in the registration license, unless consent is
11 first obtained from the department, ~~unless written consent of~~
12 ~~the surety or sureties on the original bond required by s.~~
13 ~~468.408 is filed with the department,~~ and unless the
14 registration license is returned to the department for the
15 recording thereon of such changes. A charge of \$25 shall be
16 made by the department for the recording of authorization for
17 each change of name or change of location.

18 (4) No registration license issued under this part
19 shall be assignable.

20 Section 14. Section 468.406, Florida Statutes, is
21 amended to read:

22 468.406 Fees to be charged by talent agencies; rates;
23 display.--

24 (1) Each talent agency applicant for a license shall
25 maintain and provide to its artists or potential clients file
26 ~~with the application~~ an itemized schedule of maximum fees,
27 charges, and commissions which it intends to charge and
28 collect for its services. This schedule may thereafter be
29 raised only by notifying its artists filing with the
30 ~~department an amended or supplemental schedule~~ at least 30
31 days before the change is to become effective. The schedule

1 shall be posted in a conspicuous place in each place of
2 business of the agency and shall be printed in not less than a
3 30-point boldfaced type, except that an agency that uses
4 written contracts containing maximum fee schedules need not
5 post such schedules.

6 (2) All money collected by a talent agency from an
7 employer for the benefit of an artist shall be paid to the
8 artist, less the talent agency's fee, within 5 business days
9 after the receipt of such money by the talent agency. No
10 talent agency is required to pay money to an artist until the
11 talent agency receives payment from the employer or buyer.

12 Section 15. Section 468.407, Florida Statutes, is
13 amended to read:

14 468.407 Registration License; content; posting.--

15 (1) The talent agency registration license shall be
16 valid for the biennial period in which issued and shall be in
17 such form as may be determined by the department, but shall at
18 least specify the name under which the applicant is to
19 operate, the address of the place of business, the expiration
20 date of the registration license, the full names and titles of
21 the owner and the operator, and the number of the registration
22 license.

23 (2) The talent agency registration license shall at
24 all times be displayed conspicuously in the place of business
25 in such manner as to be open to the view of the public and
26 subject to the inspection of all duly authorized officers of
27 the state and county.

28 (3) If a registrant licensee desires to cancel his or
29 her registration license, he or she must notify the department
30 and forthwith return to the department the registration

31

1 ~~license~~ so canceled. No registration license fee may be
2 refunded upon cancellation of the registration license.

3 Section 16. Subsection (3) of section 468.410, Florida
4 Statutes, is amended to read:

5 468.410 Prohibition against registration fees;
6 referral.--

7 (3) A talent agency shall give each applicant a copy
8 of a contract which lists the services to be provided and the
9 fees to be charged. The contract shall state that the talent
10 agency is registered with ~~regulated by~~ the department and
11 shall list the address and telephone number of the department.

12 Section 17. Section 468.412, Florida Statutes, is
13 amended to read:

14 468.412 Talent agency requirements ~~regulations~~.--

15 (1) A talent agency shall maintain a record sheet for
16 each booking. This shall be the only required record of
17 placement and shall be kept for a period of 1 year after the
18 date of the last entry in the buyer's file.

19 (2) Each talent agency shall keep records in which
20 shall be entered:

21 (a) The name and address of each artist employing such
22 talent agency;

23 (b) The amount of fees received from each such artist;
24 and

25 (c) The employment in which each such artist is
26 engaged at the time of employing such talent agency and the
27 amount of compensation of the artist in such employment, if
28 any, and the employments subsequently secured by such artist
29 during the term of the contract between the artist and the
30 talent agency and the amount of compensation received by the
31 artist pursuant thereto. ~~and~~

1 ~~(d) Other information which the department may require~~
2 ~~from time to time.~~

3 ~~(3) All books, records, and other papers kept pursuant~~
4 ~~to this act by any talent agency shall be open at all~~
5 ~~reasonable hours to the inspection of the department and its~~
6 ~~agents. Each talent agency shall furnish to the department,~~
7 ~~upon request, a true copy of such books, records, and papers,~~
8 ~~or any portion thereof, and shall make such reports as the~~
9 ~~department may prescribe from time to time.~~

10 (3)~~(4)~~ Each talent agency shall post in a conspicuous
11 place in the office of such talent agency a printed copy of
12 this part ~~and of the rules adopted under this part. Such~~
13 ~~copies shall also contain the name and address of the officer~~
14 ~~charged with enforcing this part. The department shall~~
15 furnish to talent agencies printed copies of any statute ~~or~~
16 ~~rule~~ required to be posted under this subsection.

17 (4)~~(5)~~ No talent agency may knowingly issue a contract
18 for employment containing any term or condition which, if
19 complied with, would be in violation of law, or attempt to
20 fill an order for help to be employed in violation of law.

21 (5)~~(6)~~ No talent agency may publish or cause to be
22 published any false, fraudulent, or misleading information,
23 representation, notice, or advertisement. All advertisements
24 of a talent agency by means of card, circulars, or signs, and
25 in newspapers and other publications, and all letterheads,
26 receipts, and blanks shall be printed and contain the
27 registered licensed name, department registration license
28 number, and address of the talent agency and the words "talent
29 agency." No talent agency may give any false information or
30 make any false promises or representations concerning an
31

1 engagement or employment to any applicant who applies for an
2 engagement or employment.

3 ~~(6)(7)~~ No talent agency may send or cause to be sent
4 any person as an employee to any house of ill fame, to any
5 house or place of amusement for immoral purposes, to any place
6 resorted to for the purposes of prostitution, to any place for
7 the modeling or photographing of a minor in the nude in the
8 absence of written permission from the minor's parents or
9 legal guardians, the character of which places the talent
10 agency could have ascertained upon reasonable inquiry.

11 ~~(7)(8)~~ No talent agency may divide fees with anyone,
12 including, but not limited to, an agent or other employee of
13 an employer, a buyer, a casting director, a producer, a
14 director, or any venue that uses entertainment.

15 ~~(8)(9)~~ If a talent agency collects from an artist a
16 fee or expenses for obtaining employment for the artist, and
17 the artist fails to procure such employment, or the artist
18 fails to be paid for such employment if procured, such talent
19 agency shall, upon demand therefor, repay to the artist the
20 fee and expenses so collected. Unless repayment thereof is
21 made within 48 hours after demand therefor, the talent agency
22 shall pay to the artist an additional sum equal to the amount
23 of the fee.

24 ~~(9)(10)~~ Each talent agency must maintain a permanent
25 office and must maintain regular operating hours at that
26 office.

27 Section 18. Section 468.413, Florida Statutes, is
28 amended to read:

29 468.413 Unlawful acts ~~Legal requirements~~; penalties.--
30
31

1 (1) Each of the following acts constitutes a felony of
2 the third degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084:

4 (a) Owning or operating, or soliciting business as, a
5 talent agency in this state without first registering with
6 ~~procuring a license from~~ the department.

7 (b) Obtaining or attempting to obtain a registration
8 ~~license~~ by means of fraud, misrepresentation, or concealment.

9 (2) Each of the following acts constitutes a
10 misdemeanor of the second degree, punishable as provided in s.
11 775.082 or s. 775.083:

12 (a) Relocating a business as a talent agency, or
13 operating under any name other than that designated on the
14 registration license, ~~unless written notification is given to~~
15 ~~the department and to the surety or sureties on the original~~
16 ~~bond, and unless the registration license is returned to the~~
17 department for the recording thereon of such changes.

18 (b) Assigning or attempting to assign a registration
19 ~~license~~ issued under this part.

20 (c) Failing to show on a registration license
21 application whether or not the agency or any owner of the
22 agency is financially interested in any other business of like
23 nature and, if so, failing to specify such interest or
24 interests.

25 (d) Failing to maintain the records required by s.
26 468.409 or knowingly making false entries in such records.

27 (e) Requiring as a condition to registering or
28 obtaining employment or placement for any applicant that the
29 applicant subscribe to, purchase, or attend any publication,
30 postcard service, advertisement, resume service, photography
31 service, school, acting school, workshop, or acting workshop.

1 (f) Failing to give each applicant a copy of a
2 contract which lists the services to be provided and the fees
3 to be charged, which states that the talent agency is
4 registered with ~~regulated by~~ the department, ~~and which lists~~
5 ~~the address and telephone number of the department.~~

6 (g) Failing to maintain a record sheet as required by
7 s. 468.412(1).

8 (h) Knowingly sending or causing to be sent any artist
9 to a prospective employer or place of business, the character
10 or operation of which employer or place of business the talent
11 agency knows to be in violation of the laws of the United
12 States or of this state.

13 (3) The court may, in addition to other punishment
14 provided for in subsection (1) or subsection (2), suspend or
15 revoke the registration license of any person licensee under
16 this part who has been found guilty of any violation of
17 subsection (1) or misdemeanor listed in subsection (2).

18 (4) ~~If a~~ ~~in the event the department or any state~~
19 ~~attorney finds~~ ~~shall have~~ probable cause to believe that a
20 talent agency or other person has violated any provision of
21 subsection (1) or subsection (2), an action may be brought by
22 the department or any state attorney to enjoin such talent
23 agency or any person from continuing such violation, or
24 engaging therein or doing any acts in furtherance thereof, and
25 for such other relief as to the court seems appropriate. In
26 addition to this remedy, the department may permanently
27 prohibit a person from operating or working for a talent
28 agency ~~assess a penalty against any talent agency or any~~
29 ~~person in an amount not to exceed \$1,000.~~

30 (5) Any person injured by a prohibited act or practice
31 in violation of this part may bring a civil action in circuit

1 court for temporary or permanent injunctive relief and may
2 seek appropriate civil relief, including, but not limited to,
3 a civil penalty not to exceed \$5,000 for each violation,
4 restitution and treble damages for injured parties, and court
5 costs and reasonable attorney's fees.

6 Section 19. Section 468.414, Florida Statutes, is
7 amended to read:

8 468.414 Collection and deposit of moneys;
9 appropriation.--Proceeds from the ~~finer, fees, and penalties~~
10 imposed pursuant to this part shall be deposited in the
11 Professional Regulation Trust Fund, created by s. 215.37.

12 Section 20. Section 468.415, Florida Statutes, is
13 amended to read:

14 468.415 Sexual misconduct in the operation of a talent
15 agency.--The talent agent-artist relationship is founded on
16 mutual trust. Sexual misconduct in the operation of a talent
17 agency means violation of the talent agent-artist relationship
18 through which the talent agent uses the relationship to induce
19 or attempt to induce the artist to engage or attempt to engage
20 in sexual activity. Sexual misconduct is prohibited in the
21 operation of a talent agency. If any agent, owner, or operator
22 of a registered ~~licensed~~ talent agency is found to have
23 committed sexual misconduct in the operation of a talent
24 agency, the agency registration ~~license~~ shall be permanently
25 revoked. Such agent, owner, or operator shall be permanently
26 disqualified from present and future registration ~~licensure~~ as
27 owner or operator of a Florida talent agency.

28 Section 21. Sections 468.405 and 468.408, Florida
29 Statutes, are repealed.

30 Section 22. Subsection (7) of section 468.609, Florida
31 Statutes, is amended to read:

1 468.609 Administration of this part; standards for
2 certification; additional categories of certification.--

3 (7)(a) The board may provide for the issuance of
4 provisional certificates valid for such period, not less than
5 3 years nor more than 5 years, as specified by board rule, to
6 any newly employed or promoted building code inspector or
7 plans examiner who meets the eligibility requirements
8 described in subsection (2) and any newly employed or promoted
9 building code administrator who meets the eligibility
10 requirements described in subsection (3).

11 (b) No building code administrator, plans examiner, or
12 building code inspector may have a provisional certificate
13 extended beyond the specified period by renewal or otherwise.

14 (c) The board may provide for appropriate levels of
15 provisional certificates and may issue these certificates with
16 such special conditions or requirements relating to the place
17 of employment of the person holding the certificate, the
18 supervision of such person on a consulting or advisory basis,
19 or other matters as the board may deem necessary to protect
20 the public safety and health.

21 (d)1. A newly employed or hired person may perform the
22 duties of a plans examiner or building code inspector for 90
23 days if a provisional certificate application has been
24 submitted, provided such person is under the direct
25 supervision of a certified building code administrator who
26 holds a standard certification and who has found such person
27 qualified for a provisional certificate. ~~However,~~

28 2. Direct supervision and the determination of
29 qualifications under this paragraph may be provided by a
30 building code administrator who holds a limited or provisional
31

1 certificate in any county with a population of less than
2 75,000 and in any municipality located within such a county.

3 3. Direct supervision under this paragraph may be
4 provided in any county with a population of less than 75,000
5 and in any municipality within such county by
6 telecommunication devices if the supervision is appropriate
7 for the facts surrounding the performance of the duties being
8 supervised.

9 Section 23. Subsection (4) of section 468.627, Florida
10 Statutes, is amended to read:

11 468.627 Application; examination; renewal; fees.--

12 (4) Employees of local government agencies having
13 responsibility for building code inspection, building
14 construction regulation, and enforcement of building,
15 plumbing, mechanical, electrical, gas, fire prevention,
16 energy, accessibility, and other construction codes shall pay
17 no application fees or examination fees. However, the fee
18 charged by the examination contract vendor to the department
19 for scheduling an examination of an employee of a local
20 government shall be recovered from any employee who does not
21 report for the scheduled examination. The department shall
22 have the final approval for excusing applicants from a
23 scheduled examination and may waive recovery of the fee in
24 case of hardship.

25 Section 24. Subsection (1) of section 471.025, Florida
26 Statutes, is amended to read:

27 471.025 Seals.--

28 (1) The board shall prescribe, by rule, the forms a
29 form of seals ~~seal~~ to be used by registrants holding valid
30 certificates of registration. Each registrant shall obtain at
31 least one ~~an impression-type metal~~ seal in the form approved

1 by board rule ~~aforsaid~~ and may, in addition, register his or
2 her seal electronically in accordance with ss. 282.70-282.75.
3 All final drawings, specifications, plans, reports, or
4 documents prepared or issued by the registrant and being filed
5 for public record and all final bid documents provided to the
6 owner or the owner's representative shall be signed by the
7 registrant, dated, and stamped with said seal. Such signature,
8 date, and seal shall be evidence of the authenticity of that
9 to which they are affixed. Drawings, specifications, plans,
10 reports, final bid documents, or documents prepared or issued
11 by a registrant may be transmitted electronically and may be
12 signed by the registrant, dated, and stamped electronically
13 with said seal in accordance with ss. 282.70-282.75.

14 Section 25. Section 472.001, Florida Statutes, is
15 amended to read:

16 472.001 Purpose.--The Legislature deems it necessary
17 to regulate surveyors and mappers as provided in this chapter
18 ~~ss. 472.001-472.041~~.

19 Section 26. Section 472.003, Florida Statutes, is
20 amended to read:

21 472.003 Exemptions ~~Persons not affected by ss.~~
22 ~~472.001-472.041~~.--This chapter does ~~Sections 472.001-472.041~~
23 ~~do~~ not apply to:

24 (1) Any surveyor and mapper working as a salaried
25 employee of the United States Government when engaged in work
26 solely for the United States Government.

27 (2) A registered professional engineer who takes or
28 contracts for professional surveying and mapping services
29 incidental to her or his practice of engineering and who
30 delegates such surveying and mapping services to a registered
31 professional surveyor and mapper qualified within her or his

1 firm or contracts for such professional surveying and mapping
2 services to be performed by others who are registered
3 professional surveyors and mappers under this chapter ~~the~~
4 ~~provisions of ss. 472.001-472.041.~~

5 (3) The following persons when performing construction
6 layout from boundary, horizontal, and vertical controls that
7 have been established by a registered professional surveyor
8 and mapper:

9 (a) Contractors performing work on bridges, roads,
10 streets, highways, or railroads, or utilities and services
11 incidental thereto, or employees who are subordinates of such
12 contractors provided that the employee does not hold herself
13 or himself out for hire or engage in such contracting except
14 as an employee;

15 (b) Certified or registered contractors licensed
16 pursuant to part I of chapter 489 or employees who are
17 subordinates of such contractors provided that the employee
18 does not hold herself or himself out for hire or engage in
19 contracting except as an employee; and

20 (c) Registered professional engineers licensed
21 pursuant to chapter 471 and employees of a firm, corporation,
22 or partnership who are the subordinates of the registered
23 professional engineer in responsible charge.

24 (4) Persons employed by county property appraisers, as
25 defined at s. 192.001(3), and persons employed by the
26 Department of Revenue, to prepare maps for property appraisal
27 purposes only, but only to the extent that they perform
28 mapping services which do not include any surveying activities
29 as described in s. 472.005(4)~~(a) and (b).~~

30 (5)(a) Persons who are employees of any state, county,
31 municipal, or other governmental unit of this state and who

1 are the subordinates of a person in responsible charge
2 registered under this chapter, to the extent that the
3 supervision meets standards adopted by rule of the board, if
4 any.

5 (b) Persons who are employees of any employee leasing
6 company licensed pursuant to part XI of chapter 468 and who
7 work as subordinates of a person in responsible charge
8 registered under this chapter.

9 (c) Persons who are employees of an individual
10 registered or legal entity certified under this chapter and
11 who are the subordinates of a person in responsible charge
12 registered under this chapter, to the extent that the
13 supervision meets standards adopted by rule of the board, if
14 any.

15 Section 27. Section 472.005, Florida Statutes, is
16 amended to read:

17 472.005 Definitions.--As used in this chapter ~~ss.~~
18 ~~472.001-472.041~~:

19 (1) "Board" means the Board of Professional Surveyors
20 and Mappers.

21 (2) "Department" means the Department of Business and
22 Professional Regulation.

23 (3) "Surveyor and mapper" includes the term
24 "professional surveyor and mapper" and means a person who is
25 registered to engage in the practice of surveying and mapping
26 under this chapter ~~ss. 472.001-472.041~~. For the purposes of
27 this subsection ~~statute~~, a surveyor and mapper means a person
28 who determines and displays the facts of size, shape,
29 topography, tidal datum planes, legal or geodetic location or
30 relation, and orientation of improved or unimproved real
31

1 property through direct measurement or from certifiable
2 measurement through accepted photogrammetric procedures.
3 (4)(a) "Practice of surveying and mapping" means,
4 among other things, any professional service or work, the
5 adequate performance of which involves the application of
6 special knowledge of the principles of mathematics, the
7 related physical and applied sciences, and the relevant
8 requirements of law for adequate evidence of the act of
9 measuring, locating, establishing, or reestablishing lines,
10 angles, elevations, natural and manmade features in the air,
11 on the surface and immediate subsurface of the earth, within
12 underground workings, and on the beds or surface of bodies of
13 water, for the purpose of determining, establishing,
14 describing, displaying, or interpreting the facts of size,
15 shape, topography, tidal datum planes, legal or geodetic
16 location or relocation, and orientation of improved or
17 unimproved real property and appurtenances thereto, including
18 acreage and condominiums.

19 (b) The practice of surveying and mapping also
20 includes, but is not limited to, photogrammetric control; the
21 monumentation and remonumentation of property boundaries and
22 subdivisions; the measurement of and preparation of plans
23 showing existing improvements after construction; the layout
24 of proposed improvements; the preparation of descriptions for
25 use in legal instruments of conveyance of real property and
26 property rights; the preparation of subdivision planning maps
27 and record plats, as provided for in chapter 177; the
28 determination of, but not the design of, grades and elevations
29 of roads and land in connection with subdivisions or divisions
30 of land; and the creation and perpetuation of alignments
31 related to maps, record plats, field note records, reports,

1 property descriptions, and plans and drawings that represent
2 them.

3 (5) ~~The term~~ "Surveyor and mapper intern" includes ~~the~~
4 ~~term~~ "surveyor-mapper-in-training" and means a person who
5 complies with the requirements of this chapter ~~provided by ss.~~
6 ~~472.001-472.041~~ and who has passed an examination as provided
7 by rules adopted by the board.

