

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; repealing
11 provisions relating to the transfer of board
12 locations; amending ss. 326.001, 326.002,
13 326.003, 326.004, 326.006, F.S.; transferring
14 the regulation of yacht and ship brokers and
15 salespersons from the Division of Florida Land
16 Sales, Condominiums, and Mobile Homes to the
17 Division of Professions; revising provisions
18 relating to criminal history checks and
19 administrative and civil penalties; requiring
20 that all funds collected pursuant to such
21 regulation be deposited into the Professional
22 Regulation Trust Fund; revising references;
23 amending s. 399.061, F.S.; revising provisions
24 relating to the inspection of elevators;
25 amending s. 455.213, F.S.; providing for the
26 content of licensure and renewal documents;
27 providing for the electronic submission of
28 information to the department; providing that
29 all legal obligations must be met before the
30 issuance or renewal of a license; amending s.
31 455.224, F.S.; authorizing any division of the

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

1 purposes; providing applicability to
2 subordinates; requiring certain notice;
3 amending s. 810.12, F.S.; revising provisions
4 relating to trespass, to conform; amending ss.
5 472.001, 472.011, 472.015, 472.021, 472.027,
6 472.031, 472.037, F.S.; revising
7 cross-references; amending s. 475.01, F.S.;
8 clarifying that chapter 475 is applicable to
9 brokers acting as trustees or fiduciaries;
10 amending s. 476.034, F.S.; redefining the term
11 "board"; amending s. 476.054, F.S.; creating
12 the Board of Barbering and Cosmetology;
13 providing certain compensation; requiring an
14 oath and providing for a certificate of
15 appointment; providing for officers, meetings,
16 and quorum; amending s. 476.064, F.S.;
17 conforming provisions; amending ss. 476.014,
18 476.074, 476.154, 476.194, 476.214, 476.234,
19 F.S.; revising references; amending s. 477.013,
20 F.S.; defining the term "board"; repealing s.
21 477.015, F.S., relating to the Board of
22 Cosmetology; abolishing the Barbers' Board and
23 the Board of Cosmetology; providing for
24 appointment of all members of the Board of
25 Barbering and Cosmetology to staggered terms;
26 providing savings clauses for rules and legal
27 actions; amending s. 477.019, F.S.; revising
28 requirements related to continuing education
29 providers and courses; eliminating a
30 requirement for refresher courses and
31 examinations for failure of cosmetology

1 licensees to comply with continuing education
 2 requirements; amending s. 477.026, F.S.;
 3 providing authority for registration renewal
 4 and delinquent fees for hair braiders, hair
 5 wrappers, and body wrappers; amending s.
 6 481.209, F.S.; revising requirements relating
 7 to education for licensure as an architect;
 8 amending s. 481.223, F.S.; providing for
 9 injunctive relief for certain violations
 10 relating to architecture and interior design;
 11 amending s. 489.107, F.S.; reducing the number
 12 of members on the Construction Industry
 13 Licensing Board; creating s. 489.1133, F.S.;
 14 providing for temporary certificates and
 15 registrations; amending s. 489.115, F.S.;
 16 eliminating references to divisions of the
 17 Construction Industry Licensing Board; amending
 18 s. 489.118, F.S.; revising grandfathering
 19 provisions for certification of registered
 20 contractors to qualify persons holding certain
 21 registered local specialty licenses; repealing
 22 s. 489.507(6), F.S., to delete a duplicate
 23 provision relating to appointment of committees
 24 of the Construction Industry Licensing Board
 25 and the Electrical Contractors' Licensing Board
 26 for the purpose of meeting jointly twice each
 27 year; requiring the Electrical Contractors'
 28 Licensing Board to develop a plan to reduce its
 29 annual operating budget by a specified amount
 30 and submit such plan to the department by a
 31 specified date; amending s. 489.511, F.S.;