8 (6) ~~The term~~ "Responsible charge" means direct control
9 and personal supervision of surveying and mapping work, but
10 does not include experience as a chainperson, rodperson,
11 instrumentperson, ordinary draftsperson, digitizer, scribe,
12 photo lab technician, ordinary stereo plotter operator, aerial
13 photo pilot, photo interpreter, and other positions of routine
14 work.

15 (7) ~~The term~~ "License" means the registration of
16 surveyors and mappers or the certification of businesses to
17 practice surveying and mapping in this state.

18 (8) "Photogrammetric mapper" means any person who
19 engages in the practice of surveying and mapping using aerial
20 or terrestrial photography or other sources of images.

21 (9) "Employee" means a person who receives
22 compensation from and is under the supervision and control of
23 an employer who regularly deducts the F.I.C.A. and withholding
24 tax and provides workers' compensation, all as prescribed by
25 law.

26 (10) "Subordinate" means an employee who performs work
27 under the direction, supervision, and responsible charge of a
28 person who is registered under this chapter.

29 (11) "Monument" means an artificial or natural object
30 that is permanent or semipermanent and used or presumed to
31 occupy any real property corner, any point on a boundary line,

1 or any reference point or other point to be used for
2 horizontal or vertical control.

3 (12) "Legal entity" means a corporation, partnership,
4 association, or person practicing under a fictitious name who
5 is certified under s. 472.021.

6 Section 28. Subsection (1) of section 472.011, Florida
7 Statutes, is amended to read:

8 472.011 Fees.--

9 (1) The board, by rule, may establish fees to be paid
10 for applications, examination, reexamination, licensing and
11 renewal, inactive status application and reactivation of
12 inactive licenses, recordmaking and recordkeeping, and
13 applications for providers of continuing education. The board
14 may also establish by rule a delinquency fee. The board shall
15 establish fees that are adequate to ensure the continued
16 operation of the board. Fees shall be based on department
17 estimates of the revenue required to implement this chapter
18 ~~ss. 472.001-472.041~~ and the provisions of law with respect to
19 the regulation of surveyors and mappers.

20 Section 29. Subsection (4) of section 472.015, Florida
21 Statutes, is amended to read:

22 472.015 Licensure.--

23 (4) The department shall not issue a license by
24 endorsement to any applicant who is under investigation in
25 another state for any act that would constitute a violation of
26 this chapter ~~ss. 472.001-472.041~~ or chapter 455 until such
27 time as the investigation is complete and disciplinary
28 proceedings have been terminated.

29 Section 30. Subsection (1) of section 472.021, Florida
30 Statutes, is amended to read:

31

1 472.021 Certification of partnerships and
2 corporations.--
3 (1) The practice of or the offer to practice surveying
4 and mapping by registrants through a corporation or
5 partnership offering surveying and mapping services to the
6 public, or by a corporation or partnership offering said
7 services to the public through registrants under this chapter
8 ~~ss. 472.001-472.041~~ as agents, employees, officers, or
9 partners, is permitted subject to the provisions of this
10 chapter ~~ss. 472.001-472.041~~, provided that one or more of the
11 principal officers of the corporation or one or more partners
12 of the partnership and all personnel of the corporation or
13 partnership who act in its behalf as surveyors and mappers in
14 this state are registered as provided by this chapter ~~ss.~~
15 ~~472.001-472.041~~, and, further, provided that the corporation
16 or partnership has been issued a certificate of authorization
17 by the board as provided in this section. All final drawings,
18 specifications, plans, reports, or other papers or documents
19 involving the practice of surveying and mapping which are
20 prepared or approved for the use of the corporation or
21 partnership or for delivery to any person or for public record
22 within the state must be dated and must bear the signature and
23 seal of the registrant who prepared or approved them. Nothing
24 in this section shall be construed to allow a corporation to
25 hold a certificate of registration to practice surveying and
26 mapping. No corporation or partnership shall be relieved of
27 responsibility for the conduct or acts of its agents,
28 employees, or officers by reason of its compliance with this
29 section, nor shall any individual practicing surveying and
30 mapping be relieved of responsibility for professional
31

1 services performed by reason of his or her employment or
2 relationship with a corporation or partnership.

3 Section 31. Section 472.027, Florida Statutes, is
4 amended to read:

5 472.027 Minimum technical standards for surveying and
6 mapping.--The board shall adopt rules relating to the practice
7 of surveying and mapping which establish minimum technical
8 standards to ensure the achievement of no less than minimum
9 degrees of accuracy, completeness, and quality in order to
10 assure adequate and defensible real property boundary
11 locations and other pertinent information provided by
12 surveyors and mappers under the authority of this chapter ss.
13 ~~472.001-472.041.~~

14 Section 32. Section 472.029, Florida Statutes, is
15 amended to read:

16 472.029 Authorization ~~Surveyors and mappers authorized~~
17 ~~to enter lands of third parties; under certain~~
18 conditions.--Surveyors and mappers and their subordinates may
19 go on, over, and upon the lands of others when necessary to
20 make surveys and maps or to search for, uncover, locate, or
21 set monuments, and, in so doing, may carry with them their
22 agents and employees necessary for that purpose. Entry under
23 the right hereby granted does not constitute trespass, and
24 surveyors and mappers and their subordinates and duly
25 authorized agents or employees so entering are not liable to
26 arrest or to a civil action by reason of such entry as long as
27 the entering is in compliance with all federal, state, and
28 local regulations pertaining to premises security,
29 agricultural protections, and other health and safety
30 requirements.†However, this section does not give authority
31 to registrants, subordinates, agents, or employees to destroy,

1 injure, damage, or otherwise move any physical improvements
2 ~~anything~~ on lands of another without the written permission of
3 the landowner. No landowner shall be liable to any third party
4 for any civil or criminal act, or any damages, which result in
5 whole or in part through the negligent or intentional conduct
6 of any person regulated by this section. If a landowner is
7 given at least 72 hours' written notice of entry, the duty of
8 care owed to those regulated by this section shall be that due
9 to a licensee under this chapter; however, if no such notice
10 is given, the landowner's duty of care shall be that due to an
11 unforeseen trespasser.

12 Section 33. Subsection (5) of section 810.12, Florida
13 Statutes, is amended to read:

14 810.12 Unauthorized entry on land; prima facie
15 evidence of trespass.--

16 (5) However, this section shall not apply to any
17 official or employee of the state or a county, municipality,
18 or other governmental agency now authorized by law to enter
19 upon lands or to registered engineers, ~~and~~ surveyors and
20 mappers, and other persons authorized to enter lands pursuant
21 to ss. 471.027 and 472.029. The provisions of this section
22 shall not apply to the trimming or cutting of trees or timber
23 by municipal or private public utilities, or their employees,
24 contractors, or subcontractors, when such trimming is required
25 for the establishment or maintenance of the service furnished
26 by any such utility.

27 Section 34. Subsection (1) of section 472.031, Florida
28 Statutes, is amended to read:

29 472.031 Prohibitions; penalties.--

30 (1) No person shall:
31

1 (a) Practice surveying and mapping unless such person
2 is registered under this chapter ~~pursuant to ss.~~
3 ~~472.001-472.041~~;

4 (b) Use the name or title "registered surveyor and
5 mapper" when such person has not registered under this chapter
6 ~~pursuant to ss. 472.001-472.041~~;

7 (c) Present as his or her own the registration of
8 another;

9 (d) Knowingly give false or forged evidence to the
10 board or a member thereof; or

11 (e) Use or attempt to use a registration that has been
12 suspended or revoked.

13 Section 35. Section 472.037, Florida Statutes, is
14 amended to read:

15 472.037 Application of chapter ~~ss. 472.001-472.041~~.--

16 (1) Nothing contained in this chapter ~~ss.~~
17 ~~472.001-472.041~~ shall be construed to repeal, amend, limit, or
18 otherwise affect any local building code or zoning law or
19 ordinance, now or hereafter enacted, which is more restrictive
20 with respect to the services of registered surveyors and
21 mappers than the provisions of this chapter ~~ss.~~
22 ~~472.001-472.041~~.

23 (2) In counties or municipalities that issue building
24 permits, such permits shall not be issued in any case where it
25 is apparent from the application for such building permit that
26 the provisions of this chapter ~~ss. 472.001-472.041~~ have been
27 violated. However, this shall not authorize the withholding of
28 building permits in any cases within the exempt classes set
29 forth in this chapter ~~ss. 472.001-472.041~~.

30 Section 36. Section 476.014, Florida Statutes, is
31 amended to read:

1 476.014 Short title.--This chapter act may be cited as
2 the "Barbers' Act."

3 Section 37. Section 476.034, Florida Statutes, is
4 amended to read:

5 476.034 Definitions.--As used in this chapter act:

6 (1) "Barber" means a person who is licensed to engage
7 in the practice of barbering in this state under the authority
8 of this chapter.

9 (2) "Barbering" means any of the following practices
10 when done for remuneration and for the public, but not when
11 done for the treatment of disease or physical or mental
12 ailments: shaving, cutting, trimming, coloring, shampooing,
13 arranging, dressing, curling, or waving the hair or beard or
14 applying oils, creams, lotions, or other preparations to the
15 face, scalp, or neck, either by hand or by mechanical
16 appliances.

17 (3) "Barbershop" means any place of business wherein
18 the practice of barbering is carried on.

19 (4) "Board" means the ~~Barbers~~^{Board} of Barbering and
20 Cosmetology.

21 (5) "Department" means the Department of Business and
22 Professional Regulation.

23 Section 38. Section 476.054, Florida Statutes, is
24 amended to read:

25 476.054 ~~Barbers~~^{Board} of Barbering and Cosmetology--

26 (1) There is created within the department the
27 ~~Barbers~~^{Board} of Barbering and Cosmetology, consisting of
28 seven members who shall be appointed by the Governor, subject
29 to confirmation by the Senate.

30 (2) Three ~~Five~~ members of the board must ~~shall~~ be
31 licensed barbers who have practiced ~~the occupation of~~

1 barbering in this state for at least 5 years. Three members
2 must be licensed cosmetologists who have practiced cosmetology
3 in this state for at least 5 years, and the remaining member
4 must ~~two members of the board shall~~ be a resident citizens of
5 the state who ~~is~~ ~~are~~ not presently a licensed barber or
6 cosmetologist barbers. No person may ~~shall~~ be appointed to the
7 board who is ~~in any way~~ connected with the manufacture,
8 rental, or wholesale distribution of barber or cosmetology
9 equipment and supplies.

10 (3) As the terms of the members expire, the Governor
11 shall appoint successors for terms of 4 years; and such
12 members shall serve until their successors are appointed and
13 qualified. The Governor may remove any member for cause.

14 (4) No person may ~~shall~~ be appointed to serve more
15 than two consecutive terms. Any vacancy shall be filled by
16 appointment by the Governor for the unexpired portion of the
17 term.

18 (5) Each board member shall receive \$50 per day, up to
19 a maximum of \$2,000 per year, for time spent on board
20 business, plus per diem and mileage allowances as provided in
21 s. 112.061 from the place of her or his residence to the place
22 of meeting and the return therefrom.

23 (6) Before beginning duties as a board member, each
24 appointee must take the constitutional oath of office and file
25 it with the Department of State, which shall issue to such
26 member a certificate of appointment.

27 (7) The board shall, each January, elect from among
28 its members a chair and a vice chair.

29 (8) The board shall hold such meetings during the year
30 as necessary, one of which shall be the annual meeting. The
31

1 chair may call other meetings. A quorum shall consist of not
2 fewer than four members.

3 (9)~~(6)~~ Each board member shall be held accountable to
4 the Governor for the proper performance of all duties and
5 obligations of such board member's office. The Governor shall
6 cause to be investigated any complaints or unfavorable reports
7 received concerning the actions of the board or its individual
8 members and shall take appropriate action thereon, which may
9 include removal of any board member for malfeasance,
10 misfeasance, neglect of duty, commission of a felony,
11 drunkenness, incompetency, or permanent inability to perform
12 her or his official duties.

13 Section 39. Section 476.064, Florida Statutes, is
14 amended to read:

15 476.064 Organization; headquarters; personnel;
16 meetings.--

17 ~~(1) The board shall annually elect a chair and a vice~~
18 ~~chair from its number.~~The board shall maintain its
19 headquarters in Tallahassee.

20 (2) The department shall appoint or employ such
21 personnel as ~~may be~~ necessary to assist the board in
22 exercising the powers and performing the duties and
23 obligations set forth in this chapter act. Such personnel need
24 not be licensed barbers or cosmetologists and shall not be
25 members of the board. Such personnel shall be authorized to
26 do and perform such duties and work as may be assigned by the
27 board.

28 ~~(3) The board shall hold an annual meeting and such~~
29 ~~other meetings during the year as it may determine to be~~
30 ~~necessary. The chair of the board may call other meetings at~~
31

1 ~~her or his discretion. A quorum of the board shall consist of~~
2 ~~not less than four members.~~

3 (3)~~(4)~~ The board has authority to adopt rules pursuant
4 to ss. 120.536(1) and 120.54 necessary to administer ~~implement~~
5 ~~the provisions of this chapter.~~

6 Section 40. Subsections (1) and (2) of section
7 476.074, Florida Statutes, are amended to read:

8 476.074 Legal, investigative, and inspection
9 services.--

10 (1) The department shall provide all legal services
11 needed to carry out the provisions of this chapter act.

12 (2) The department shall provide all investigative
13 services required by the board or the department in carrying
14 out the provisions of this chapter act.

15 Section 41. Subsection (2) of section 476.154, Florida
16 Statutes, is amended to read:

17 476.154 Biennial renewal of licenses.--

18 (2) Any license or certificate of registration issued
19 pursuant to this chapter act for a period less than the
20 established biennial issuance period may be issued for that
21 lesser period of time, and the department shall adjust the
22 required fee accordingly. The board shall adopt rules
23 providing for such partial period fee adjustments.

24 Section 42. Paragraphs (a) and (b) of subsection (1)
25 of section 476.194, Florida Statutes, are amended to read:

26 476.194 Prohibited acts.--

27 (1) It is unlawful for any person to:

28 (a) Engage in the practice of barbering without an
29 active license as a barber issued pursuant to the provisions
30 of this chapter act by the department.

31

1 (b) Engage in willful or repeated violations of this
2 chapter act or of any of the rules adopted by the board.

3 Section 43. Subsections (1) and (3) of section
4 476.214, Florida Statutes, are amended to read:

5 476.214 Grounds for suspending, revoking, or refusing
6 to grant license or certificate.--

7 (1) The board shall have the power to revoke or
8 suspend any license, registration card, or certificate of
9 registration issued pursuant to this chapter act, or to
10 reprimand, censure, deny subsequent licensure of, or otherwise
11 discipline any holder of a license, registration card, or
12 certificate of registration issued pursuant to this chapter
13 act, for any of the following causes:

14 (a) Gross malpractice or gross incompetency in the
15 practice of barbering;

16 (b) Practice by a person knowingly having an
17 infectious or contagious disease; or

18 (c) Commission of any of the offenses described in s.
19 476.194.

20 (3) The board shall keep a record of its disciplinary
21 proceedings against holders of licenses or certificates of
22 registration issued pursuant to this chapter act.

23 Section 44. Section 476.234, Florida Statutes, is
24 amended to read:

25 476.234 Civil proceedings.--In addition to any other
26 remedy, the department may file a proceeding in the name of
27 the state seeking issuance of a restraining order, injunction,
28 or writ of mandamus against any person who is or has been
29 violating any of the provisions of this chapter act or the
30 lawful rules or orders of the board, commission, or
31 department.

1 Section 45. Subsection (1) of section 477.013, Florida
2 Statutes, is amended to read:

3 477.013 Definitions.--As used in this chapter:

4 (1) "Board" means the Board of Barbering and
5 Cosmetology.

6 Section 46. Section 477.015, Florida Statutes, is
7 repealed.

8 Section 47. The Barbers' Board created pursuant to
9 section 476.054, Florida Statutes, and the Board of
10 Cosmetology created pursuant to section 477.015, Florida
11 Statutes, are abolished. All rules of the Barbers' Board and
12 the Board of Cosmetology in effect on the effective date of
13 this act shall remain in full force and shall become rules of
14 the Board of Barbering and Cosmetology.

15 Section 48. The Board of Barbering and Cosmetology is
16 created by this act by the amendment of section 476.054,
17 Florida Statutes, and the repeal of section 477.015, Florida
18 Statutes. Appointments to this board are new and shall be made
19 by the Governor, subject to confirmation by the Senate, for
20 initial terms of 4 years or less so that no more than two
21 terms expire in any one year. The board shall assume
22 responsibilities for the regulation of barbering pursuant to
23 chapter 476, Florida Statutes, and the regulation of
24 cosmetology pursuant to chapter 477, Florida Statutes, as
25 provided in those chapters.

26 Section 49. The Board of Barbering and Cosmetology
27 shall be replaced as the party of interest for any legal
28 actions naming the Barbers' Board or the Board of Cosmetology
29 as a party.

30 Section 50. Subsection (7) of section 477.019, Florida
31 Statutes, is amended to read:

1 477.019 Cosmetologists; qualifications; licensure;
2 supervised practice; license renewal; endorsement; continuing
3 education.--

4 (7)(a) The board shall prescribe by rule continuing
5 education requirements intended to ensure protection of the
6 public through updated training of licensees and registered
7 specialists, not to exceed 16 hours biennially, as a condition
8 for renewal of a license or registration as a specialist under
9 this chapter. Continuing education courses shall include, but
10 not be limited to, the following subjects as they relate to
11 the practice of cosmetology: human immunodeficiency virus and
12 acquired immune deficiency syndrome; Occupational Safety and
13 Health Administration regulations; workers' compensation
14 issues; state and federal laws and rules as they pertain to
15 cosmetologists, cosmetology, salons, specialists, specialty
16 salons, and booth renters; chemical makeup as it pertains to
17 hair, skin, and nails; and environmental issues. Courses given
18 at cosmetology conferences may be counted toward the number of
19 continuing education hours required if approved by the board.

20 (b) Any person whose occupation or practice is
21 confined solely to hair braiding, hair wrapping, or body
22 wrapping is exempt from the continuing education requirements
23 of this subsection.

24 ~~(c) The board may, by rule, require any licensee in~~
25 ~~violation of a continuing education requirement to take a~~
26 ~~refresher course or refresher course and examination in~~
27 ~~addition to any other penalty. The number of hours for the~~
28 ~~refresher course may not exceed 48 hours.~~

29 Section 51. Subsection (1) of section 477.026, Florida
30 Statutes, is amended to read:

31 477.026 Fees; disposition.--

- 1 (1) The board shall set fees according to the
2 following schedule:
- 3 (a) For cosmetologists, fees for original licensing,
4 license renewal, and delinquent renewal shall not exceed \$25.
- 5 (b) For cosmetologists, fees for endorsement
6 application, examination, and reexamination shall not exceed
7 \$50.
- 8 (c) For cosmetology and specialty salons, fees for
9 license application, original licensing, license renewal, and
10 delinquent renewal shall not exceed \$50.
- 11 (d) For specialists, fees for application and
12 endorsement registration shall not exceed \$30.
- 13 (e) For specialists, fees for initial registration,
14 registration renewal, and delinquent renewal shall not exceed
15 \$50.
- 16 (f) For hair braiders, hair wrappers, and body
17 wrappers, fees for initial registration, registration renewal,
18 and delinquent renewal shall not exceed \$25.
- 19 Section 52. Subsection (1) of section 481.209, Florida
20 Statutes, is amended to read:
- 21 481.209 Examinations.--
- 22 (1) A person desiring to be licensed as a registered
23 architect shall apply to the department to take the licensure
24 examination. The department shall administer the licensure
25 examination for architects to each applicant who the board
26 certifies:
- 27 (a) Has completed the application form and remitted a
28 nonrefundable application fee and an examination fee which is
29 refundable if the applicant is found to be ineligible to take
30 the examination;
- 31

1 (b)1. ~~Has successfully completed all architectural~~
2 ~~curriculum courses required by and~~ Is a graduate of a school
3 or college of architecture accredited by the National
4 Architectural Accreditation Board; or

5 2. Is a graduate of an approved architectural
6 curriculum, evidenced by a degree from an unaccredited school
7 or college of architecture approved by the board. The board
8 shall adopt rules providing for the review and approval of
9 unaccredited schools and colleges of architecture and courses
10 of architectural study based on a review and inspection by the
11 board of the curriculum of accredited schools and colleges of
12 architecture in the United States, ~~including those schools and~~
13 ~~colleges accredited by the National Architectural~~
14 ~~Accreditation Board; and~~

15 (c) Has completed, prior to examination, 1 year of the
16 internship experience required by s. 481.211(1).