1 revising provisions relating to licensure as an
 2 electrical or alarm system contractor by
 3 endorsement; amending s. 489.537, F.S.;
 4 revising the power of municipalities and
 5 counties with respect to regulating electrical
 6 journeymen; amending ss. 498.005, 498.019,
 7 498.049, F.S.; reassigning the regulation of
 8 land sales from the Division of Florida Land
 9 Sales, Condominiums, and Mobile Homes to the
 10 Division of Real Estate; requiring all funds
 11 collected by the department pursuant to the
 12 regulation of land sales to be deposited in the
 13 Professional Regulation Trust Fund; amending s.
 14 190.009, F.S.; conforming terminology; amending
 15 ss. 718.103, 718.105, 718.112, 718.1255,
 16 718.501, 718.502, 718.504, 718.508, 718.509,
 17 718.608, 719.103, 719.1255, 719.501, 719.502,
 18 719.504, 719.508, 719.608, 721.05, 721.07,
 19 721.08, 721.26, 721.28, 721.301, 721.50,
 20 721.82, 721.84, 723.003, 723.006, 723.0065,
 21 723.009, F.S.; renaming the Division of Florida
 22 Land Sales, Condominiums, and Mobile Homes as
 23 the Division of Condominiums, Timeshare, and
 24 Mobile Homes; renaming the Division of Florida
 25 Land Sales, Condominiums, and Mobile Homes
 26 Trust Fund as the Division of Condominiums,
 27 Timeshare, and Mobile Homes Trust Fund;
 28 conforming provisions; revising language with
 29 respect to condominium association bylaws;
 30 revising language with respect to the annual
 31 budget; providing for reserves under certain

1 circumstances; providing and limiting
 2 arbitration of disputes by the division to
 3 those regarding elections and the recall of
 4 board members; deleting reference to voluntary
 5 mediation; providing for the resolution of
 6 certain other complaints at the local level;
 7 providing exemptions; providing for expedited
 8 handling of election disputes; requiring the
 9 continuation of arbitration of cases filed by a
 10 certain date; providing a contingent
 11 appropriation; providing division enforcement
 12 powers and duties; providing for injunction,
 13 restitution, and civil penalties; providing
 14 certain immunity; providing for use of certain
 15 documents as evidence; providing for certain
 16 notice; providing for intervention in suits;
 17 locating the executive offices of the division
 18 in Tallahassee; authorizing branch offices;
 19 providing for adoption and use of a seal;
 20 providing applicability to specified chapters
 21 of the Florida Statutes; amending s. 721.82,
 22 F.S.; redefining the term "registered agent";
 23 amending s. 721.84, F.S.; providing for
 24 appointment of a successor registered agent;
 25 amending ss. 73.073, 192.037, 213.053, 215.20,
 26 380.0651, 455.116, 475.455, 509.512, 559.935,
 27 F.S.; conforming terminology; amending s.
 28 468.452, F.S.; revising definitions; amending
 29 s. 468.453, F.S.; revising licensure
 30 requirements; providing for service of process
 31 on nonresident agents; providing for temporary

1 licenses; deleting a bond requirement;
 2 providing for reciprocity; amending s. 468.454,
 3 F.S.; revising contract requirements; providing
 4 for cancellation of contracts; amending s.
 5 468.456, F.S.; providing for increased
 6 administrative fines; amending s. 468.45615,
 7 F.S.; providing additional criminal penalties
 8 for certain acts; amending s. 468.4562, F.S.;
 9 revising provisions relating to civil remedies
 10 available to colleges and universities for
 11 violations of athlete agent regulations;
 12 amending s. 468.4565, F.S.; revising business
 13 record requirements; repealing s. 468.4563,
 14 F.S., relating to authority to require
 15 continuing education by athlete agents;
 16 repealing s. 468.4564, relating to license
 17 display requirements; amending s. 702.09, F.S.;
 18 revising the definitions of the terms
 19 "mortgage" and "foreclosure proceedings";
 20 amending s. 718.104, F.S., revising language
 21 with respect to declarations for the creation
 22 of a condominium; amending s. 718.106, F.S.;
 23 revising language with respect to appurtenances
 24 that pass with a condominium unit; amending s.
 25 718.110, F.S.; revising language with respect
 26 to amendments to a declaration of condominium;
 27 amending s. 718.111, F.S.; revising language
 28 with respect to the association; amending s.
 29 718.112, F.S.; revising language with respect
 30 to bylaws; amending s. 718.113, F.S.; revising
 31 language with respect to material alterations

1 of common elements or association real property
2 operated by a multicondominium association;
3 amending s. 718.115, F.S.; revising language
4 with respect to common expenses; amending s.
5 718.405, F.S.; revising language with respect
6 to multicondominiums and multicondominium
7 associations; amending s. 718.503, F.S.,
8 relating to disclosure requirements for the
9 sale of certain condominiums; removing the
10 requirement that question and answer sheets be
11 part of the closing documents; amending s.
12 718.504, F.S.; revising language with respect
13 to the prospectus or offering circular;
14 providing effective dates.
15

16 Be It Enacted by the Legislature of the State of Florida:
17

18 Section 1. Subsection (7) is repealed and paragraph
19 (d) of subsection (2), paragraph (a) of subsection (4), and
20 subsection (6) of section 20.165, Florida Statutes, are
21 amended to read:

22 20.165 Department of Business and Professional
23 Regulation.--There is created a Department of Business and
24 Professional Regulation.