17 Section 53. Section 481.223, Florida Statutes, is
18 amended to read:

19 481.223 Prohibitions; penalties; injunctive relief.--

20 (1) A person may not knowingly:

21 (a) Practice architecture unless the person is an
22 architect or a registered architect;

23 (b) Practice interior design unless the person is a
24 registered interior designer unless otherwise exempted herein;

25 (c) Use the name or title "architect" or "registered
26 architect," or "interior designer" or "registered interior
27 designer," or words to that effect, when the person is not
28 then the holder of a valid license issued pursuant to this
29 part;

30 (d) Present as his or her own the license of another;

31

1 (e) Give false or forged evidence to the board or a
2 member thereof;

3 (f) Use or attempt to use an architect or interior
4 designer license that has been suspended, revoked, or placed
5 on inactive or delinquent status;

6 (g) Employ unlicensed persons to practice architecture
7 or interior design; or

8 (h) Conceal information relative to violations of this
9 part.

10 (2) Any person who violates any provision of
11 subsection (1)~~this section~~ commits a misdemeanor of the first
12 degree, punishable as provided in s. 775.082 or s. 775.083.

13 (3)(a) Notwithstanding chapter 455 or any other
14 provision of law to the contrary, an affected person may
15 maintain an action for injunctive relief to restrain or
16 prevent a person from violating paragraph (1)(a), paragraph
17 (1)(b), or paragraph (1)(c). The prevailing party shall be
18 entitled to actual costs and attorney's fees.

19 (b) For purposes of this subsection, "affected person"
20 means a person directly affected by the actions of a person
21 suspected of violating paragraph (1)(a), paragraph (1)(b), or
22 paragraph (1)(c) and includes, but is not limited to, the
23 department, any person who received services from the alleged
24 violation, or any private association composed primarily of
25 members of the profession the alleged violator is practicing
26 or offering to practice or holding himself or herself out as
27 qualified to practice.

28 Section 54. Effective July 1, 2001, subsection (2) of
29 section 489.107, Florida Statutes, is amended, and subsection
30 (7) is added to said section, to read:

31 489.107 Construction Industry Licensing Board.--

- 1 (2) The board shall consist of 16 ~~18~~ members, of whom:
- 2 (a) Four are primarily engaged in business as general
- 3 contractors;
- 4 (b) Three are primarily engaged in business as
- 5 building contractors or residential contractors, however, at
- 6 least one building contractor and one residential contractor
- 7 shall be appointed;
- 8 (c) One is primarily engaged in business as a roofing
- 9 contractor;
- 10 (d) One is primarily engaged in business as a sheet
- 11 metal contractor;
- 12 (e) One is primarily engaged in business as an
- 13 air-conditioning contractor;
- 14 (f) One is primarily engaged in business as a
- 15 mechanical contractor;
- 16 (g) One is primarily engaged in business as a pool
- 17 contractor;
- 18 (h) One is primarily engaged in business as a plumbing
- 19 contractor;
- 20 (i) One is primarily engaged in business as an
- 21 underground utility and excavation contractor;
- 22 (j) Notwithstanding the provisions of s. 20.165(6),
- 23 one is a ~~Two are~~ consumer member ~~members~~ who is ~~are~~ not, and
- 24 has ~~have~~ never been, a member ~~members~~ or practitioner
- 25 ~~practitioners~~ of a profession regulated by the board or a
- 26 member ~~members~~ of any closely related profession; and
- 27 (k) One is a ~~Two are~~ building official ~~officials~~ of a
- 28 municipality or county.
- 29 (7) After July 1, 2001, notwithstanding the provisions
- 30 of s. 20.165(7), the offices of the board shall be located in
- 31 Leon County. After October 1, 2001, funds may not be expended

1 to continue the lease of office space in Duval County for
2 purposes of this section and part.

3 Section 55. Section 489.1133, Florida Statutes, is
4 created to read:

5 489.1133 Temporary certificate or registration.--The
6 department may issue a temporary certificate or registration
7 to any applicant who has submitted a completed application and
8 who appears to meet all qualifications for certification or
9 registration, pending final approval of the application and
10 the granting of a permanent certificate or registration by the
11 board. If the board determines that the applicant does not
12 meet all of the requirements for certification or registration
13 under this part, the board shall, upon notifying the applicant
14 of his or her failure to qualify, revoke the applicant's
15 temporary certificate or registration.

16 Section 56. Paragraph (b) of subsection (4) of section
17 489.115, Florida Statutes, as amended by chapters 98-287 and
18 2000-141, Laws of Florida, is amended to read:

19 489.115 Certification and registration; endorsement;
20 reciprocity; renewals; continuing education.--

21 (4)

22 (b)1. Each certificateholder or registrant shall
23 provide proof, in a form established by rule of the board,
24 that the certificateholder or registrant has completed at
25 least 14 classroom hours of at least 50 minutes each of
26 continuing education courses during each biennium since the
27 issuance or renewal of the certificate or registration. The
28 board shall establish by rule that a portion of the required
29 14 hours must deal with the subject of workers' compensation,
30 business practices, and workplace safety. The board shall by
31 rule establish criteria for the approval of continuing

1 education courses and providers, including requirements
2 relating to the content of courses and standards for approval
3 of providers, and may by rule establish criteria for accepting
4 alternative nonclassroom continuing education on an
5 hour-for-hour basis. The board shall prescribe by rule the
6 continuing education, if any, which is required during the
7 first biennium of initial licensure. A person who has been
8 licensed for less than an entire biennium must not be required
9 to complete the full 14 hours of continuing education.

10 2. In addition, the board may approve specialized
11 continuing education courses on compliance with the wind
12 resistance provisions for one and two family dwellings
13 contained in the Florida Building Code and any alternate
14 methodologies for providing such wind resistance which have
15 been approved for use by the Florida Building Commission.
16 Contractors defined in s. 489.105(3)(a)-(c)~~Division F~~
17 ~~certificateholders or registrants~~ who demonstrate proficiency
18 upon completion of such specialized courses may certify plans
19 and specifications for one and two family dwellings to be in
20 compliance with the code or alternate methodologies, as
21 appropriate, except for dwellings located in floodways or
22 coastal hazard areas as defined in ss. 60.3D and E of the
23 National Flood Insurance Program.

24 3. Each certificateholder or registrant shall provide
25 to the board proof of completion of the core curriculum
26 courses, or passing the equivalency test of the Building Code
27 Training Program established under s. 553.841, specific to the
28 licensing category sought, within 2 years after commencement
29 of the program or of initial certification or registration,
30 whichever is later. Classroom hours spent taking core
31 curriculum courses shall count toward the number required for

1 renewal of certificates or registration. A certificateholder
2 or registrant who passes the equivalency test in lieu of
3 taking the core curriculum courses shall receive full credit
4 for core curriculum course hours.

5 4. The board shall require, by rule adopted pursuant
6 to ss. 120.536(1) and 120.54, a specified number of hours in
7 specialized or advanced module courses, approved by the
8 Florida Building Commission, on any portion of the Florida
9 Building Code, adopted pursuant to part VII of chapter 553,
10 relating to the contractor's respective discipline.

11 Section 57. Subsection (1) of section 489.118, Florida
12 Statutes, is amended to read:

13 489.118 Certification of registered contractors;
14 grandfathering provisions.--The board shall, upon receipt of a
15 completed application and appropriate fee, issue a certificate
16 in the appropriate category to any contractor registered under
17 this part who makes application to the board and can show that
18 he or she meets each of the following requirements:

19 (1) Currently holds a valid registered local license
20 in one of the contractor categories defined in s.
21 489.105(3)(a)-(p) or holds a valid registered local specialty
22 license which substantially corresponds to a type of specialty
23 contractor recognized for state certification pursuant to
24 board rule under s. 489.113(6).

25 Section 58. Subsection (6) of section 489.507, Florida
26 Statutes, is repealed.

27 Section 59. The Electrical Contractors' Licensing
28 Board shall review its operations and its regular board
29 meeting lengths and locations and develop a plan to reduce its
30 annual operating budget by \$25,000, and shall submit the plan
31

1 to the Department of Business and Professional Regulation by
2 January 1, 2002.

3 Section 60. Subsection (6) of section 489.511, Florida
4 Statutes, is amended to read:

5 489.511 Certification; application; examinations;
6 endorsement.--

7 (6) The board shall certify as qualified for
8 certification by endorsement any individual who applies from a
9 state that has a mutual reciprocity endorsement agreement with
10 the board and applying for certification who+

11 ~~(a)~~ meets the requirements for certification ~~as set~~
12 ~~forth~~ in this section; has passed a national, regional, state,
13 or United States territorial licensing examination that is
14 substantially equivalent to the examination required by this
15 part; and has satisfied the requirements set forth in s.
16 489.521. ~~+~~ or

17 ~~(b) Holds a valid license to practice electrical or~~
18 ~~alarm system contracting issued by another state or territory~~
19 ~~of the United States, if the criteria for issuance of such~~
20 ~~license was substantially equivalent to the certification~~
21 ~~criteria that existed in this state at the time the~~
22 ~~certificate was issued.~~

23 Section 61. Subsection (5) of section 498.005, Florida
24 Statutes, is amended to read:

25 498.005 Definitions.--As used in this chapter, unless
26 the context otherwise requires, the term:

27 (5) "Division" means the Division of Real Estate
28 ~~Florida Land Sales, Condominiums, and Mobile Homes~~ of the
29 Department of Business and Professional Regulation.

30 Section 62. Section 498.019, Florida Statutes, is
31 amended to read:

1 498.019 Professional Regulation ~~Division of Florida~~
2 ~~Land Sales, Condominiums, and Mobile Homes~~ Trust Fund.--

3 ~~(1) There is created within the State Treasury the~~
4 ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~
5 ~~Trust Fund to be used for the administration and operation of~~
6 ~~this chapter and chapters 718, 719, 721, and 723 by the~~
7 ~~division.~~

8 ~~(2) All moneys collected by the division from fees,~~
9 ~~finances, or penalties or from costs awarded to the division by a~~
10 ~~court shall be paid into the Professional Regulation Division~~
11 ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust
12 ~~Fund to be used to administer and enforce this chapter and~~
13 ~~rules adopted thereunder. The department shall maintain a~~
14 ~~separate account in the trust fund and shall administer the~~
15 ~~account pursuant to s. 455.219. The Legislature shall~~
16 ~~appropriate funds from this trust fund sufficient to carry out~~
17 ~~the provisions of this chapter and the provisions of law with~~
18 ~~respect to each category of business covered by this trust~~
19 ~~fund. The division shall maintain separate revenue accounts~~
20 ~~in the trust fund for each of the businesses regulated by the~~
21 ~~division. The division shall provide for the proportionate~~
22 ~~allocation among the accounts of expenses incurred by the~~
23 ~~division in the performance of its duties with respect to each~~
24 ~~of these businesses. As part of its normal budgetary process,~~
25 ~~the division shall prepare an annual report of revenue and~~
26 ~~allocated expenses related to the operation of each of these~~
27 ~~businesses which may be used to determine fees charged by the~~
28 ~~division. This subsection shall operate pursuant to the~~
29 ~~provisions of s. 215.20.~~

30 Section 63. Subsection (5) of section 498.049, Florida
31 Statutes, is amended to read:

1 498.049 Suspension; revocation; civil penalties.--
2 (5) Each person who materially participates in any
3 offer or disposition of any interest in subdivided lands in
4 violation of this chapter or relevant rules involving fraud,
5 deception, false pretenses, misrepresentation, or false
6 advertising or the disposition, concealment, or diversion of
7 any funds or assets of any person which adversely affects the
8 interests of a purchaser of any interest in subdivided lands,
9 and who directly or indirectly controls a subdivider or is a
10 general partner, officer, director, agent, or employee of a
11 subdivider shall also be liable under this subsection jointly
12 and severally with and to the same extent as the subdivider,
13 unless that person did not know, and in the exercise of
14 reasonable care could not have known, of the existence of the
15 facts creating the alleged liability. Among these persons a
16 right of contribution shall exist, except that a creditor of a
17 subdivider shall not be jointly and severally liable unless
18 the creditor has assumed managerial or fiduciary
19 responsibility in a manner related to the basis for the
20 liability of the subdivider under this subsection. Civil
21 penalties shall be limited to \$10,000 for each offense, and
22 all amounts collected shall be deposited with the Treasurer to
23 the credit of the Professional Regulation ~~Division of Florida~~
24 ~~Land Sales, Condominiums, and Mobile Homes~~ Trust Fund. No
25 order requiring the payment of a civil penalty shall become
26 effective until 20 days after the date of the order, unless
27 otherwise agreed in writing by the person on whom the penalty
28 is imposed.
29 Section 64. Subsection (2) of section 190.009, Florida
30 Statutes, is amended to read:
31 190.009 Disclosure of public financing.--

1 (2) The Division of Real Estate ~~Florida Land Sales,~~
2 ~~Condominiums, and Mobile Homes~~ of the Department of Business
3 and Professional Regulation shall ensure that disclosures made
4 by developers pursuant to chapter 498 meet the requirements of
5 subsection (1).

6 Section 65. The regulation of land sales pursuant to
7 chapter 498, Florida Statutes, shall remain under the
8 Department of Business and Professional Regulation but is
9 reassigned from the Division of Florida Land Sales,
10 Condominiums, and Mobile Homes to the Division of Real Estate.
11 All funds collected by the department pursuant to this
12 regulation and all funds in the account created within the
13 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund
14 for the purpose of this regulation shall be deposited in an
15 account created within the Professional Regulation Trust Fund
16 for this same purpose.

17 Section 66. Subsection (17) of section 718.103,
18 Florida Statutes, is amended to read:

19 718.103 Definitions.--As used in this chapter, the
20 term:

21 (17) "Division" means the Division of ~~Florida Land~~
22 ~~Sales, Condominiums, Timeshare,~~ and Mobile Homes of the
23 Department of Business and Professional Regulation.

24 Section 67. Paragraph (c) of subsection (4) of section
25 718.105, Florida Statutes, is amended to read:

26 718.105 Recording of declaration.--

27 (4)

28 (c) If the sum of money held by the clerk has not been
29 paid to the developer or association as provided in paragraph
30 (b) by 3 years after the date the declaration was originally
31 recorded, the clerk in his or her discretion may notify, in

1 writing, the registered agent of the association that the sum
2 is still available and the purpose for which it was deposited.
3 If the association does not record the certificate within 90
4 days after the clerk has given the notice, the clerk may
5 disburse the money to the developer. If the developer cannot
6 be located, the clerk shall disburse the money to the division
7 ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ for
8 deposit in the Division of ~~Florida Land Sales, Condominiums,~~
9 Timeshare, and Mobile Homes Trust Fund.

10 Section 68. Subsection (4) of section 718.1255,
11 Florida Statutes, is amended to read:

12 718.1255 Alternative dispute resolution; voluntary
13 mediation; mandatory nonbinding arbitration; legislative
14 findings.--

15 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
16 DISPUTES.--The division ~~of Florida Land Sales, Condominiums,~~
17 ~~and Mobile Homes of the Department of Business and~~
18 ~~Professional Regulation~~ shall employ full-time attorneys to
19 act as arbitrators to conduct the arbitration hearings
20 provided by this chapter. The division may also certify
21 attorneys who are not employed by the division to act as
22 arbitrators to conduct the arbitration hearings provided by
23 this section. No person may be employed by the department as a
24 full-time arbitrator unless he or she is a member in good
25 standing of The Florida Bar. The department shall promulgate
26 rules of procedure to govern such arbitration hearings
27 including mediation incident thereto. The decision of an
28 arbitrator shall be final; however, such a decision shall not
29 be deemed final agency action. Nothing in this provision shall
30 be construed to foreclose parties from proceeding in a trial
31 de novo unless the parties have agreed that the arbitration is

1 binding. If such judicial proceedings are initiated, the final
2 decision of the arbitrator shall be admissible in evidence in
3 the trial de novo.

4 (a) Prior to the institution of court litigation, a
5 party to a dispute shall petition the division for nonbinding
6 arbitration. The petition must be accompanied by a filing fee
7 in the amount of \$50. Filing fees collected under this
8 section must be used to defray the expenses of the alternative
9 dispute resolution program.

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

13 1. Advance written notice of the specific nature of
14 the dispute;

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

17 3. Notice of the intention to file an arbitration
18 petition or other legal action in the absence of a resolution
19 of the dispute.

20
21 Failure to include the allegations or proof of compliance with
22 these prerequisites requires dismissal of the petition without
23 prejudice.

24 (c) Upon receipt, the petition shall be promptly
25 reviewed by the division to determine the existence of a
26 dispute and compliance with the requirements of paragraphs (a)
27 and (b). If emergency relief is required and is not available
28 through arbitration, a motion to stay the arbitration may be
29 filed. The motion must be accompanied by a verified petition
30 alleging facts that, if proven, would support entry of a
31 temporary injunction, and if an appropriate motion and

1 supporting papers are filed, the division may abate the
2 arbitration pending a court hearing and disposition of a
3 motion for temporary injunction.

4 (d) Upon determination by the division that a dispute
5 exists and that the petition substantially meets the
6 requirements of paragraphs (a) and (b) and any other
7 applicable rules, a copy of the petition shall forthwith be
8 served by the division upon all respondents.

9 (e) Either before or after the filing of the
10 respondents' answer to the petition, any party may request
11 that the arbitrator refer the case to mediation under this
12 section and any rules adopted by the division. Upon receipt
13 of a request for mediation, the division shall promptly
14 contact the parties to determine if there is agreement that
15 mediation would be appropriate. If all parties agree, the
16 dispute must be referred to mediation. Notwithstanding a lack
17 of an agreement by all parties, the arbitrator may refer a
18 dispute to mediation at any time.

19 (f) Upon referral of a case to mediation, the parties
20 must select a mutually acceptable mediator. To assist in the
21 selection, the arbitrator shall provide the parties with a
22 list of both volunteer and paid mediators that have been
23 certified by the division under s. 718.501. If the parties
24 are unable to agree on a mediator within the time allowed by
25 the arbitrator, the arbitrator shall appoint a mediator from
26 the list of certified mediators. If a case is referred to
27 mediation, the parties shall attend a mediation conference, as
28 scheduled by the parties and the mediator. If any party fails
29 to attend a duly noticed mediation conference, without the
30 permission or approval of the arbitrator or mediator, the
31 arbitrator must impose sanctions against the party, including

1 the striking of any pleadings filed, the entry of an order of
2 dismissal or default if appropriate, and the award of costs
3 and attorneys' fees incurred by the other parties. Unless
4 otherwise agreed to by the parties or as provided by order of
5 the arbitrator, a party is deemed to have appeared at a
6 mediation conference by the physical presence of the party or
7 its representative having full authority to settle without
8 further consultation, provided that an association may comply
9 by having one or more representatives present with full
10 authority to negotiate a settlement and recommend that the
11 board of administration ratify and approve such a settlement
12 within 5 days from the date of the mediation conference. The
13 parties shall share equally the expense of mediation, unless
14 they agree otherwise.