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

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

29 (4)(a) The following boards are established within the
30 Division of Professions:
31

- 1 1. Board of Architecture and Interior Design, created
- 2 under part I of chapter 481.
- 3 2. Florida Board of Auctioneers, created under part VI
- 4 of chapter 468.
- 5 3. ~~Barbers~~ Board of Barbering and Cosmetology,
- 6 created under chapter 476.
- 7 4. Florida Building Code Administrators and Inspectors
- 8 Board, created under part XII of chapter 468.
- 9 5. Construction Industry Licensing Board, created
- 10 under part I of chapter 489.
- 11 ~~6. Board of Cosmetology, created under chapter 477.~~
- 12 6.7. Electrical Contractors' Licensing Board, created
- 13 under part II of chapter 489.
- 14 7.8. Board of Employee Leasing Companies, created
- 15 under part XI of chapter 468.
- 16 8.9. Board of Funeral Directors and Embalmers, created
- 17 under chapter 470.
- 18 9.10. Board of Landscape Architecture, created under
- 19 part II of chapter 481.
- 20 10.11. Board of Pilot Commissioners, created under
- 21 chapter 310.
- 22 11.12. Board of Professional Engineers, created under
- 23 chapter 471.
- 24 12.13. Board of Professional Geologists, created under
- 25 chapter 492.
- 26 13.14. Board of Professional Surveyors and Mappers,
- 27 created under chapter 472.
- 28 14.15. Board of Veterinary Medicine, created under
- 29 chapter 474.
- 30 (6) Each board with ~~five or~~ more than seven members
- 31 shall have at least two consumer members who are not, and have

1 never been, members or practitioners of the profession
2 regulated by such board or of any closely related profession.
3 Each board with seven or fewer ~~than five~~ members shall have at
4 least one consumer member who is not, and has never been, a
5 member or practitioner of the profession regulated by such
6 board or of any closely related profession.

7 ~~(7) No board, with the exception of joint~~
8 ~~coordinatorships, shall be transferred from its present~~
9 ~~location unless authorized by the Legislature in the General~~
10 ~~Appropriations Act.~~

11 Section 2. Section 326.001, Florida Statutes, is
12 amended to read:

13 326.001 Short title.--This chapter Sections
14 ~~326.001-326.006~~ may be cited as the "Yacht and Ship Brokers'
15 Act."

16 Section 3. Section 326.002, Florida Statutes, is
17 amended to read:

18 326.002 Definitions.--As used in this chapter ss.
19 ~~326.001-326.006~~, the term:

20 (1) "Broker" means a person who, for or in expectation
21 of compensation: sells, offers, or negotiates to sell; buys,
22 offers, or negotiates to buy; solicits or obtains listings of;
23 or negotiates the purchase, sale, or exchange of, yachts for
24 other persons.

25 (2) "Department" ~~"Division"~~ means the ~~Division of~~
26 ~~Florida Land Sales, Condominiums, and Mobile Homes of the~~
27 Department of Business and Professional Regulation.

28 (3) "Salesperson" means a person who, for or in
29 expectation of compensation, is employed by a broker to
30 perform any acts of a broker.

31

1 (4) "Yacht" means any vessel which is propelled by
2 sail or machinery in the water which exceeds 32 feet in
3 length, and which weighs less than 300 gross tons.

4 (5) "Person" means an individual, partnership, firm,
5 corporation, association, or other entity.

6 Section 4. Section 326.003, Florida Statutes, is
7 amended to read:

8 326.003 Administration.--The department ~~division~~
9 shall:

10 (1) Administer ~~ss. 326.001-326.006~~ and collect fees
11 sufficient to administer this chapter ~~ss. 326.001-326.006~~.

12 (2) Adopt rules pursuant to ss. 120.536(1) and 120.54
13 necessary to administer this chapter ~~implement ss.~~
14 ~~326.001-326.006~~ and to classify brokers and salespersons and
15 regulate their activities.

16 (3) Enforce the provisions of this chapter ~~ss.~~
17 ~~326.001-326.006~~ against any person who operates as a broker or
18 salesperson without a license.

19 Section 5. Section 326.004, Florida Statutes, is
20 amended to read:

21 326.004 Licensing.--

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

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

29 (3) A license is not required for:

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

31

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

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

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

6 (e) A transaction involving the foreclosure of a
7 security interest in a yacht.

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

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

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

20 (a) Furnish proof satisfactory to the department
21 ~~division~~ that he or she is of good moral character.

22 (b) Certify that he or she has never been convicted of
23 a felony.

24 (c) Post the bond required by the Yacht and Ship
25 Brokers' Act.

26 (d) Demonstrate that he or she is a resident of this
27 state or that he or she conducts business in this state.

28 (e) Furnish a full set of fingerprints taken within
29 the 6 months immediately preceding the submission of the
30 application.

31

1 (f) Have a current license and has operated as a
2 broker or salesperson without a license.

3 (7)(a) Before any license may be issued to a yacht or
4 ship broker, he or she must deliver to the department ~~division~~
5 a good and sufficient surety bond or irrevocable letter of
6 credit, executed by the broker as principal, in the sum of
7 \$25,000.

8 (b) Surety bonds and irrevocable letters of credit
9 must be in a form to be approved by the department ~~division~~
10 and must be conditioned upon the broker complying with the
11 terms of any written contract made by such broker in
12 connection with the sale or exchange of any yacht or ship and
13 not violating any of the provisions of the Yacht and Ship
14 Brokers' Act in the conduct of the business for which he or
15 she is licensed. The bonds and letters of credit must be
16 delivered to the department ~~division~~ and in favor of any
17 person in a transaction who suffers any loss as a result of
18 any violation of the conditions in this chapter ~~ss.~~

19 ~~326.001-326.006~~. When the department ~~division~~ determines that
20 a person has incurred a loss as a result of a violation of the
21 Yacht and Ship Brokers' Act, it shall notify the person in
22 writing of the existence of the bond or letter of credit. The
23 bonds and letters of credit must cover the license period, and
24 a new bond or letter of credit or a proper continuation
25 certificate must be delivered to the department ~~division~~ at
26 the beginning of each license period. However, the aggregate
27 liability of the surety in any one year may not exceed the sum
28 of the bond or, in the case of a letter of credit, the
29 aggregate liability of the issuing bank may not exceed the sum
30 of the credit.

31

1 (c) Surety bonds must be executed by a surety company
2 authorized to do business in the state as surety, and
3 irrevocable letters of credit must be issued by a bank
4 authorized to do business in the state as a bank.

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

8
9 The security for a broker must remain on deposit for a period
10 of 1 year after he or she ceases to be a broker.

11 (8) A person may not be licensed as a broker unless he
12 or she has been a salesperson for at least 2 consecutive
13 years, and may not be licensed as a broker after October 1,
14 1990, unless he or she has been licensed as a salesperson for
15 at least 2 consecutive years.

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

20 (10) Upon a final judgment being rendered against a
21 yacht broker or salesperson for a violation of this chapter
22 ~~ss. 326.001-326.006~~ which results in any action being
23 commenced on the bond or letter of credit, the department
24 ~~division~~ may require the filing of a new bond or letter of
25 credit and immediately on the recovery in any action on such
26 bond or letter of credit, the broker or salesperson involved
27 must file a new bond or letter of credit. His or her failure
28 to do so within 10 days constitutes grounds for the suspension
29 or revocation of his or her license.

30 (11) Any person injured by the fraud, deceit, or
31 willful negligence of any broker or salesperson or by the

1 failure of any broker or salesperson to comply with the Yacht
2 and Ship Brokers' Act or other law may file an action for
3 damages upon the respective bonds against the principals and
4 the surety.

5 (12) If a surety notifies the department ~~division~~ that
6 it is no longer the surety for a licensee, the department
7 ~~division~~ shall notify the licensee of such withdrawal by
8 certified mail, return receipt requested, addressed to the
9 licensee's principal office. Upon the termination of such
10 surety the licensee's license is automatically suspended until
11 he or she files a new bond with the department ~~division~~.