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

19 (h) Mediation proceedings must generally be conducted
20 in accordance with the Florida Rules of Civil Procedure, and
21 these proceedings are privileged and confidential to the same
22 extent as court-ordered mediation. Persons who are not parties
23 to the dispute are not allowed to attend the mediation
24 conference without the consent of all parties, with the
25 exception of counsel for the parties and corporate
26 representatives designated to appear for a party. If the
27 mediator declares an impasse after a mediation conference has
28 been held, the arbitration proceeding terminates, unless all
29 parties agree in writing to continue the arbitration
30 proceeding, in which case the arbitrator's decision shall be
31 either binding or nonbinding, as agreed upon by the parties;

1 in the arbitration proceeding, the arbitrator shall not
2 consider any evidence relating to the unsuccessful mediation
3 except in a proceeding to impose sanctions for failure to
4 appear at the mediation conference. If the parties do not
5 agree to continue arbitration, the arbitrator shall enter an
6 order of dismissal, and either party may institute a suit in a
7 court of competent jurisdiction. The parties may seek to
8 recover any costs and attorneys' fees incurred in connection
9 with arbitration and mediation proceedings under this section
10 as part of the costs and fees that may be recovered by the
11 prevailing party in any subsequent litigation.

12 (i) Arbitration shall be conducted according to rules
13 promulgated by the division. The filing of a petition for
14 arbitration shall toll the applicable statute of limitations.

15 (j) At the request of any party to the arbitration,
16 such arbitrator shall issue subpoenas for the attendance of
17 witnesses and the production of books, records, documents, and
18 other evidence and any party on whose behalf a subpoena is
19 issued may apply to the court for orders compelling such
20 attendance and production. Subpoenas shall be served and shall
21 be enforceable in the manner provided by the Florida Rules of
22 Civil Procedure. Discovery may, in the discretion of the
23 arbitrator, be permitted in the manner provided by the Florida
24 Rules of Civil Procedure. Rules adopted by the division may
25 authorize any reasonable sanctions except contempt for a
26 violation of the arbitration procedural rules of the division
27 or for the failure of a party to comply with a reasonable
28 nonfinal order issued by an arbitrator which is not under
29 judicial review.

30 (k) The arbitration decision shall be presented to the
31 parties in writing. An arbitration decision is final in those

1 disputes in which the parties have agreed to be bound. An
2 arbitration decision is also final if a complaint for a trial
3 de novo is not filed in a court of competent jurisdiction in
4 which the condominium is located within 30 days. The right to
5 file for a trial de novo entitles the parties to file a
6 complaint in the appropriate trial court for a judicial
7 resolution of the dispute. The prevailing party in an
8 arbitration proceeding shall be awarded the costs of the
9 arbitration and reasonable attorney's fees in an amount
10 determined by the arbitrator. Such an award shall include the
11 costs and reasonable attorney's fees incurred in the
12 arbitration proceeding as well as the costs and reasonable
13 attorney's fees incurred in preparing for and attending any
14 scheduled mediation.

15 (l) The party who files a complaint for a trial de
16 novo shall be assessed the other party's arbitration costs,
17 court costs, and other reasonable costs, including attorney's
18 fees, investigation expenses, and expenses for expert or other
19 testimony or evidence incurred after the arbitration hearing
20 if the judgment upon the trial de novo is not more favorable
21 than the arbitration decision. If the judgment is more
22 favorable, the party who filed a complaint for trial de novo
23 shall be awarded reasonable court costs and attorney's fees.

24 (m) Any party to an arbitration proceeding may enforce
25 an arbitration award by filing a petition in a court of
26 competent jurisdiction in which the condominium is located. A
27 petition may not be granted unless the time for appeal by the
28 filing of a complaint for trial de novo has expired. If a
29 complaint for a trial de novo has been filed, a petition may
30 not be granted with respect to an arbitration award that has
31 been stayed. If the petition for enforcement is granted, the

1 petitioner shall recover reasonable attorney's fees and costs
2 incurred in enforcing the arbitration award. A mediation
3 settlement may also be enforced through the county or circuit
4 court, as applicable, and any costs and fees incurred in the
5 enforcement of a settlement agreement reached at mediation
6 must be awarded to the prevailing party in any enforcement
7 action.

8 Section 69. Section 718.501, Florida Statutes, is
9 amended to read:

10 718.501 Powers and duties of Division of ~~Florida Land~~
11 ~~Sales, Condominiums, Timeshare, and Mobile Homes.--~~

12 (1) The Division of ~~Florida Land Sales, Condominiums,~~
13 ~~Timeshare, and Mobile Homes~~ of the Department of Business and
14 Professional Regulation, referred to as the "division" in this
15 part, ~~in addition to other powers and duties prescribed by~~
16 ~~chapter 498,~~ has the power to enforce and ensure compliance
17 with the provisions of this chapter and rules adopted
18 ~~promulgated~~ pursuant hereto relating to the development,
19 construction, sale, lease, ownership, operation, and
20 management of residential condominium units. In performing its
21 duties, the division has the following powers and duties:

22 (a) The division may make necessary public or private
23 investigations within or outside this state to determine
24 whether any person has violated this chapter or any rule or
25 order hereunder, to aid in the enforcement of this chapter, or
26 to aid in the adoption of rules or forms hereunder.

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

31

1 (c) For the purpose of any investigation under this
2 chapter, the division director or any officer or employee
3 designated by the division director may administer oaths or
4 affirmations, subpoena witnesses and compel their attendance,
5 take evidence, and require the production of any matter which
6 is relevant to the investigation, including the existence,
7 description, nature, custody, condition, and location of any
8 books, documents, or other tangible things and the identity
9 and location of persons having knowledge of relevant facts or
10 any other matter reasonably calculated to lead to the
11 discovery of material evidence. Upon the failure by a person
12 to obey a subpoena or to answer questions propounded by the
13 investigating officer and upon reasonable notice to all
14 persons affected thereby, the division may apply to the
15 circuit court for an order compelling compliance.

16 (d) Notwithstanding any remedies available to unit
17 owners and associations, if the division has reasonable cause
18 to believe that a violation of any provision of this chapter
19 or rule promulgated pursuant hereto has occurred, the division
20 may institute enforcement proceedings in its own name against
21 any developer, association, officer, or member of the board of
22 administration, or its assignees or agents, as follows:

23 1. The division may permit a person whose conduct or
24 actions may be under investigation to waive formal proceedings
25 and enter into a consent proceeding whereby orders, rules, or
26 letters of censure or warning, whether formal or informal, may
27 be entered against the person.

28 2. The division may issue an order requiring the
29 developer, association, officer, or member of the board of
30 administration, or its assignees or agents, to cease and
31 desist from the unlawful practice and take such affirmative

1 action as in the judgment of the division will carry out the
2 purposes of this chapter. Such affirmative action may include,
3 but is not limited to, an order requiring a developer to pay
4 moneys determined to be owed to a condominium association.

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

8 4. The division may impose a civil penalty against a
9 developer or association, or its assignee or agent, for any
10 violation of this chapter or a rule promulgated pursuant
11 hereto. The division may impose a civil penalty individually
12 against any officer or board member who willfully and
13 knowingly violates a provision of this chapter, a rule adopted
14 pursuant hereto, or a final order of the division. The term
15 "willfully and knowingly" means that the division informed the
16 officer or board member that his or her action or intended
17 action violates this chapter, a rule adopted under this
18 chapter, or a final order of the division and that the officer
19 or board member refused to comply with the requirements of
20 this chapter, a rule adopted under this chapter, or a final
21 order of the division. The division, prior to initiating
22 formal agency action under chapter 120, shall afford the
23 officer or board member an opportunity to voluntarily comply
24 with this chapter, a rule adopted under this chapter, or a
25 final order of the division. An officer or board member who
26 complies within 10 days is not subject to a civil penalty. A
27 penalty may be imposed on the basis of each day of continuing
28 violation, but in no event shall the penalty for any offense
29 exceed \$5,000. By January 1, 1998, the division shall adopt,
30 by rule, penalty guidelines applicable to possible violations
31 or to categories of violations of this chapter or rules

1 adopted by the division. The guidelines must specify a
2 meaningful range of civil penalties for each such violation of
3 the statute and rules and must be based upon the harm caused
4 by the violation, the repetition of the violation, and upon
5 such other factors deemed relevant by the division. For
6 example, the division may consider whether the violations were
7 committed by a developer or owner-controlled association, the
8 size of the association, and other factors. The guidelines
9 must designate the possible mitigating or aggravating
10 circumstances that justify a departure from the range of
11 penalties provided by the rules. It is the legislative intent
12 that minor violations be distinguished from those which
13 endanger the health, safety, or welfare of the condominium
14 residents or other persons and that such guidelines provide
15 reasonable and meaningful notice to the public of likely
16 penalties that may be imposed for proscribed conduct. This
17 subsection does not limit the ability of the division to
18 informally dispose of administrative actions or complaints by
19 stipulation, agreed settlement, or consent order. All amounts
20 collected shall be deposited with the Treasurer to the credit
21 of the Division of ~~Florida Land Sales~~, Condominiums,
22 Timeshare, and Mobile Homes Trust Fund. If a developer fails
23 to pay the civil penalty, the division shall thereupon issue
24 an order directing that such developer cease and desist from
25 further operation until such time as the civil penalty is paid
26 or may pursue enforcement of the penalty in a court of
27 competent jurisdiction. If an association fails to pay the
28 civil penalty, the division shall thereupon pursue enforcement
29 in a court of competent jurisdiction, and the order imposing
30 the civil penalty or the cease and desist order will not
31 become effective until 20 days after the date of such order.

1 Any action commenced by the division shall be brought in the
2 county in which the division has its executive offices or in
3 the county where the violation occurred.

4 (e) The division is authorized to prepare and
5 disseminate a prospectus and other information to assist
6 prospective owners, purchasers, lessees, and developers of
7 residential condominiums in assessing the rights, privileges,
8 and duties pertaining thereto.

9 (f) The division has authority to adopt rules pursuant
10 to ss. 120.536(1) and 120.54 to implement and enforce the
11 provisions of this chapter.

12 (g) The division shall establish procedures for
13 providing notice to an association when the division is
14 considering the issuance of a declaratory statement with
15 respect to the declaration of condominium or any related
16 document governing in such condominium community.

17 (h) The division shall furnish each association which
18 pays the fees required by paragraph (2)(a) a copy of this act,
19 subsequent changes to this act on an annual basis, an amended
20 version of this act as it becomes available from the Secretary
21 of State's office on a biennial basis, and the rules
22 promulgated pursuant thereto on an annual basis.

23 (i) The division shall annually provide each
24 association with a summary of declaratory statements and
25 formal legal opinions relating to the operations of
26 condominiums which were rendered by the division during the
27 previous year.

28 (j) The division shall provide training programs for
29 condominium association board members and unit owners.

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

1 (1) The division shall develop a program to certify
2 both volunteer and paid mediators to provide mediation of
3 condominium disputes. The division shall provide, upon
4 request, a list of such mediators to any association, unit
5 owner, or other participant in arbitration proceedings under
6 s. 718.1255 requesting a copy of the list. The division shall
7 include on the list of volunteer mediators only the names of
8 persons who have received at least 20 hours of training in
9 mediation techniques or who have mediated at least 20
10 disputes. In order to become initially certified by the
11 division, paid mediators must be certified by the Supreme
12 Court to mediate court cases in either county or circuit
13 courts. However, the division may adopt, by rule, additional
14 factors for the certification of paid mediators, which factors
15 must be related to experience, education, or background. Any
16 person initially certified as a paid mediator by the division
17 must, in order to continue to be certified, comply with the
18 factors or requirements imposed by rules adopted by the
19 division.

20 (m) When a complaint is made, the division shall
21 conduct its inquiry with due regard to the interests of the
22 affected parties. Within 30 days after receipt of a complaint,
23 the division shall acknowledge the complaint in writing and
24 notify the complainant whether the complaint is within the
25 jurisdiction of the division and whether additional
26 information is needed by the division from the complainant.
27 The division shall conduct its investigation and shall, within
28 90 days after receipt of the original complaint or of timely
29 requested additional information, take action upon the
30 complaint. However, the failure to complete the investigation
31 within 90 days does not prevent the division from continuing

1 the investigation, accepting or considering evidence obtained
2 or received after 90 days, or taking administrative action if
3 reasonable cause exists to believe that a violation of this
4 chapter or a rule of the division has occurred. If an
5 investigation is not completed within the time limits
6 established in this paragraph, the division shall, on a
7 monthly basis, notify the complainant in writing of the status
8 of the investigation. When reporting its action to the
9 complainant, the division shall inform the complainant of any
10 right to a hearing pursuant to ss. 120.569 and 120.57.

11 (2)(a) Effective January 1, 1992, each condominium
12 association which operates more than two units shall pay to
13 the division an annual fee in the amount of \$4 for each
14 residential unit in condominiums operated by the association.
15 If the fee is not paid by March 1, then the association shall
16 be assessed a penalty of 10 percent of the amount due, and the
17 association will not have standing to maintain or defend any
18 action in the courts of this state until the amount due, plus
19 any penalty, is paid.

20 (b) All fees shall be deposited in the Division of
21 ~~Florida Land Sales, Condominiums, Timeshare, and Mobile Homes~~
22 Trust Fund as provided by law.

23 (3) If it appears that a person has violated or is
24 about to violate a provision of this chapter or a division
25 rule or order, the division, with or without prior
26 administrative proceedings, may bring an action in the circuit
27 court to enjoin the violation and to enforce compliance with
28 this chapter or any division rule or order. Upon proper
29 showing, injunctive relief or temporary restraining orders
30 shall be granted, and a receiver or conservator may be
31 appointed. If appointed, the receiver or conservator may take

1 action to implement the provisions of the court order, to
2 ensure the performance of the order, and to remedy any breach
3 of the order. In addition to all other means provided by law
4 for the enforcement of an injunction or temporary restraining
5 order, the circuit court may impound or sequester the property
6 of a party defendant, including books, papers, documents, and
7 records pertaining thereto, and allow the examination and use
8 of such property by the division and a court-appointed
9 receiver or conservator. The division is not required to post
10 a bond in any court proceedings. Venue for actions or
11 proceedings brought pursuant to this subsection may be laid in
12 any county where the venue is proper under chapter 47 or in
13 Leon County.

14 (4) In addition to any remedy provided by this
15 chapter, the division may:

16 (a) Apply to the circuit court for an order of
17 restitution whereby the defendant in an action brought
18 pursuant to subsection (3) shall be ordered to make
19 restitution of those sums shown by the division to have been
20 obtained by the defendant in violation of any of the
21 provisions of this chapter. Such restitution shall, at the
22 option of the court, be payable to the conservator or receiver
23 appointed pursuant to subsection (3) or directly to the
24 persons whose funds or assets were obtained in violation of
25 this chapter.

26 (b) Seek the imposition of a civil penalty through the
27 circuit court for any violation for which the division may
28 issue a notice to show cause. The civil penalty shall be no
29 less than \$500 and no more than \$10,000 for each violation.
30 The court may also award to the prevailing party court costs
31

1 and reasonable attorney's fees and, in the event the division
2 prevails, may also award reasonable costs of investigation.

3 (5) A person who furnishes information or evidence to
4 the division is immune from civil liability unless such person
5 acts in bad faith or with malice in providing such information
6 as evidence.

7 (6) Any official written report, worksheet, or other
8 related paper, or a duly certified copy thereof, compiled,
9 prepared, drafted, or otherwise made and duly authenticated by
10 a financial examiner or analyst employed by the division may
11 be admitted as competent evidence in any hearing in which the
12 financial examiner or analyst is available for
13 cross-examination and attests to under oath that such
14 documents were prepared as a result of an examination or
15 inspection conducted pursuant to the authority of this
16 chapter.

17 (7) The division may issue a notice to show cause to
18 initiate administrative action to enforce the provisions of
19 this chapter. In addition, the division may issue an order to
20 show cause if it finds that another state or federal agency
21 has taken similar action against the party. The notice to show
22 cause shall provide for a hearing, upon written request, in
23 accordance with chapter 120.

24 (8) Notice to a developer, association, unit owner, or
25 any other person having duties and obligations under this
26 chapter shall be complete when delivered to the developer,
27 association, unit owner, or the person's address currently on
28 file with the division.

29 (9) The division may intervene in any suit against a
30 developer or a condominium association concerning violations
31 of any provision of this chapter and the rules promulgated

1 thereunder. The developer or association shall promptly
2 furnish the division a copy of the complaint and, if requested
3 by the division, copies of all pleadings.

4 (10) In addition to the methods of service provided
5 for in the Florida Rules of Civil Procedure and the Florida
6 Statutes, the division may effect service of process to a
7 developer, association, or any other person having duties and
8 obligations under this chapter by delivering a copy of the
9 process to the director of the division, which shall be
10 binding upon the defendant or respondent, if:

11 (a) The division immediately sends a copy of the
12 process and the pleading by certified mail to the defendant or
13 respondent at her or his last known address.

14 (b) The division director files an affidavit of
15 compliance with this section on or before the return date of
16 the process or within the time set by the court.

17 (11) The executive offices of the division shall be
18 established and maintained in Tallahassee. The division may
19 establish and maintain branch offices.

20 (12) The division may adopt a seal by which it shall
21 authenticate its records. Copies of the records of the
22 division, and certificates purporting to relate the facts
23 contained in those records, when authenticated by the seal,
24 shall be prima facie evidence of the records in all the courts
25 of this state.

26 (13) The powers and duties contained in this section
27 are available to the division in its enforcement of this
28 chapter, chapter 719, chapter 721, and chapter 723.

29 Section 70. Paragraph (a) of subsection (2) of section
30 718.502, Florida Statutes, is amended to read:

31 718.502 Filing prior to sale or lease.--

1 (2)(a) Prior to filing as required by subsection (1),
2 and prior to acquiring an ownership, leasehold, or contractual
3 interest in the land upon which the condominium is to be
4 developed, a developer shall not offer a contract for purchase
5 of a unit or lease of a unit for more than 5 years. However,
6 the developer may accept deposits for reservations upon the
7 approval of a fully executed escrow agreement and reservation
8 agreement form properly filed with the division ~~of Florida~~
9 ~~Land Sales, Condominiums, and Mobile Homes~~. Each filing of a
10 proposed reservation program shall be accompanied by a filing
11 fee of \$250. Reservations shall not be taken on a proposed
12 condominium unless the developer has an ownership, leasehold,
13 or contractual interest in the land upon which the condominium
14 is to be developed. The division shall notify the developer
15 within 20 days of receipt of the reservation filing of any
16 deficiencies contained therein. Such notification shall not
17 preclude the determination of reservation filing deficiencies
18 at a later date, nor shall it relieve the developer of any
19 responsibility under the law. The escrow agreement and the
20 reservation agreement form shall include a statement of the
21 right of the prospective purchaser to an immediate unqualified
22 refund of the reservation deposit moneys upon written request
23 to the escrow agent by the prospective purchaser or the
24 developer.

25 Section 71. Section 718.504, Florida Statutes, is
26 amended to read:

27 718.504 Prospectus or offering circular.--Every
28 developer of a residential condominium which contains more
29 than 20 residential units, or which is part of a group of
30 residential condominiums which will be served by property to
31 be used in common by unit owners of more than 20 residential

1 units, shall prepare a prospectus or offering circular and
2 file it with the division ~~of Florida Land Sales, Condominiums,~~
3 ~~and Mobile Homes~~ prior to entering into an enforceable
4 contract of purchase and sale of any unit or lease of a unit
5 for more than 5 years and shall furnish a copy of the
6 prospectus or offering circular to each buyer. In addition to
7 the prospectus or offering circular, each buyer shall be
8 furnished a separate page entitled "Frequently Asked Questions
9 and Answers," which shall be in accordance with a format
10 approved by the division and a copy of the financial
11 information required by s. 718.111. This page shall, in
12 readable language, inform prospective purchasers regarding
13 their voting rights and unit use restrictions, including
14 restrictions on the leasing of a unit; shall indicate whether
15 and in what amount the unit owners or the association is
16 obligated to pay rent or land use fees for recreational or
17 other commonly used facilities; shall contain a statement
18 identifying that amount of assessment which, pursuant to the
19 budget, would be levied upon each unit type, exclusive of any
20 special assessments, and which shall further identify the
21 basis upon which assessments are levied, whether monthly,
22 quarterly, or otherwise; shall state and identify any court
23 cases in which the association is currently a party of record
24 in which the association may face liability in excess of
25 \$100,000; and which shall further state whether membership in
26 a recreational facilities association is mandatory, and if so,
27 shall identify the fees currently charged per unit type. The
28 division shall by rule require such other disclosure as in its
29 judgment will assist prospective purchasers. The prospectus or
30 offering circular may include more than one condominium,
31 although not all such units are being offered for sale as of

1 the date of the prospectus or offering circular. The
2 prospectus or offering circular must contain the following
3 information:
4 (1) The front cover or the first page must contain
5 only:
6 (a) The name of the condominium.
7 (b) The following statements in conspicuous type:
8 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS
9 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM
10 UNIT.
11 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
12 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL
13 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND
14 SALES MATERIALS.
15 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS
16 CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER
17 TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR
18 CORRECT REPRESENTATIONS.
19 (2) Summary: The next page must contain all
20 statements required to be in conspicuous type in the
21 prospectus or offering circular.
22 (3) A separate index of the contents and exhibits of
23 the prospectus.
24 (4) Beginning on the first page of the text (not
25 including the summary and index), a description of the
26 condominium, including, but not limited to, the following
27 information:
28 (a) Its name and location.
29 (b) A description of the condominium property,
30 including, without limitation:
31

1 1. The number of buildings, the number of units in
2 each building, the number of bathrooms and bedrooms in each
3 unit, and the total number of units, if the condominium is not
4 a phase condominium, or the maximum number of buildings that
5 may be contained within the condominium, the minimum and
6 maximum numbers of units in each building, the minimum and
7 maximum numbers of bathrooms and bedrooms that may be
8 contained in each unit, and the maximum number of units that
9 may be contained within the condominium, if the condominium is
10 a phase condominium.