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

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

19 (b) Each salesperson's license must remain in the
20 possession of the employing broker until canceled or until the
21 salesperson leaves such employment. Immediately upon a
22 salesperson's withdrawal from the employment of a broker, the
23 broker must return the salesperson's license to the department
24 ~~division~~ for cancellation.

25 (15) The department ~~division~~ shall provide by rule for
26 the issuance of a temporary 90-day license to an applicant
27 while the Florida Department of Law Enforcement and the
28 Federal Bureau of Investigation ~~conducts~~ a national
29 criminal history analysis of the applicant by means of
30 fingerprint identification.

31

1 Section 6. Section 326.006, Florida Statutes, is
2 amended to read:

3 326.006 Powers and duties of department ~~division~~.--

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

6 (2) The department ~~may division has the power to~~
7 enforce and ensure compliance with the provisions of this
8 chapter and rules adopted under this chapter relating to the
9 sale and ownership of yachts and ships. In performing its
10 duties, the department ~~division~~ has the following powers and
11 duties:

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

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

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

1 having knowledge of relevant facts or any other matter
2 reasonably calculated to lead to the discovery of material
3 evidence. Upon the failure by a person to obey a subpoena or
4 to answer questions propounded by the department investigating
5 ~~officer~~ and upon reasonable notice to all persons affected
6 thereby, the department division may apply to the circuit
7 court for an order compelling compliance, may impose a civil
8 penalty, and may suspend or revoke the licensee's license.

9 (d) Notwithstanding any remedies available to a yacht
10 or ship purchaser, if the department division has reasonable
11 cause to believe that a violation of any provision of this
12 chapter or rule adopted under this chapter has occurred, the
13 department division may institute enforcement proceedings in
14 its own name against any broker or salesperson or any of his
15 or her assignees or agents, or against any unlicensed person
16 or any of his or her assignees or agents, as follows:

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

22 2. The department division may issue an order
23 requiring the broker or salesperson or any of his or her
24 assignees or agents, or requiring any unlicensed person or any
25 of his or her assignees or agents, to cease and desist from
26 the unlawful practice and take such affirmative action as in
27 the judgment of the department division will carry out the
28 purposes of this chapter.

29 3. The department division may bring an action in
30 circuit court on behalf of a class of yacht or ship purchasers
31 for declaratory relief, injunctive relief, or restitution.

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

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

24 1. Makes a substantial and intentional
25 misrepresentation, with respect to a transaction involving a
26 yacht, upon which any person has relied.

27 2. Makes a false warranty, with respect to a
28 transaction involving a yacht, of a character likely to
29 influence, persuade, or induce any person with whom business
30 is transacted.

31

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

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

7 5. Commingles the money or other property of his or
8 her principal with his or her own.

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

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

13 8. Violates any law governing the transactions
14 involving a yacht, including any provision relating to the
15 collection or payment of sales or use taxes.

16 9. Engages in acts that are evidence of a lack of good
17 moral character.

18 10. Is convicted of a felony.

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

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

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

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

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

30 Section 7. The regulation of yacht and ship brokers
31 and salespersons is reassigned within the Department of

1 Business and Professional Regulation from the Division of
 2 Florida Land Sales, Condominiums, and Mobile Homes to the
 3 Division of Professions. All funds collected by the department
 4 pursuant to the regulation of yacht and ship brokers and
 5 salespersons and all funds in the account created within the
 6 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund
 7 for such regulation shall be deposited in an account created
 8 within the Professional Regulation Trust Fund for the same
 9 purpose.

10 Section 8. Effective upon this act becoming a law,
 11 section 399.061, Florida Statutes, is amended to read:

12 399.061 Inspections; correction of deficiencies.--

13 (1)(a) All elevators or other conveyances subject to
 14 this chapter must be annually inspected by a certified
 15 elevator inspector through a third-party inspection service,
 16 or by a municipality or county under contract with the
 17 division pursuant to s. 399.13. If the elevator or other
 18 conveyance is by a third-party inspection service certified as
 19 a qualified elevator inspector or maintained pursuant to a
 20 service maintenance contract continuously in force, it shall
 21 be inspected at least once every two years by a certified
 22 elevator inspector not employed by or otherwise associated
 23 with the maintenance company; however, if the elevator is not
 24 an escalator or a dumbwaiter and the elevator serves only two
 25 adjacent floors and is covered by a service maintenance
 26 contract, no inspection shall be required so long as the
 27 service contract remains in effect. A statement verifying the
 28 existence, performance, and cancellation of each service
 29 maintenance contract must be filed annually with the division
 30 as prescribed by rule. All elevators covered by a service
 31 maintenance contract shall be inspected by a