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

13 3. The estimated latest date of completion of
14 constructing, finishing, and equipping. In lieu of a date,
15 the description shall include a statement that the estimated
16 date of completion of the condominium is in the purchase
17 agreement and a reference to the article or paragraph
18 containing that information.

19 (c) The maximum number of units that will use
20 facilities in common with the condominium. If the maximum
21 number of units will vary, a description of the basis for
22 variation and the minimum amount of dollars per unit to be
23 spent for additional recreational facilities or enlargement of
24 such facilities. If the addition or enlargement of facilities
25 will result in a material increase of a unit owner's
26 maintenance expense or rental expense, if any, the maximum
27 increase and limitations thereon shall be stated.

28 (5)(a) A statement in conspicuous type describing
29 whether the condominium is created and being sold as fee
30 simple interests or as leasehold interests. If the condominium
31

1 is created or being sold on a leasehold, the location of the
2 lease in the disclosure materials shall be stated.

3 (b) If timeshare estates are or may be created with
4 respect to any unit in the condominium, a statement in
5 conspicuous type stating that timeshare estates are created
6 and being sold in units in the condominium.

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

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

13 (b) Each swimming pool, as to its general location,
14 approximate size and depths, approximate deck size and
15 capacity, and whether heated.

16 (c) Additional facilities, as to the number of each
17 facility, its approximate location, approximate size, and
18 approximate capacity.

19 (d) A general description of the items of personal
20 property and the approximate number of each item of personal
21 property that the developer is committing to furnish for each
22 room or other facility or, in the alternative, a
23 representation as to the minimum amount of expenditure that
24 will be made to purchase the personal property for the
25 facility.

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

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

31

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

4 3. A description of the terms of the lease or other
5 agreements, including the length of the term; the rent
6 payable, directly or indirectly, by each unit owner, and the
7 total rent payable to the lessor, stated in monthly and annual
8 amounts for the entire term of the lease; and a description of
9 any option to purchase the property leased under any such
10 lease, including the time the option may be exercised, the
11 purchase price or how it is to be determined, the manner of
12 payment, and whether the option may be exercised for a unit
13 owner's share or only as to the entire leased property.

14 (g) A statement as to whether the developer may
15 provide additional facilities not described above; their
16 general locations and types; improvements or changes that may
17 be made; the approximate dollar amount to be expended; and the
18 maximum additional common expense or cost to the individual
19 unit owners that may be charged during the first annual period
20 of operation of the modified or added facilities.

21
22 Descriptions as to locations, areas, capacities, numbers,
23 volumes, or sizes may be stated as approximations or minimums.

24 (7) A description of the recreational and other
25 facilities that will be used in common with other
26 condominiums, community associations, or planned developments
27 which require the payment of the maintenance and expenses of
28 such facilities, either directly or indirectly, by the unit
29 owners. The description shall include, but not be limited to,
30 the following:

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

1 (b) Facilities not committed to be built except under
2 certain conditions, and a statement of those conditions or
3 contingencies.

4 (c) As to each facility committed to be built, or
5 which will be committed to be built upon the happening of one
6 of the conditions in paragraph (b), a statement of whether it
7 will be owned by the unit owners having the use thereof or by
8 an association or other entity which will be controlled by
9 them, or others, and the location in the exhibits of the lease
10 or other document providing for use of those facilities.

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

15 (e) A general description of the items of personal
16 property, and the approximate number of each item of personal
17 property, that the developer is committing to furnish for each
18 room or other facility or, in the alternative, a
19 representation as to the minimum amount of expenditure that
20 will be made to purchase the personal property for the
21 facility.

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

25
26 Descriptions shall include location, areas, capacities,
27 numbers, volumes, or sizes and may be stated as approximations
28 or minimums.

29 (8) Recreation lease or associated club membership:

30 (a) If any recreational facilities or other facilities
31 offered by the developer and available to, or to be used by,

1 unit owners are to be leased or have club membership
2 associated, the following statement in conspicuous type shall
3 be included: THERE IS A RECREATIONAL FACILITIES LEASE
4 ASSOCIATED WITH THIS CONDOMINIUM; or, THERE IS A CLUB
5 MEMBERSHIP ASSOCIATED WITH THIS CONDOMINIUM. There shall be a
6 reference to the location in the disclosure materials where
7 the recreation lease or club membership is described in
8 detail.

9 (b) If it is mandatory that unit owners pay a fee,
10 rent, dues, or other charges under a recreational facilities
11 lease or club membership for the use of facilities, there
12 shall be in conspicuous type the applicable statement:

13 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
14 MANDATORY FOR UNIT OWNERS; or

15 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF
16 OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES
17 LEASE; or

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

22 4. A similar statement of the nature of the
23 organization or the manner in which the use rights are
24 created, and that unit owners are required to pay.

25
26 Immediately following the applicable statement, the location
27 in the disclosure materials where the development is described
28 in detail shall be stated.

29 (c) If the developer, or any other person other than
30 the unit owners and other persons having use rights in the
31 facilities, reserves, or is entitled to receive, any rent,

1 fee, or other payment for the use of the facilities, then
2 there shall be the following statement in conspicuous type:
3 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND
4 USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES.
5 Immediately following this statement, the location in the
6 disclosure materials where the rent or land use fees are
7 described in detail shall be stated.

8 (d) If, in any recreation format, whether leasehold,
9 club, or other, any person other than the association has the
10 right to a lien on the units to secure the payment of
11 assessments, rent, or other exactions, there shall appear a
12 statement in conspicuous type in substantially the following
13 form:

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

18 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
19 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING
20 DUE FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE
21 RECREATIONAL OR COMMONLY USED FACILITIES. THE UNIT OWNER'S
22 FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF
23 THE LIEN.

24
25 Immediately following the applicable statement, the location
26 in the disclosure materials where the lien or lien right is
27 described in detail shall be stated.

28 (9) If the developer or any other person has the right
29 to increase or add to the recreational facilities at any time
30 after the establishment of the condominium whose unit owners
31 have use rights therein, without the consent of the unit

1 owners or associations being required, there shall appear a
2 statement in conspicuous type in substantially the following
3 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED
4 WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S).
5 Immediately following this statement, the location in the
6 disclosure materials where such reserved rights are described
7 shall be stated.

8 (10) A statement of whether the developer's plan
9 includes a program of leasing units rather than selling them,
10 or leasing units and selling them subject to such leases. If
11 so, there shall be a description of the plan, including the
12 number and identification of the units and the provisions and
13 term of the proposed leases, and a statement in boldfaced type
14 that: THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

15 (11) The arrangements for management of the
16 association and maintenance and operation of the condominium
17 property and of other property that will serve the unit owners
18 of the condominium property, and a description of the
19 management contract and all other contracts for these purposes
20 having a term in excess of 1 year, including the following:

21 (a) The names of contracting parties.

22 (b) The term of the contract.

23 (c) The nature of the services included.

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

26 (e) A reference to the volumes and pages of the
27 condominium documents and of the exhibits containing copies of
28 such contracts.

29

30 Copies of all described contracts shall be attached as
31 exhibits. If there is a contract for the management of the

1 condominium property, then a statement in conspicuous type in
2 substantially the following form shall appear, identifying the
3 proposed or existing contract manager: THERE IS (IS TO BE) A
4 CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH
5 (NAME OF THE CONTRACT MANAGER). Immediately following this
6 statement, the location in the disclosure materials of the
7 contract for management of the condominium property shall be
8 stated.

9 (12) If the developer or any other person or persons
10 other than the unit owners has the right to retain control of
11 the board of administration of the association for a period of
12 time which can exceed 1 year after the closing of the sale of
13 a majority of the units in that condominium to persons other
14 than successors or alternate developers, then a statement in
15 conspicuous type in substantially the following form shall be
16 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
17 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE
18 UNITS HAVE BEEN SOLD. Immediately following this statement,
19 the location in the disclosure materials where this right to
20 control is described in detail shall be stated.

21 (13) If there are any restrictions upon the sale,
22 transfer, conveyance, or leasing of a unit, then a statement
23 in conspicuous type in substantially the following form shall
24 be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS
25 RESTRICTED OR CONTROLLED. Immediately following this
26 statement, the location in the disclosure materials where the
27 restriction, limitation, or control on the sale, lease, or
28 transfer of units is described in detail shall be stated.

29 (14) If the condominium is part of a phase project,
30 the following information shall be stated:
31

1 (a) A statement in conspicuous type in substantially
2 the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL
3 LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately
4 following this statement, the location in the disclosure
5 materials where the phasing is described shall be stated.

6 (b) A summary of the provisions of the declaration
7 which provide for the phasing.

8 (c) A statement as to whether or not residential
9 buildings and units which are added to the condominium may be
10 substantially different from the residential buildings and
11 units originally in the condominium. If the added residential
12 buildings and units may be substantially different, there
13 shall be a general description of the extent to which such
14 added residential buildings and units may differ, and a
15 statement in conspicuous type in substantially the following
16 form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO
17 THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER
18 BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following
19 this statement, the location in the disclosure materials where
20 the extent to which added residential buildings and units may
21 substantially differ is described shall be stated.

22 (d) A statement of the maximum number of buildings
23 containing units, the maximum and minimum numbers of units in
24 each building, the maximum number of units, and the minimum
25 and maximum square footage of the units that may be contained
26 within each parcel of land which may be added to the
27 condominium.

28 (15) If the condominium is or may become part of a
29 multicondominium, the following information must be provided:

30 (a) A statement in conspicuous type in substantially
31 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A

1 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
2 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately
3 following this statement, the location in the prospectus or
4 offering circular and its exhibits where the multicondominium
5 aspects of the offering are described must be stated.

6 (b) A summary of the provisions in the declaration,
7 articles of incorporation, and bylaws which establish and
8 provide for the operation of the multicondominium, including a
9 statement as to whether unit owners in the condominium will
10 have the right to use recreational or other facilities located
11 or planned to be located in other condominiums operated by the
12 same association, and the manner of sharing the common
13 expenses related to such facilities.

14 (c) A statement of the minimum and maximum number of
15 condominiums, and the minimum and maximum number of units in
16 each of those condominiums, which will or may be operated by
17 the association, and the latest date by which the exact number
18 will be finally determined.

19 (d) A statement as to whether any of the condominiums
20 in the multicondominium may include units intended to be used
21 for nonresidential purposes and the purpose or purposes
22 permitted for such use.

23 (e) A general description of the location and
24 approximate acreage of any land on which any additional
25 condominiums to be operated by the association may be located.

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

29 (a) The information required by s. 718.616.

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

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

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

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

23 (20) An explanation of the manner in which the
24 apportionment of common expenses and ownership of the common
25 elements has been determined.

26 (21) An estimated operating budget for the condominium
27 and the association, and a schedule of the unit owner's
28 expenses shall be attached as an exhibit and shall contain the
29 following information:
30
31

1 (a) The estimated monthly and annual expenses of the
2 condominium and the association that are collected from unit
3 owners by assessments.

4 (b) The estimated monthly and annual expenses of each
5 unit owner for a unit, other than common expenses paid by all
6 unit owners, payable by the unit owner to persons or entities
7 other than the association, as well as to the association,
8 including fees assessed pursuant to s. 718.113(1) for
9 maintenance of limited common elements where such costs are
10 shared only by those entitled to use the limited common
11 element, and the total estimated monthly and annual expense.
12 There may be excluded from this estimate expenses which are
13 not provided for or contemplated by the condominium documents,
14 including, but not limited to, the costs of private telephone;
15 maintenance of the interior of condominium units, which is not
16 the obligation of the association; maid or janitorial services
17 privately contracted for by the unit owners; utility bills
18 billed directly to each unit owner for utility services to his
19 or her unit; insurance premiums other than those incurred for
20 policies obtained by the condominium; and similar personal
21 expenses of the unit owner. A unit owner's estimated payments
22 for assessments shall also be stated in the estimated amounts
23 for the times when they will be due.

24 (c) The estimated items of expenses of the condominium
25 and the association, except as excluded under paragraph (b),
26 including, but not limited to, the following items, which
27 shall be stated either as an association expense collectible
28 by assessments or as unit owners' expenses payable to persons
29 other than the association:

- 30 1. Expenses for the association and condominium:
31 a. Administration of the association.

- 1 b. Management fees.
- 2 c. Maintenance.
- 3 d. Rent for recreational and other commonly used
- 4 facilities.
- 5 e. Taxes upon association property.
- 6 f. Taxes upon leased areas.
- 7 g. Insurance.
- 8 h. Security provisions.
- 9 i. Other expenses.
- 10 j. Operating capital.
- 11 k. Reserves.
- 12 l. Fees payable to the division.
- 13 2. Expenses for a unit owner:
- 14 a. Rent for the unit, if subject to a lease.
- 15 b. Rent payable by the unit owner directly to the
- 16 lessor or agent under any recreational lease or lease for the
- 17 use of commonly used facilities, which use and payment is a
- 18 mandatory condition of ownership and is not included in the
- 19 common expense or assessments for common maintenance paid by
- 20 the unit owners to the association.
- 21 (d) The estimated amounts shall be stated for a period
- 22 of at least 12 months and may distinguish between the period
- 23 prior to the time unit owners other than the developer elect a
- 24 majority of the board of administration and the period after
- 25 that date.
- 26 (22) A schedule of estimated closing expenses to be
- 27 paid by a buyer or lessee of a unit and a statement of whether
- 28 title opinion or title insurance policy is available to the
- 29 buyer and, if so, at whose expense.
- 30 (23) The identity of the developer and the chief
- 31 operating officer or principal directing the creation and sale

1 of the condominium and a statement of its and his or her
2 experience in this field.

3 (24) Copies of the following, to the extent they are
4 applicable, shall be included as exhibits:

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

7 (b) The articles of incorporation creating the
8 association.

9 (c) The bylaws of the association.

10 (d) The ground lease or other underlying lease of the
11 condominium.

12 (e) The management agreement and all maintenance and
13 other contracts for management of the association and
14 operation of the condominium and facilities used by the unit
15 owners having a service term in excess of 1 year.

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

18 (g) A copy of the floor plan of the unit and the plot
19 plan showing the location of the residential buildings and the
20 recreation and other common areas.

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

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

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

27 (k) A declaration of servitude of properties serving
28 the condominium but not owned by unit owners or leased to them
29 or the association.

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- 1 (1) The statement of condition of the existing
2 building or buildings, if the offering is of units in an
3 operation being converted to condominium ownership.
- 4 (m) The statement of inspection for termite damage and
5 treatment of the existing improvements, if the condominium is
6 a conversion.
- 7 (n) The form of agreement for sale or lease of units.
- 8 (o) A copy of the agreement for escrow of payments
9 made to the developer prior to closing.
- 10 (p) A copy of the documents containing any
11 restrictions on use of the property required by subsection
12 (16).
- 13 (25) Any prospectus or offering circular complying,
14 prior to the effective date of this act, with the provisions
15 of former ss. 711.69 and 711.802 may continue to be used
16 without amendment or may be amended to comply with the
17 provisions of this chapter.
- 18 (26) A brief narrative description of the location and
19 effect of all existing and intended easements located or to be
20 located on the condominium property other than those described
21 in the declaration.
- 22 (27) If the developer is required by state or local
23 authorities to obtain acceptance or approval of any dock or
24 marina facilities intended to serve the condominium, a copy of
25 any such acceptance or approval acquired by the time of filing
26 with the division under s. 718.502(1) or a statement that such
27 acceptance or approval has not been acquired or received.
- 28 (28) Evidence demonstrating that the developer has an
29 ownership, leasehold, or contractual interest in the land upon
30 which the condominium is to be developed.
- 31

1 Section 72. Section 718.508, Florida Statutes, is
2 amended to read:

3 718.508 Regulation by Division of Hotels and
4 Restaurants.--In addition to the authority, regulation, or
5 control exercised by the Division of ~~Florida Land Sales,~~
6 Condominiums, Timeshare,and Mobile Homes pursuant to this act
7 with respect to condominiums, buildings included in a
8 condominium property shall be subject to the authority,
9 regulation, or control of the Division of Hotels and
10 Restaurants of the Department of Business and Professional
11 Regulation, to the extent provided for in chapter 399.

12 Section 73. Section 718.509, Florida Statutes, is
13 amended to read:

14 718.509 Division of ~~Florida Land Sales,~~Condominiums,
15 Timeshare,and Mobile Homes Trust Fund.--

16 (1) There is created within the State Treasury the
17 Division of Condominiums, Timeshare, and Mobile Homes Trust
18 Fund, to be used for the administration and operation of this
19 chapter and chapters 719, 721, and 723 by the division.

20 (2) All funds collected by the division and any amount
21 paid for a fee or penalty under this chapter shall be
22 deposited in the State Treasury to the credit of the Division
23 of ~~Florida Land Sales,~~Condominiums, Timeshare,and Mobile
24 Homes Trust Fund created by s. 718.509 ~~498.019~~. The division
25 shall maintain separate revenue accounts in the trust fund for
26 each business regulated by the division, and shall provide for
27 the proportionate allocation among the accounts of expenses
28 incurred in the performance of its duties for each of these
29 businesses. As part of its normal budgetary process, the
30 division shall prepare an annual report of revenue and
31 allocated expenses related to the operation of each of these

1 businesses, which may be used to determine fees charged by the
2 division. The provisions of s. 215.20 apply to the trust fund.

3 Section 74. Paragraph (a) of subsection (2) of section
4 718.608, Florida Statutes, is amended to read:

5 718.608 Notice of intended conversion; time of
6 delivery; content.--

7 (2)(a) Each notice of intended conversion shall be
8 dated and in writing. The notice shall contain the following
9 statement, with the phrases of the following statement which
10 appear in upper case printed in conspicuous type:

11

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

14 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION
15 OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
16 AGREEMENT AS FOLLOWS:

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

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

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

28 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45
29 DAYS, you may extend your rental agreement for up to 45 days
30 after the date of this notice while you decide whether to
31 extend your rental agreement as explained above. To do so,

1 you must notify the developer in writing. You will then have
2 the full 45 days to decide whether to extend your rental
3 agreement as explained above.

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

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

8 a. If your rental agreement began or was extended or
9 renewed after May 1, 1980, and your rental agreement,
10 including extensions and renewals, has an unexpired term of
11 180 days or less, you may cancel your rental agreement upon 30
12 days' written notice and move. Also, upon 30 days' written
13 notice, you may cancel any extension of the rental agreement.

14 b. If your rental agreement was not begun or was not
15 extended or renewed after May 1, 1980, you may not cancel the
16 rental agreement without the consent of the developer. If
17 your rental agreement, including extensions and renewals, has
18 an unexpired term of 180 days or less, you may, however, upon
19 30 days' written notice cancel any extension of the rental
20 agreement.

21 5. All notices must be given in writing and sent by
22 mail, return receipt requested, or delivered in person to the
23 developer at this address: ...(name and address of
24 developer)....

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

27 a. You have the right to purchase your apartment and
28 will have 45 days to decide whether to purchase. If you do
29 not buy the unit at that price and the unit is later offered
30 at a lower price, you will have the opportunity to buy the
31 unit at the lower price. However, in all events your right to

1 purchase the unit ends when the rental agreement or any
2 extension of the rental agreement ends or when you waive this
3 right in writing.

4 b. Within 90 days you will be provided purchase
5 information relating to your apartment, including the price of
6 your unit and the condition of the building. If you do not
7 receive this information within 90 days, your rental agreement
8 and any extension will be extended 1 day for each day over 90
9 days until you are given the purchase information. If you do
10 not want this rental agreement extension, you must notify the
11 developer in writing.

12 7. If you have any questions regarding this conversion
13 or the Condominium Act, you may contact the developer or the
14 state agency which regulates condominiums: The Division of
15 ~~Florida Land Sales, Condominiums, Timeshare, and Mobile Homes,~~
16 ...(Tallahassee address and telephone number of division)....

17 Section 75. Subsection (17) of section 719.103,
18 Florida Statutes, is amended to read:

19 719.103 Definitions.--As used in this chapter:

20 (17) "Division" means the Division of ~~Florida Land~~
21 ~~Sales, Condominiums, Timeshare, and Mobile Homes~~ of the
22 Department of Business and Professional Regulation.

23 Section 76. Section 719.1255, Florida Statutes, is
24 amended to read:

25 719.1255 Alternative resolution of disputes.--The
26 ~~division of Florida Land Sales, Condominiums, and Mobile Homes~~
27 ~~of the Department of Business and Professional Regulation~~
28 shall provide for alternative dispute resolution in accordance
29 with s. 718.1255.

30 Section 77. Section 719.501, Florida Statutes, is
31 amended to read:

1 719.501 Powers and duties of Division of ~~Florida Land~~
2 ~~Sales, Condominiums, Timeshare, and Mobile Homes.--~~

3 (1) The Division of ~~Florida Land Sales, Condominiums,~~
4 ~~Timeshare, and Mobile Homes~~ of the Department of Business and
5 Professional Regulation, referred to as the "division" in this
6 part, ~~in addition to other powers and duties prescribed by~~
7 ~~chapter 498~~, has the power to enforce and ensure compliance
8 with the provisions of this chapter and rules adopted
9 promulgated pursuant hereto relating to the development,
10 construction, sale, lease, ownership, operation, and
11 management of residential cooperative units. In performing its
12 duties, the division shall have the following powers and
13 duties:

14 (a) The division may make necessary public or private
15 investigations within or outside this state to determine
16 whether any person has violated this chapter or any rule or
17 order hereunder, to aid in the enforcement of this chapter, or
18 to aid in the adoption of rules or forms hereunder.

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

23 (c) For the purpose of any investigation under this
24 chapter, the division director or any officer or employee
25 designated by the division director may administer oaths or
26 affirmations, subpoena witnesses and compel their attendance,
27 take evidence, and require the production of any matter which
28 is relevant to the investigation, including the existence,
29 description, nature, custody, condition, and location of any
30 books, documents, or other tangible things and the identity
31 and location of persons having knowledge of relevant facts or

1 any other matter reasonably calculated to lead to the
2 discovery of material evidence. Upon failure by a person to
3 obey a subpoena or to answer questions propounded by the
4 investigating officer and upon reasonable notice to all
5 persons affected thereby, the division may apply to the
6 circuit court for an order compelling compliance.

7 (d) Notwithstanding any remedies available to unit
8 owners and associations, if the division has reasonable cause
9 to believe that a violation of any provision of this chapter
10 or rule promulgated pursuant hereto has occurred, the division
11 may institute enforcement proceedings in its own name against
12 a developer, association, officer, or member of the board, or
13 its assignees or agents, as follows:

14 1. The division may permit a person whose conduct or
15 actions may be under investigation to waive formal proceedings
16 and enter into a consent proceeding whereby orders, rules, or
17 letters of censure or warning, whether formal or informal, may
18 be entered against the person.

19 2. The division may issue an order requiring the
20 developer, association, officer, or member of the board, or
21 its assignees or agents, to cease and desist from the unlawful
22 practice and take such affirmative action as in the judgment
23 of the division will carry out the purposes of this chapter.
24 Such affirmative action may include, but is not limited to, an
25 order requiring a developer to pay moneys determined to be
26 owed to a condominium association.

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

30 4. The division may impose a civil penalty against a
31 developer or association, or its assignees or agents, for any

1 violation of this chapter or a rule promulgated pursuant
2 hereto. The division may impose a civil penalty individually
3 against any officer or board member who willfully and
4 knowingly violates a provision of this chapter, a rule adopted
5 pursuant to this chapter, or a final order of the division.
6 The term "willfully and knowingly" means that the division
7 informed the officer or board member that his or her action or
8 intended action violates this chapter, a rule adopted under
9 this chapter, or a final order of the division, and that the
10 officer or board member refused to comply with the
11 requirements of this chapter, a rule adopted under this
12 chapter, or a final order of the division. The division, prior
13 to initiating formal agency action under chapter 120, shall
14 afford the officer or board member an opportunity to
15 voluntarily comply with this chapter, a rule adopted under
16 this chapter, or a final order of the division. An officer or
17 board member who complies within 10 days is not subject to a
18 civil penalty. A penalty may be imposed on the basis of each
19 day of continuing violation, but in no event shall the penalty
20 for any offense exceed \$5,000. By January 1, 1998, the
21 division shall adopt, by rule, penalty guidelines applicable
22 to possible violations or to categories of violations of this
23 chapter or rules adopted by the division. The guidelines must
24 specify a meaningful range of civil penalties for each such
25 violation of the statute and rules and must be based upon the
26 harm caused by the violation, the repetition of the violation,
27 and upon such other factors deemed relevant by the division.
28 For example, the division may consider whether the violations
29 were committed by a developer or owner-controlled association,
30 the size of the association, and other factors. The guidelines
31 must designate the possible mitigating or aggravating

1 circumstances that justify a departure from the range of
2 penalties provided by the rules. It is the legislative intent
3 that minor violations be distinguished from those which
4 endanger the health, safety, or welfare of the cooperative
5 residents or other persons and that such guidelines provide
6 reasonable and meaningful notice to the public of likely
7 penalties that may be imposed for proscribed conduct. This
8 subsection does not limit the ability of the division to
9 informally dispose of administrative actions or complaints by
10 stipulation, agreed settlement, or consent order. All amounts
11 collected shall be deposited with the Treasurer to the credit
12 of the Division of ~~Florida Land Sales~~, Condominiums,
13 Timeshare, and Mobile Homes Trust Fund. If a developer fails
14 to pay the civil penalty, the division shall thereupon issue
15 an order directing that such developer cease and desist from
16 further operation until such time as the civil penalty is paid
17 or may pursue enforcement of the penalty in a court of
18 competent jurisdiction. If an association fails to pay the
19 civil penalty, the division shall thereupon pursue enforcement
20 in a court of competent jurisdiction, and the order imposing
21 the civil penalty or the cease and desist order shall not
22 become effective until 20 days after the date of such order.
23 Any action commenced by the division shall be brought in the
24 county in which the division has its executive offices or in
25 the county where the violation occurred.

26 (e) The division is authorized to prepare and
27 disseminate a prospectus and other information to assist
28 prospective owners, purchasers, lessees, and developers of
29 residential cooperatives in assessing the rights, privileges,
30 and duties pertaining thereto.

31

1 (f) The division has authority to adopt rules pursuant
2 to ss. 120.536(1) and 120.54 to implement and enforce the
3 provisions of this chapter.

4 (g) The division shall establish procedures for
5 providing notice to an association when the division is
6 considering the issuance of a declaratory statement with
7 respect to the cooperative documents governing such
8 cooperative community.

9 (h) The division shall furnish each association which
10 pays the fees required by paragraph (2)(a) a copy of this act,
11 subsequent changes to this act on an annual basis, an amended
12 version of this act as it becomes available from the Secretary
13 of State's office on a biennial basis, and the rules
14 promulgated pursuant thereto on an annual basis.

15 (i) The division shall annually provide each
16 association with a summary of declaratory statements and
17 formal legal opinions relating to the operations of
18 cooperatives which were rendered by the division during the
19 previous year.

20 (j) The division shall adopt uniform accounting
21 principles, policies, and standards to be used by all
22 associations in the preparation and presentation of all
23 financial statements required by this chapter. The principles,
24 policies, and standards shall take into consideration the size
25 of the association and the total revenue collected by the
26 association.

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

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

31

1 (m) When a complaint is made to the division, the
2 division shall conduct its inquiry with reasonable dispatch
3 and with due regard to the interests of the affected parties.
4 Within 30 days after receipt of a complaint, the division
5 shall acknowledge the complaint in writing and notify the
6 complainant whether the complaint is within the jurisdiction
7 of the division and whether additional information is needed
8 by the division from the complainant. The division shall
9 conduct its investigation and shall, within 90 days after
10 receipt of the original complaint or timely requested
11 additional information, take action upon the complaint.
12 However, the failure to complete the investigation within 90
13 days does not prevent the division from continuing the
14 investigation, accepting or considering evidence obtained or
15 received after 90 days, or taking administrative action if
16 reasonable cause exists to believe that a violation of this
17 chapter or a rule of the division has occurred. If an
18 investigation is not completed within the time limits
19 established in this paragraph, the division shall, on a
20 monthly basis, notify the complainant in writing of the status
21 of the investigation. When reporting its action to the
22 complainant, the division shall inform the complainant of any
23 right to a hearing pursuant to ss. 120.569 and 120.57.

24 (n) The division shall develop a program to certify
25 both volunteer and paid mediators to provide mediation of
26 cooperative disputes. The division shall provide, upon
27 request, a list of such mediators to any association, unit
28 owner, or other participant in arbitration proceedings under
29 s. 718.1255 requesting a copy of the list. The division shall
30 include on the list of voluntary mediators only persons who
31 have received at least 20 hours of training in mediation

1 techniques or have mediated at least 20 disputes. In order to
2 become initially certified by the division, paid mediators
3 must be certified by the Supreme Court to mediate court cases
4 in either county or circuit courts. However, the division may
5 adopt, by rule, additional factors for the certification of
6 paid mediators, which factors must be related to experience,
7 education, or background. Any person initially certified as a
8 paid mediator by the division must, in order to continue to be
9 certified, comply with the factors or requirements imposed by
10 rules adopted by the division.

11 (2)(a) Each cooperative association shall pay to the
12 division, on or before January 1 of each year, an annual fee
13 in the amount of \$4 for each residential unit in cooperatives
14 operated by the association. If the fee is not paid by March
15 1, then the association shall be assessed a penalty of 10
16 percent of the amount due, and the association shall not have
17 the standing to maintain or defend any action in the courts of
18 this state until the amount due is paid.

19 (b) All fees shall be deposited in the Division of
20 ~~Florida Land Sales, Condominiums, Timeshare, and Mobile Homes~~
21 Trust Fund as provided by law.

22 Section 78. Paragraph (a) of subsection (2) of section
23 719.502, Florida Statutes, is amended to read:

24 719.502 Filing prior to sale or lease.--

25 (2)(a) Prior to filing as required by subsection (1),
26 and prior to acquiring an ownership, leasehold, or contractual
27 interest in the land upon which the cooperative is to be
28 developed, a developer shall not offer a contract for purchase
29 or lease of a unit for more than 5 years. However, the
30 developer may accept deposits for reservations upon the
31 approval of a fully executed escrow agreement and reservation

1 agreement form properly filed with the division of ~~Florida~~
2 ~~Land Sales, Condominiums, and Mobile Homes~~. Each filing of a
3 proposed reservation program shall be accompanied by a filing
4 fee of \$250. Reservations shall not be taken on a proposed
5 cooperative unless the developer has an ownership, leasehold,
6 or contractual interest in the land upon which the cooperative
7 is to be developed. The division shall notify the developer
8 within 20 days of receipt of the reservation filing of any
9 deficiencies contained therein. Such notification shall not
10 preclude the determination of reservation filing deficiencies
11 at a later date, nor shall it relieve the developer of any
12 responsibility under the law. The escrow agreement and the
13 reservation agreement form shall include a statement of the
14 right of the prospective purchaser to an immediate unqualified
15 refund of the reservation deposit moneys upon written request
16 to the escrow agent by the prospective purchaser or the
17 developer.

18 Section 79. Section 719.504, Florida Statutes, is
19 amended to read:

20 719.504 Prospectus or offering circular.--Every
21 developer of a residential cooperative which contains more
22 than 20 residential units, or which is part of a group of
23 residential cooperatives which will be served by property to
24 be used in common by unit owners of more than 20 residential
25 units, shall prepare a prospectus or offering circular and
26 file it with the division of ~~Florida Land Sales, Condominiums,~~
27 ~~and Mobile Homes~~ prior to entering into an enforceable
28 contract of purchase and sale of any unit or lease of a unit
29 for more than 5 years and shall furnish a copy of the
30 prospectus or offering circular to each buyer. In addition to
31 the prospectus or offering circular, each buyer shall be

1 furnished a separate page entitled "Frequently Asked Questions
2 and Answers," which must be in accordance with a format
3 approved by the division. This page must, in readable
4 language: inform prospective purchasers regarding their
5 voting rights and unit use restrictions, including
6 restrictions on the leasing of a unit; indicate whether and in
7 what amount the unit owners or the association is obligated to
8 pay rent or land use fees for recreational or other commonly
9 used facilities; contain a statement identifying that amount
10 of assessment which, pursuant to the budget, would be levied
11 upon each unit type, exclusive of any special assessments, and
12 which identifies the basis upon which assessments are levied,
13 whether monthly, quarterly, or otherwise; state and identify
14 any court cases in which the association is currently a party
15 of record in which the association may face liability in
16 excess of \$100,000; and state whether membership in a
17 recreational facilities association is mandatory and, if so,
18 identify the fees currently charged per unit type. The
19 division shall by rule require such other disclosure as in its
20 judgment will assist prospective purchasers. The prospectus or
21 offering circular may include more than one cooperative,
22 although not all such units are being offered for sale as of
23 the date of the prospectus or offering circular. The
24 prospectus or offering circular must contain the following
25 information:

- 26 (1) The front cover or the first page must contain
27 only:
- 28 (a) The name of the cooperative.
 - 29 (b) The following statements in conspicuous type:
- 30
31

1 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS
2 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE
3 UNIT.
4 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
5 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL
6 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND
7 SALES MATERIALS.
8 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS
9 CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER
10 TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR
11 CORRECT REPRESENTATIONS.
12 (2) Summary: The next page must contain all
13 statements required to be in conspicuous type in the
14 prospectus or offering circular.
15 (3) A separate index of the contents and exhibits of
16 the prospectus.
17 (4) Beginning on the first page of the text (not
18 including the summary and index), a description of the
19 cooperative, including, but not limited to, the following
20 information:
21 (a) Its name and location.
22 (b) A description of the cooperative property,
23 including, without limitation:
24 1. The number of buildings, the number of units in
25 each building, the number of bathrooms and bedrooms in each
26 unit, and the total number of units, if the cooperative is not
27 a phase cooperative; or, if the cooperative is a phase
28 cooperative, the maximum number of buildings that may be
29 contained within the cooperative, the minimum and maximum
30 number of units in each building, the minimum and maximum
31 number of bathrooms and bedrooms that may be contained in each

1 unit, and the maximum number of units that may be contained
2 within the cooperative.

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

5 3. The estimated latest date of completion of
6 constructing, finishing, and equipping. In lieu of a date, a
7 statement that the estimated date of completion of the
8 cooperative is in the purchase agreement and a reference to
9 the article or paragraph containing that information.

10 (c) The maximum number of units that will use
11 facilities in common with the cooperative. If the maximum
12 number of units will vary, a description of the basis for
13 variation and the minimum amount of dollars per unit to be
14 spent for additional recreational facilities or enlargement of
15 such facilities. If the addition or enlargement of facilities
16 will result in a material increase of a unit owner's
17 maintenance expense or rental expense, if any, the maximum
18 increase and limitations thereon shall be stated.

19 (5)(a) A statement in conspicuous type describing
20 whether the cooperative is created and being sold as fee
21 simple interests or as leasehold interests. If the
22 cooperative is created or being sold on a leasehold, the
23 location of the lease in the disclosure materials shall be
24 stated.

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

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

- 1 (a) Each room and its intended purposes, location,
2 approximate floor area, and capacity in numbers of people.
- 3 (b) Each swimming pool, as to its general location,
4 approximate size and depths, approximate deck size and
5 capacity, and whether heated.
- 6 (c) Additional facilities, as to the number of each
7 facility, its approximate location, approximate size, and
8 approximate capacity.
- 9 (d) A general description of the items of personal
10 property and the approximate number of each item of personal
11 property that the developer is committing to furnish for each
12 room or other facility or, in the alternative, a
13 representation as to the minimum amount of expenditure that
14 will be made to purchase the personal property for the
15 facility.
- 16 (e) The estimated date when each room or other
17 facility will be available for use by the unit owners.
- 18 (f)1. An identification of each room or other facility
19 to be used by unit owners that will not be owned by the unit
20 owners or the association;
- 21 2. A reference to the location in the disclosure
22 materials of the lease or other agreements providing for the
23 use of those facilities; and
- 24 3. A description of the terms of the lease or other
25 agreements, including the length of the term; the rent
26 payable, directly or indirectly, by each unit owner, and the
27 total rent payable to the lessor, stated in monthly and annual
28 amounts for the entire term of the lease; and a description of
29 any option to purchase the property leased under any such
30 lease, including the time the option may be exercised, the
31 purchase price or how it is to be determined, the manner of

1 payment, and whether the option may be exercised for a unit
2 owner's share or only as to the entire leased property.

3 (g) A statement as to whether the developer may
4 provide additional facilities not described above, their
5 general locations and types, improvements or changes that may
6 be made, the approximate dollar amount to be expended, and the
7 maximum additional common expense or cost to the individual
8 unit owners that may be charged during the first annual period
9 of operation of the modified or added facilities.

10

11 Descriptions as to locations, areas, capacities, numbers,
12 volumes, or sizes may be stated as approximations or minimums.

13 (7) A description of the recreational and other
14 facilities that will be used in common with other
15 cooperatives, community associations, or planned developments
16 which require the payment of the maintenance and expenses of
17 such facilities, either directly or indirectly, by the unit
18 owners. The description shall include, but not be limited to,
19 the following:

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

21 (b) Facilities not committed to be built except under
22 certain conditions, and a statement of those conditions or
23 contingencies.

24 (c) As to each facility committed to be built, or
25 which will be committed to be built upon the happening of one
26 of the conditions in paragraph (b), a statement of whether it
27 will be owned by the unit owners having the use thereof or by
28 an association or other entity which will be controlled by
29 them, or others, and the location in the exhibits of the lease
30 or other document providing for use of those facilities.

31

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

5 (e) A general description of the items of personal
6 property, and the approximate number of each item of personal
7 property, that the developer is committing to furnish for each
8 room or other facility or, in the alternative, a
9 representation as to the minimum amount of expenditure that
10 will be made to purchase the personal property for the
11 facility.

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

15
16 Descriptions shall include location, areas, capacities,
17 numbers, volumes, or sizes and may be stated as approximations
18 or minimums.

19 (8) Recreation lease or associated club membership:

20 (a) If any recreational facilities or other common
21 areas offered by the developer and available to, or to be used
22 by, unit owners are to be leased or have club membership
23 associated, the following statement in conspicuous type shall
24 be included: ~~THERE IS A RECREATIONAL FACILITIES LEASE~~
25 ~~ASSOCIATED WITH THIS COOPERATIVE;~~ or, ~~THERE IS A CLUB~~
26 ~~MEMBERSHIP ASSOCIATED WITH THIS COOPERATIVE.~~ There shall be a
27 reference to the location in the disclosure materials where
28 the recreation lease or club membership is described in
29 detail.

30 (b) If it is mandatory that unit owners pay a fee,
31 rent, dues, or other charges under a recreational facilities

1 lease or club membership for the use of facilities, there
2 shall be in conspicuous type the applicable statement:
3 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
4 MANDATORY FOR UNIT OWNERS; or
5 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF
6 OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES
7 LEASE; or
8 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
9 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
10 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
11 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or
12 4. A similar statement of the nature of the
13 organization or manner in which the use rights are created,
14 and that unit owners are required to pay.
15
16 Immediately following the applicable statement, the location
17 in the disclosure materials where the development is described
18 in detail shall be stated.
19 (c) If the developer, or any other person other than
20 the unit owners and other persons having use rights in the
21 facilities, reserves, or is entitled to receive, any rent,
22 fee, or other payment for the use of the facilities, then
23 there shall be the following statement in conspicuous type:
24 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND
25 USE FEES FOR RECREATIONAL OR OTHER COMMON AREAS. Immediately
26 following this statement, the location in the disclosure
27 materials where the rent or land use fees are described in
28 detail shall be stated.
29 (d) If, in any recreation format, whether leasehold,
30 club, or other, any person other than the association has the
31 right to a lien on the units to secure the payment of

1 assessments, rent, or other exactions, there shall appear a
2 statement in conspicuous type in substantially the following
3 form:

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

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

13

14 Immediately following the applicable statement, the location
15 in the disclosure materials where the lien or lien right is
16 described in detail shall be stated.

17 (9) If the developer or any other person has the right
18 to increase or add to the recreational facilities at any time
19 after the establishment of the cooperative whose unit owners
20 have use rights therein, without the consent of the unit
21 owners or associations being required, there shall appear a
22 statement in conspicuous type in substantially the following
23 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT
24 CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately
25 following this statement, the location in the disclosure
26 materials where such reserved rights are described shall be
27 stated.

28 (10) A statement of whether the developer's plan
29 includes a program of leasing units rather than selling them,
30 or leasing units and selling them subject to such leases. If
31 so, there shall be a description of the plan, including the

1 number and identification of the units and the provisions and
2 term of the proposed leases, and a statement in boldfaced type
3 that: **THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

4 (11) The arrangements for management of the
5 association and maintenance and operation of the cooperative
6 property and of other property that will serve the unit owners
7 of the cooperative property, and a description of the
8 management contract and all other contracts for these purposes
9 having a term in excess of 1 year, including the following:

10 (a) The names of contracting parties.

11 (b) The term of the contract.

12 (c) The nature of the services included.

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

15 (e) A reference to the volumes and pages of the
16 cooperative documents and of the exhibits containing copies of
17 such contracts.

18

19 Copies of all described contracts shall be attached as
20 exhibits. If there is a contract for the management of the
21 cooperative property, then a statement in conspicuous type in
22 substantially the following form shall appear, identifying the
23 proposed or existing contract manager: **THERE IS (IS TO BE) A**
24 **CONTRACT FOR THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH**
25 **(NAME OF THE CONTRACT MANAGER).** Immediately following this
26 statement, the location in the disclosure materials of the
27 contract for management of the cooperative property shall be
28 stated.

29 (12) If the developer or any other person or persons
30 other than the unit owners has the right to retain control of
31 the board of administration of the association for a period of

1 time which can exceed 1 year after the closing of the sale of
2 a majority of the units in that cooperative to persons other
3 than successors or alternate developers, then a statement in
4 conspicuous type in substantially the following form shall be
5 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
6 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE
7 UNITS HAVE BEEN SOLD. Immediately following this statement,
8 the location in the disclosure materials where this right to
9 control is described in detail shall be stated.

10 (13) If there are any restrictions upon the sale,
11 transfer, conveyance, or leasing of a unit, then a statement
12 in conspicuous type in substantially the following form shall
13 be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS
14 RESTRICTED OR CONTROLLED. Immediately following this
15 statement, the location in the disclosure materials where the
16 restriction, limitation, or control on the sale, lease, or
17 transfer of units is described in detail shall be stated.

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

20 (a) A statement in conspicuous type in substantially
21 the following form shall be included: THIS IS A PHASE
22 COOPERATIVE. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS
23 COOPERATIVE. Immediately following this statement, the
24 location in the disclosure materials where the phasing is
25 described shall be stated.

26 (b) A summary of the provisions of the declaration
27 providing for the phasing.

28 (c) A statement as to whether or not residential
29 buildings and units which are added to the cooperative may be
30 substantially different from the residential buildings and
31 units originally in the cooperative, and, if the added

1 residential buildings and units may be substantially
2 different, there shall be a general description of the extent
3 to which such added residential buildings and units may
4 differ, and a statement in conspicuous type in substantially
5 the following form shall be included: BUILDINGS AND UNITS
6 WHICH ARE ADDED TO THE COOPERATIVE MAY BE SUBSTANTIALLY
7 DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE
8 COOPERATIVE. Immediately following this statement, the
9 location in the disclosure materials where the extent to which
10 added residential buildings and units may substantially differ
11 is described shall be stated.

12 (d) A statement of the maximum number of buildings
13 containing units, the maximum and minimum number of units in
14 each building, the maximum number of units, and the minimum
15 and maximum square footage of the units that may be contained
16 within each parcel of land which may be added to the
17 cooperative.

18 (15) If the cooperative is created by conversion of
19 existing improvements, the following information shall be
20 stated:

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

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

24 (16) A summary of the restrictions, if any, to be
25 imposed on units concerning the use of any of the cooperative
26 property, including statements as to whether there are
27 restrictions upon children and pets, and reference to the
28 volumes and pages of the cooperative documents where such
29 restrictions are found, or if such restrictions are contained
30 elsewhere, then a copy of the documents containing the
31 restrictions shall be attached as an exhibit.

1 (17) If there is any land that is offered by the
2 developer for use by the unit owners and that is neither owned
3 by them nor leased to them, the association, or any entity
4 controlled by unit owners and other persons having the use
5 rights to such land, a statement shall be made as to how such
6 land will serve the cooperative. If any part of such land
7 will serve the cooperative, the statement shall describe the
8 land and the nature and term of service, and the cooperative
9 documents or other instrument creating such servitude shall be
10 included as an exhibit.

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

15 (19) An explanation of the manner in which the
16 apportionment of common expenses and ownership of the common
17 areas have been determined.

18 (20) An estimated operating budget for the cooperative
19 and the association, and a schedule of the unit owner's
20 expenses shall be attached as an exhibit and shall contain the
21 following information:

22 (a) The estimated monthly and annual expenses of the
23 cooperative and the association that are collected from unit
24 owners by assessments.

25 (b) The estimated monthly and annual expenses of each
26 unit owner for a unit, other than assessments payable to the
27 association, payable by the unit owner to persons or entities
28 other than the association, and the total estimated monthly
29 and annual expense. There may be excluded from this estimate
30 expenses that are personal to unit owners, which are not
31 uniformly incurred by all unit owners, or which are not

1 provided for or contemplated by the cooperative documents,
2 including, but not limited to, the costs of private telephone;
3 maintenance of the interior of cooperative units, which is not
4 the obligation of the association; maid or janitorial services
5 privately contracted for by the unit owners; utility bills
6 billed directly to each unit owner for utility services to his
7 or her unit; insurance premiums other than those incurred for
8 policies obtained by the cooperative; and similar personal
9 expenses of the unit owner. A unit owner's estimated payments
10 for assessments shall also be stated in the estimated amounts
11 for the times when they will be due.

12 (c) The estimated items of expenses of the cooperative
13 and the association, except as excluded under paragraph (b),
14 including, but not limited to, the following items, which
15 shall be stated either as an association expense collectible
16 by assessments or as unit owners' expenses payable to persons
17 other than the association:

- 18 1. Expenses for the association and cooperative:
 - 19 a. Administration of the association.
 - 20 b. Management fees.
 - 21 c. Maintenance.
 - 22 d. Rent for recreational and other commonly used
23 areas.
 - 24 e. Taxes upon association property.
 - 25 f. Taxes upon leased areas.
 - 26 g. Insurance.
 - 27 h. Security provisions.
 - 28 i. Other expenses.
 - 29 j. Operating capital.
 - 30 k. Reserves.
 - 31 l. Fee payable to the division.

- 1 2. Expenses for a unit owner:
- 2 a. Rent for the unit, if subject to a lease.
- 3 b. Rent payable by the unit owner directly to the
- 4 lessor or agent under any recreational lease or lease for the
- 5 use of commonly used areas, which use and payment are a
- 6 mandatory condition of ownership and are not included in the
- 7 common expense or assessments for common maintenance paid by
- 8 the unit owners to the association.
- 9 (d) The estimated amounts shall be stated for a period
- 10 of at least 12 months and may distinguish between the period
- 11 prior to the time unit owners other than the developer elect a
- 12 majority of the board of administration and the period after
- 13 that date.
- 14 (21) A schedule of estimated closing expenses to be
- 15 paid by a buyer or lessee of a unit and a statement of whether
- 16 title opinion or title insurance policy is available to the
- 17 buyer and, if so, at whose expense.
- 18 (22) The identity of the developer and the chief
- 19 operating officer or principal directing the creation and sale
- 20 of the cooperative and a statement of its and his or her
- 21 experience in this field.
- 22 (23) Copies of the following, to the extent they are
- 23 applicable, shall be included as exhibits:
- 24 (a) The cooperative documents, or the proposed
- 25 cooperative documents if the documents have not been recorded.
- 26 (b) The articles of incorporation creating the
- 27 association.
- 28 (c) The bylaws of the association.
- 29 (d) The ground lease or other underlying lease of the
- 30 cooperative.
- 31

- 1 (e) The management agreement and all maintenance and
2 other contracts for management of the association and
3 operation of the cooperative and facilities used by the unit
4 owners having a service term in excess of 1 year.
- 5 (f) The estimated operating budget for the cooperative
6 and the required schedule of unit owners' expenses.
- 7 (g) A copy of the floor plan of the unit and the plot
8 plan showing the location of the residential buildings and the
9 recreation and other common areas.
- 10 (h) The lease of recreational and other facilities
11 that will be used only by unit owners of the subject
12 cooperative.
- 13 (i) The lease of facilities used by owners and others.
- 14 (j) The form of unit lease, if the offer is of a
15 leasehold.
- 16 (k) A declaration of servitude of properties serving
17 the cooperative but not owned by unit owners or leased to them
18 or the association.
- 19 (l) The statement of condition of the existing
20 building or buildings, if the offering is of units in an
21 operation being converted to cooperative ownership.
- 22 (m) The statement of inspection for termite damage and
23 treatment of the existing improvements, if the cooperative is
24 a conversion.
- 25 (n) The form of agreement for sale or lease of units.
- 26 (o) A copy of the agreement for escrow of payments
27 made to the developer prior to closing.
- 28 (p) A copy of the documents containing any
29 restrictions on use of the property required by subsection
30 (16).
- 31

1 (24) Any prospectus or offering circular complying
2 with the provisions of former ss. 711.69 and 711.802 may
3 continue to be used without amendment, or may be amended to
4 comply with the provisions of this chapter.

5 (25) A brief narrative description of the location and
6 effect of all existing and intended easements located or to be
7 located on the cooperative property other than those in the
8 declaration.

9 (26) If the developer is required by state or local
10 authorities to obtain acceptance or approval of any dock or
11 marina facility intended to serve the cooperative, a copy of
12 such acceptance or approval acquired by the time of filing
13 with the division pursuant to s. 719.502 or a statement that
14 such acceptance has not been acquired or received.

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

18 Section 80. Section 719.508, Florida Statutes, is
19 amended to read:

20 719.508 Regulation by Division of Hotels and
21 Restaurants.--In addition to the authority, regulation, or
22 control exercised by the Division of ~~Florida Land Sales,~~
23 Condominiums, Timeshare, and Mobile Homes pursuant to this act
24 with respect to cooperatives, buildings included in a
25 cooperative property shall be subject to the authority,
26 regulation, or control of the Division of Hotels and
27 Restaurants of the Department of Business and Professional
28 Regulation, to the extent provided for in chapters 399 and
29 509.

30 Section 81. Paragraph (a) of subsection (2) of section
31 719.608, Florida Statutes, is amended to read:

1 719.608 Notice of intended conversion; time of
2 delivery; content.--

3 (2)(a) Each notice of intended conversion shall be
4 dated and in writing. The notice shall contain the following
5 statement, with the phrases of the following statement which
6 appear in upper case printed in conspicuous type:

7
8 These apartments are being converted to cooperative by
9 ...(name of developer)..., the developer.

10 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION
11 OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
12 AGREEMENT AS FOLLOWS:

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

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

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

24 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45
25 DAYS, you may extend your rental agreement for up to 45 days
26 after the date of this notice while you decide whether to
27 extend your rental agreement as explained above. To do so, you
28 must notify the developer in writing. You will then have the
29 full 45 days to decide whether to extend your rental agreement
30 as explained above.

31

- 1 3. During the extension of your rental agreement you
2 will be charged the same rent that you are now paying.
- 3 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY
4 EXTENSION OF THE RENTAL AGREEMENT AS FOLLOWS:
- 5 a. If your rental agreement began or was extended or
6 renewed after May 1, 1980, and your rental agreement,
7 including extensions and renewals, has an unexpired term of
8 180 days or less, you may cancel your rental agreement upon 30
9 days' written notice and move. Also, upon 30 days' written
10 notice, you may cancel any extension of the rental agreement.
- 11 b. If your rental agreement was not begun or was not
12 extended or renewed after May 1, 1980, you may not cancel the
13 rental agreement without the consent of the developer. If
14 your rental agreement, including extensions and renewals, has
15 an unexpired term of 180 days or less, you may, however, upon
16 30 days' written notice cancel any extension of the rental
17 agreement.
- 18 5. All notices must be given in writing and sent by
19 mail, return receipt requested, or delivered in person to the
20 developer at this address: ...(name and address of
21 developer)....
- 22 6. If you have continuously been a resident of these
23 apartments during the last 180 days:
- 24 a. You have the right to purchase your apartment and
25 will have 45 days to decide whether to purchase. If you do
26 not buy the unit at that price and the unit is later offered
27 at a lower price, you will have the opportunity to buy the
28 unit at the lower price. However, in all events your right to
29 purchase the unit ends when the rental agreement or any
30 extension of the rental agreement ends or when you waive this
31 right in writing.

1 b. Within 90 days you will be provided purchase
2 information relating to your apartment, including the price of
3 your unit and the condition of the building. If you do not
4 receive this information within 90 days, your rental agreement
5 and any extension will be extended 1 day for each day over 90
6 days until you are given the purchase information. If you do
7 not want this rental agreement extension, you must notify the
8 developer in writing.

9 7. If you have any questions regarding this conversion
10 or the Cooperative Act, you may contact the developer or the
11 state agency which regulates cooperatives: The Division of
12 ~~Florida Land Sales~~, Condominiums, Timeshare, and Mobile Homes,
13 ...(Tallahassee address and telephone number of division)....

14 Section 82. Subsection (10) of section 721.05, Florida
15 Statutes, is amended to read:

16 721.05 Definitions.--As used in this chapter, the
17 term:

18 (10) "Division" means the Division of ~~Florida Land~~
19 ~~Sales~~, Condominiums, Timeshare, and Mobile Homes of the
20 Department of Business and Professional Regulation.

21 Section 83. Paragraph (d) of subsection (2) of section
22 721.07, Florida Statutes, is amended to read:

23 721.07 Public offering statement.--Prior to offering
24 any timeshare plan, the developer must submit a registered
25 public offering statement to the division for approval as
26 prescribed by s. 721.03, s. 721.55, or this section. Until
27 the division approves such filing, any contract regarding the
28 sale of that timeshare plan is voidable by the purchaser.

29 (2)

30 (d) A developer shall have the authority to deliver to
31 purchasers any purchaser public offering statement that is not

1 yet approved by the division, provided that the following
2 shall apply:

3 1. At the time the developer delivers an unapproved
4 purchaser public offering statement to a purchaser pursuant to
5 this paragraph, the developer shall deliver a fully completed
6 and executed copy of the purchase contract required by s.
7 721.06 that contains the following statement in conspicuous
8 type in substantially the following form which shall replace
9 the statements required by s. 721.06(1)(g):

10

11 The developer is delivering to you a public offering statement
12 that has been filed with but not yet approved by the Division
13 of ~~Florida Land Sales, Condominiums, Timeshare, and Mobile~~
14 Homes. Any revisions to the unapproved public offering
15 statement you have received must be delivered to you, but only
16 if the revisions materially alter or modify the offering in a
17 manner adverse to you. After the division approves the public
18 offering statement, you will receive notice of the approval
19 from the developer and the required revisions, if any.

20

21 Your statutory right to cancel this transaction without any
22 penalty or obligation expires 10 calendar days after the date
23 you signed your purchase contract or 10 calendar days after
24 you receive revisions required to be delivered to you, if any,
25 whichever is later.

26

27 2. After receipt of approval from the division and
28 prior to closing, if any revisions made to the documents
29 contained in the purchaser public offering statement
30 materially alter or modify the offering in a manner adverse to
31 a purchaser, the developer shall send the purchaser such

1 revisions together with a notice containing a statement in
2 conspicuous type in substantially the following form:

3
4 The unapproved public offering statement previously delivered
5 to you, together with the enclosed revisions, has been
6 approved by the Division of ~~Florida Land Sales~~, Condominiums,
7 Timeshare, and Mobile Homes. Accordingly, your cancellation
8 right expires 10 calendar days after you sign your purchase
9 contract or 10 calendar days after you receive these
10 revisions, whichever is later. If you have any questions
11 regarding your cancellation rights, you may contact the
12 division at [insert division's current address].

13
14 3. After receipt of approval from the division and
15 prior to closing, if no revisions have been made to the
16 documents contained in the unapproved purchaser public
17 offering statement, or if such revisions do not materially
18 alter or modify the offering in a manner adverse to a
19 purchaser, the developer shall send the purchaser a notice
20 containing a statement in conspicuous type in substantially
21 the following form:

22
23 The unapproved public offering statement previously delivered
24 to you has been approved by the Division of ~~Florida Land~~
25 ~~Sales~~, Condominiums, Timeshare, and Mobile Homes. Revisions
26 made to the unapproved public offering statement, if any, are
27 either not required to be delivered to you or are not deemed
28 by the developer, in its opinion, to materially alter or
29 modify the offering in a manner that is adverse to you.
30 Accordingly, your cancellation right expired 10 days after you
31 signed your purchase contract. A complete copy of the approved

1 public offering statement is available through the managing
2 entity for inspection as part of the books and records of the
3 plan. If you have any questions regarding your cancellation
4 rights, you may contact the division at [insert division's
5 current address].

6 Section 84. Subsection (8) of section 721.08, Florida
7 Statutes, is amended to read:

8 721.08 Escrow accounts; nondisturbance instruments;
9 alternate security arrangements; transfer of legal title.--

10 (8) An escrow agent holding escrowed funds pursuant to
11 this chapter that have not been claimed for a period of 5
12 years after the date of deposit shall make at least one
13 reasonable attempt to deliver such unclaimed funds to the
14 purchaser who submitted such funds to escrow. In making such
15 attempt, an escrow agent is entitled to rely on a purchaser's
16 last known address as set forth in the books and records of
17 the escrow agent and is not required to conduct any further
18 search for the purchaser. If an escrow agent's attempt to
19 deliver unclaimed funds to any purchaser is unsuccessful, the
20 escrow agent may deliver such unclaimed funds to the division
21 and the division shall deposit such unclaimed funds in the
22 Division of ~~Florida Land Sales, Condominiums, Timeshare, and~~
23 Mobile Homes Trust Fund, 30 days after giving notice in a
24 publication of general circulation in the county in which the
25 timeshare property containing the purchaser's timeshare
26 interest is located. The purchaser may claim the same at any
27 time prior to the delivery of such funds to the division.
28 After delivery of such funds to the division, the purchaser
29 shall have no more rights to the unclaimed funds. The escrow
30 agent shall not be liable for any claims from any party

31

1 arising out of the escrow agent's delivery of the unclaimed
2 funds to the division pursuant to this section.

3 Section 85. Paragraph (e) of subsection (5) of section
4 721.26, Florida Statutes, is amended to read:

5 721.26 Regulation by division.--The division has the
6 power to enforce and ensure compliance with the provisions of
7 this chapter, except for parts III and IV, using the powers
8 provided in this chapter, as well as the powers prescribed in
9 chapters 498, 718, and 719. In performing its duties, the
10 division shall have the following powers and duties:

11 (5) Notwithstanding any remedies available to
12 purchasers, if the division has reasonable cause to believe
13 that a violation of this chapter, or of any division rule or
14 order promulgated or issued pursuant to this chapter, has
15 occurred, the division may institute enforcement proceedings
16 in its own name against any regulated party, as such term is
17 defined in this subsection:

18 (e)1. The division may impose a penalty against any
19 regulated party for a violation of this chapter or any rule
20 adopted thereunder. A penalty may be imposed on the basis of
21 each day of continuing violation, but in no event may the
22 penalty for any offense exceed \$10,000. All accounts
23 collected shall be deposited with the Treasurer to the credit
24 of the Division of ~~Florida Land Sales~~, Condominiums,
25 Timeshare, and Mobile Homes Trust Fund.

26 2.a. If a regulated party fails to pay a penalty, the
27 division shall thereupon issue an order directing that such
28 regulated party cease and desist from further operation until
29 such time as the penalty is paid; or the division may pursue
30 enforcement of the penalty in a court of competent
31 jurisdiction.

1 b. If an association or managing entity fails to pay a
2 civil penalty, the division may pursue enforcement in a court
3 of competent jurisdiction.

4 Section 86. Section 721.28, Florida Statutes, is
5 amended to read:

6 721.28 Division of ~~Florida Land Sales~~, Condominiums,
7 Timeshare, and Mobile Homes Trust Fund.--All funds collected
8 by the division and any amounts paid as fees or penalties
9 under this chapter shall be deposited in the State Treasury to
10 the credit of the Division of ~~Florida Land Sales~~,
11 Condominiums, Timeshare, and Mobile Homes Trust Fund created
12 by s. 718.509 ~~498.019~~.

13 Section 87. Paragraph (c) of subsection (1) of section
14 721.301, Florida Statutes, is amended to read:

15 721.301 Florida Timesharing, Vacation Club, and
16 Hospitality Program.--

17 (1)

18 (c) The director may designate funds from the Division
19 of ~~Florida Land Sales~~, Condominiums, Timeshare, and Mobile
20 Homes Trust Fund, not to exceed \$50,000 annually, to support
21 the projects and proposals undertaken pursuant to paragraph
22 (b). All state trust funds to be expended pursuant to this
23 section must be matched equally with private moneys and shall
24 comprise no more than half of the total moneys expended
25 annually.

26 Section 88. Section 721.50, Florida Statutes, is
27 amended to read:

28 721.50 Short title.--This part may be cited as the
29 "McAllister Act" in recognition and appreciation for the years
30 of extraordinary and insightful contributions by Mr. Bryan C.
31

1 McAllister, Examinations Supervisor, former Division of
2 Florida Land Sales, Condominiums, and Mobile Homes.

3 Section 89. Subsection (1) of section 723.003, Florida
4 Statutes, is amended to read:

5 723.003 Definitions.--As used in this chapter, the
6 following words and terms have the following meanings unless
7 clearly indicated otherwise:

8 (1) The term "division" means the Division of ~~Florida~~
9 ~~Land Sales, Condominiums, Timeshare,~~ and Mobile Homes of the
10 Department of Business and Professional Regulation.

11 Section 90. Paragraph (e) of subsection (5) of section
12 723.006, Florida Statutes, is amended to read:

13 723.006 Powers and duties of division.--In performing
14 its duties, the division has the following powers and duties:

15 (5) Notwithstanding any remedies available to mobile
16 home owners, mobile home park owners, and homeowners'
17 associations, if the division has reasonable cause to believe
18 that a violation of any provision of this chapter or any rule
19 promulgated pursuant hereto has occurred, the division may
20 institute enforcement proceedings in its own name against a
21 developer, mobile home park owner, or homeowners' association,
22 or its assignee or agent, as follows:

23 (e)1. The division may impose a civil penalty against
24 a mobile home park owner or homeowners' association, or its
25 assignee or agent, for any violation of this chapter, a
26 properly promulgated park rule or regulation, or a rule or
27 regulation promulgated pursuant hereto. A penalty may be
28 imposed on the basis of each separate violation and, if the
29 violation is a continuing one, for each day of continuing
30 violation, but in no event may the penalty for each separate
31 violation or for each day of continuing violation exceed

1 \$5,000. All amounts collected shall be deposited with the
2 Treasurer to the credit of the Division of ~~Florida Land Sales,~~
3 Condominiums, Timeshare, and Mobile Homes Trust Fund.

4 2. If a violator fails to pay the civil penalty, the
5 division shall thereupon issue an order directing that such
6 violator cease and desist from further violation until such
7 time as the civil penalty is paid or may pursue enforcement of
8 the penalty in a court of competent jurisdiction. If a
9 homeowners' association fails to pay the civil penalty, the
10 division shall thereupon pursue enforcement in a court of
11 competent jurisdiction, and the order imposing the civil
12 penalty or the cease and desist order shall not become
13 effective until 20 days after the date of such order. Any
14 action commenced by the division shall be brought in the
15 county in which the division has its executive offices or in
16 which the violation occurred.

17 Section 91. Section 723.0065, Florida Statutes, is
18 amended to read:

19 723.0065 Public records exemption; findings.--The
20 Legislature, in narrowing the existing public records
21 exemption pursuant to s. 1, chapter 94-78, Laws of Florida,
22 finds that a public necessity exists to keep confidential and
23 retain the public records exemption for financial records of
24 mobile home park owners acquired by the division ~~of Florida~~
25 ~~Land Sales, Condominiums, and Mobile Homes~~ when performing its
26 duties under the Florida Mobile Home Act unless the mobile
27 home park owner has violated the provisions of this chapter.
28 In that case, only those financial records that are
29 specifically relevant to the finding of violation should be
30 released. If it were otherwise, the division would encounter
31 difficulties in procuring such proprietary information which

1 would impede the effective and efficient performance of the
2 division's public duties. Additionally, release of such
3 proprietary information would harm the business interests of
4 innocent mobile home park owners to the advantage of
5 competitors and potential purchasers. Effective monitoring of
6 the division's performance of its duties can be conducted
7 without access to these records, and these records are
8 otherwise available pursuant to a civil complaint as
9 envisioned by the act. Accordingly, the public good served by
10 access to financial records of a mobile home park owner who
11 has not violated the provisions of this chapter is outweighed
12 by the interference with division investigations and the
13 private harm that could be caused by allowing such access.

14 Section 92. Section 723.009, Florida Statutes, is
15 amended to read:

16 723.009 Division of ~~Florida Land Sales~~, Condominiums,
17 Timeshare, and Mobile Homes Trust Fund.--All proceeds from the
18 fees, penalties, and fines imposed pursuant to this chapter
19 shall be deposited into the Division of ~~Florida Land Sales~~,
20 Condominiums, Timeshare, and Mobile Homes Trust Fund created
21 by s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated
22 by the Legislature pursuant to chapter 216, may be used to
23 defray the expenses incurred by the division in administering
24 the provisions of this chapter.

25 Section 93. Subsection (2) of section 73.073, Florida
26 Statutes, is amended to read:

27 73.073 Eminent domain procedure with respect to
28 condominium common elements.--

29 (2) With respect to the exercise of eminent domain or
30 a negotiated sale for the purchase or taking of a portion of
31 the common elements of a condominium, the condemning authority

1 shall have the responsibility of contacting the condominium
2 association and acquiring the most recent rolls indicating the
3 names of the unit owners or contacting the appropriate taxing
4 authority to obtain the names of the owners of record on the
5 tax rolls. Notification shall thereupon be sent by certified
6 mail, return receipt requested, to the unit owners of record
7 of the condominium units by the condemning authority
8 indicating the intent to purchase or take the required
9 property and requesting a response from the unit owner. The
10 condemning authority shall be responsible for the expense of
11 sending notification pursuant to this section. Such notice
12 shall, at a minimum, include:

13 (a) The name and address of the condemning authority.

14 (b) A written or visual description of the property.

15 (c) The public purpose for which the property is
16 needed.

17 (d) The appraisal value of the property.

18 (e) A clear, concise statement relating to the unit
19 owner's right to object to the taking or appraisal value and
20 the procedures and effects of exercising that right.

21 (f) A clear, concise statement relating to the power
22 of the association to convey the property on behalf of the
23 unit owners if no objection to the taking or appraisal value
24 is raised, and the effects of this alternative on the unit
25 owner.

26

27 The Division of ~~Florida Land Sales~~, Condominiums, Timeshare,
28 and Mobile Homes of the Department of Business and
29 Professional Regulation may adopt, by rule, a standard form
30 for such notice and may require the notice to include any
31 additional relevant information.

1 Section 94. Paragraph (e) of subsection (6) of section
2 192.037, Florida Statutes, is amended to read:

3 192.037 Fee timeshare real property; taxes and
4 assessments; escrow.--

5 (6)

6 (e) On or before May 1 of each year, a statement of
7 receipts and disbursements of the escrow account must be filed
8 with the Division of ~~Florida Land Sales, Condominiums,~~
9 Timeshare, and Mobile Homes of the Department of Business and
10 Professional Regulation, which may enforce this paragraph
11 pursuant to s. 721.26. This statement must appropriately show
12 the amount of principal and interest in such account.

13 Section 95. Paragraph (i) of subsection (7) of section
14 213.053, Florida Statutes, is amended to read:

15 213.053 Confidentiality and information sharing.--

16 (7) Notwithstanding any other provision of this
17 section, the department may provide:

18 (i) Information relative to chapters 212 and 326 to
19 the ~~Division of Florida Land Sales, Condominiums, and Mobile~~
20 ~~Homes of the~~ Department of Business and Professional
21 Regulation in the conduct of its official duties.

22
23 Disclosure of information under this subsection shall be
24 pursuant to a written agreement between the executive director
25 and the agency. Such agencies, governmental or
26 nongovernmental, shall be bound by the same requirements of
27 confidentiality as the Department of Revenue. Breach of
28 confidentiality is a misdemeanor of the first degree,
29 punishable as provided by s. 775.082 or s. 775.083.

30 Section 96. Paragraph (w) of subsection (4) of section
31 215.20, Florida Statutes, is amended to read:

1 215.20 Certain income and certain trust funds to
2 contribute to the General Revenue Fund.--
3 (4) The income of a revenue nature deposited in the
4 following described trust funds, by whatever name designated,
5 is that from which the deductions authorized by subsection (3)
6 shall be made:
7 (w) The Division of ~~Florida Land Sales~~, Condominiums,
8 Timeshare, and Mobile Homes Trust Fund established pursuant to
9 s. 718.509 ~~498.019~~.

10

11 The enumeration of the foregoing moneys or trust funds shall
12 not prohibit the applicability thereto of s. 215.24 should the
13 Governor determine that for the reasons mentioned in s. 215.24
14 the money or trust funds should be exempt herefrom, as it is
15 the purpose of this law to exempt income from its force and
16 effect when, by the operation of this law, federal matching
17 funds or contributions or private grants to any trust fund
18 would be lost to the state.

19 Section 97. Paragraph (a) of subsection (4) of section
20 380.0651, Florida Statutes, is amended to read:

21 380.0651 Statewide guidelines and standards.--

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

27 (a) The criteria of two of the following subparagraphs
28 must be met in order for the state land planning agency to
29 determine that there is a unified plan of development:

30 1.a. The same person has retained or shared control of
31 the developments;

- 1 b. The same person has ownership or a significant
2 legal or equitable interest in the developments; or
- 3 c. There is common management of the developments
4 controlling the form of physical development or disposition of
5 parcels of the development.
- 6 2. There is a reasonable closeness in time between the
7 completion of 80 percent or less of one development and the
8 submission to a governmental agency of a master plan or series
9 of plans or drawings for the other development which is
10 indicative of a common development effort.
- 11 3. A master plan or series of plans or drawings exists
12 covering the developments sought to be aggregated which have
13 been submitted to a local general-purpose government, water
14 management district, the Florida Department of Environmental
15 Protection, or the Division of ~~Florida Land Sales,~~
16 Condominiums, Timeshare, and Mobile Homes for authorization to
17 commence development. The existence or implementation of a
18 utility's master utility plan required by the Public Service
19 Commission or general-purpose local government or a master
20 drainage plan shall not be the sole determinant of the
21 existence of a master plan.
- 22 4. The voluntary sharing of infrastructure that is
23 indicative of a common development effort or is designated
24 specifically to accommodate the developments sought to be
25 aggregated, except that which was implemented because it was
26 required by a local general-purpose government; water
27 management district; the Department of Environmental
28 Protection; the Division of ~~Florida Land Sales,~~ Condominiums,
29 Timeshare, and Mobile Homes; or the Public Service Commission.
- 30 5. There is a common advertising scheme or promotional
31 plan in effect for the developments sought to be aggregated.

1 Section 98. Subsection (5) of section 455.116, Florida
2 Statutes, is amended to read:

3 455.116 Regulation trust funds.--The following trust
4 funds shall be placed in the department:

5 (5) Division of ~~Florida Land Sales~~, Condominiums,
6 Timeshare, and Mobile Homes Trust Fund.

7 Section 99. Section 475.455, Florida Statutes, is
8 amended to read:

9 475.455 Exchange of disciplinary information.--The
10 commission shall inform the Division of ~~Florida Land Sales~~,
11 Condominiums, Timeshare, and Mobile Homes of the Department of
12 Business and Professional Regulation of any disciplinary
13 action the commission has taken against any of its licensees.
14 The division shall inform the commission of any disciplinary
15 action the division has taken against any broker or
16 salesperson registered with the division.

17 Section 100. Section 509.512, Florida Statutes, is
18 amended to read:

19 509.512 Timeshare plan developer and exchange company
20 exemption.--Sections 509.501-509.511 do not apply to a
21 developer of a timeshare plan or an exchange company approved
22 by the Division of ~~Florida Land Sales~~, Condominiums,
23 Timeshare, and Mobile Homes pursuant to chapter 721, but only
24 to the extent that the developer or exchange company engages
25 in conduct regulated under chapter 721.

26 Section 101. Subsection (1) of section 559.935,
27 Florida Statutes, is amended to read:

28 559.935 Exemptions.--

29 (1) This part does not apply to:

30 (a) A bona fide employee of a seller of travel who is
31 engaged solely in the business of her or his employer;

1 (b) Any direct common carrier of passengers or
2 property regulated by an agency of the Federal Government or
3 employees of such carrier when engaged solely in the
4 transportation business of the carrier as identified in the
5 carrier's certificate;

6 (c) An intrastate common carrier of passengers or
7 property selling only transportation as defined in the
8 applicable state or local registration or certification, or
9 employees of such carrier when engaged solely in the
10 transportation business of the carrier;

11 (d) Hotels, motels, or other places of public
12 accommodation selling public accommodations, or employees of
13 such hotels, motels, or other places of public accommodation,
14 when engaged solely in making arrangements for lodging,
15 accommodations, or sightseeing tours within the state, or
16 taking reservations for the traveler with times, dates,
17 locations, and accommodations certain at the time the
18 reservations are made, provided that hotels and motels
19 registered with the Department of Business and Professional
20 Regulation pursuant to chapter 509 are excluded from the
21 provisions of this chapter;

22 (e) Persons involved solely in the rental, leasing, or
23 sale of residential property;

24 (f) Persons involved solely in the rental, leasing, or
25 sale of transportation vehicles;

26 (g) Persons who make travel arrangements for
27 themselves; for their employees or agents; for distributors,
28 franchisees, or dealers of the persons' products or services;
29 for entities which are financially related to the persons; or
30 for the employees or agents of the distributor, franchisee, or
31 dealer or financially related entity;

1 (h) A developer of a timeshare plan or an exchange
2 company approved by the Division of ~~Florida Land Sales,~~
3 Condominiums, Timeshare, and Mobile Homes pursuant to chapter
4 721, but only to the extent that the developer or exchange
5 company engages in conduct regulated under chapter 721; or

6 (i) Persons or entities engaged solely in offering
7 diving services, including classes and sales or rentals of
8 equipment, when engaged in making any prearranged
9 travel-related or tourist-related services in conjunction with
10 a primarily dive-related event.

11 Section 102. Except as otherwise provided herein, this
12 act shall take effect October 1, 2001.

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HOUSE SUMMARY

Revises various provisions of law relating to organization and duties of the Department of Business and Professional Regulation.

Revises minimum requirements for the number of consumer members on professional licensing boards.

Transfers the regulation of yacht and ship brokers and salespersons from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Professions. Revises provisions relating to criminal history checks and administrative and civil penalties. Requires that all funds collected pursuant to such regulation be deposited into the Professional Regulation Trust Fund.

Provides that all applications for licensure be prescribed by the department. Provides for the electronic submission of information to the department. Provides that all legal obligations must be met before the issuance or renewal of a license.

Authorizes any division of the department to issue citations in the enforcement of its regulatory provisions in accordance with the provisions established for such purposes for the regulation of professions.

Provides for registration of talent agencies in lieu of licensure.

Authorizes direct supervision by building code administrators by telecommunications devices in certain localities and under specified circumstances. Requires the payment of costs for certain building code enforcement applicants who fail to appear for scheduled examinations, subject to waiver in case of hardship.

Allows for more than one type of seal to be used by professional engineers.

Provides for exemption from ch. 472, F.S., relating to land surveying and mapping, for certain subordinate employees. Revises provisions relating to access to lands of others for surveying or mapping purposes. Provides applicability to subordinates. Requires certain notice.

Abolishes the Barbers' Board and the Board of Cosmetology within the department and transfers the regulation of

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1 both professions to the Board of Barbering and
2 Cosmetology, which is newly created within the
3 department. Provides for appointment of all members of
4 the Board of Barbering and Cosmetology to staggered
5 terms. Eliminates a requirement for refresher courses and
6 examinations for failure of cosmetology licensees to
7 comply with continuing education requirements. Provides
8 authority for registration renewal and delinquent fees
9 for hair braiders, hair wrappers, and body wrappers.

10 Revises requirements relating to education for licensure
11 as an architect. Provides for injunctive relief for
12 certain violations relating to architecture and interior
13 design.

14 Reduces the number of members on the Construction
15 Industry Licensing Board. Relocates the offices of the
16 board to Tallahassee. Provides for temporary certificates
17 and registrations. Revises grandfathering provisions for
18 certification of registered contractors to qualify
19 persons holding certain registered local specialty
20 licenses. Requires the Electrical Contractors' Licensing
21 Board to develop a plan to reduce its annual operating
22 budget by a specified amount and submit such plan to the
23 department by a specified date. Revises provisions
24 relating to licensure as an electrical or alarm system
25 contractor by endorsement.

26 Reassigns the regulation of land sales from the Division
27 of Florida Land Sales, Condominiums, and Mobile Homes to
28 the Division of Real Estate. Requires all funds collected
29 by the department pursuant to the regulation of land
30 sales to be deposited in the Professional Regulation
31 Trust Fund.

Renames the Division of Florida Land Sales, Condominiums,
and Mobile Homes as the Division of Condominiums,
Timeshare, and Mobile Homes. Renames the Division of
Florida Land Sales, Condominiums, and Mobile Homes Trust
Fund as the Division of Condominiums, Timeshare, and
Mobile Homes Trust Fund. Provides division enforcement
powers and duties. Provides for injunction, restitution,
and civil penalties. Provides certain immunity. Provides
for use of certain documents as evidence. Provides for
certain notice. Provides for intervention in suits.
Locates the executive offices of the division in
Tallahassee. Authorizes branch offices. Provides for
adoption and use of a seal. Provides applicability to
specified chapters of the Florida Statutes.