1 ~~certificate of competency holder at least once every 2 years;~~
2 ~~however, if the elevator is not an escalator or a dumbwaiter~~
3 ~~and the elevator serves only two adjacent floors and is~~
4 ~~covered by a service maintenance contract, no inspection shall~~
5 ~~be required so long as the service contract remains in effect.~~

6 (b) The division may inspect an elevator whenever
7 necessary to ensure its safe operation or when a third-party
8 inspection service is not available for routine inspection.

9 (2) The division may ~~shall~~ employ state elevator
10 inspectors to conduct the inspections as required by
11 subsection (1) and may charge an inspection fee for each
12 inspection sufficient to cover the costs of that inspection,
13 as provided by rule. Each state elevator inspector shall hold
14 a certificate of competency issued by the division.

15 (3) Whenever the division determines from the results
16 of any inspection that, in the interest of the public safety,
17 an elevator is in an unsafe condition, the division may seal
18 the elevator or order the discontinuance of the use of the
19 elevator until the division determines by inspection that such
20 elevator has been satisfactorily repaired or replaced so that
21 the elevator may be operated in a safe manner.

22 (4) When the division determines that an elevator is
23 in violation of this chapter, the division may issue an order
24 to the elevator owner requiring correction of the violation.

25 Section 9. Effective July 1, 2001, subsection (1) of
26 section 455.213, Florida Statutes, is amended, and subsections
27 (11) and (12) are added to that section, to read:

28 455.213 General licensing provisions.--

29 (1) Any person desiring to be licensed shall apply to
30 the department in writing. The application for licensure shall
31 be made on a form prepared and furnished by the department and

1 include the applicant's social security number.
 2 Notwithstanding any other provision of law, the department is
 3 the sole authority for determining the content of any
 4 documents to be submitted for initial licensure and licensure
 5 renewal. Such documents may contain information including, as
 6 appropriate demographics, education, work history, personal
 7 background, criminal history, finances, business information,
 8 complaints, inspections, investigations, discipline, bonding,
 9 signature notarization, photographs, performance periods,
 10 reciprocity, local government approvals, supporting
 11 documentation, periodic reporting requirements, fingerprint
 12 requirements, continuing education requirements, and ongoing
 13 education monitoring.The application shall be supplemented as
 14 needed to reflect any material change in any circumstance or
 15 condition stated in the application which takes place between
 16 the initial filing of the application and the final grant or
 17 denial of the license and which might affect the decision of
 18 the department. In order to further the economic development
 19 goals of the state, and notwithstanding any law to the
 20 contrary, the department may enter into an agreement with the
 21 county tax collector for the purpose of appointing the county
 22 tax collector as the department's agent to accept applications
 23 for licenses and applications for renewals of licenses. The
 24 agreement must specify the time within which the tax collector
 25 must forward any applications and accompanying application
 26 fees to the department. In cases where a person applies or
 27 schedules directly with a national examination organization or
 28 examination vendor to take an examination required for
 29 licensure, any organization- or vendor-related fees associated
 30 with the examination may be paid directly to the organization
 31 or vendor.

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

3 (12) The department may not issue or renew a license
4 to any person who is not in compliance with all provisions of
5 a final order of a board or the department until that person
6 is in compliance with all terms and conditions of the final
7 order. The department may not issue or renew a license to any
8 person who is not in compliance with all legal obligations
9 under this chapter or the relevant practice act, including,
10 but not limited to, the obligation to pay all fees and
11 assessments that are owed and to complete all continuing
12 education requirements. This subsection applies to all
13 divisions within the department.

14 Section 10. Section 455.224, Florida Statutes, is
15 amended to read:

16 455.224 Authority to issue citations.--

17 (1) Notwithstanding s. 455.225, the board or the
18 department shall adopt rules to permit the issuance of
19 citations. The citation shall be issued to the subject and
20 shall contain the subject's name and address, the subject's
21 license number if applicable, a brief factual statement, the
22 sections of the law allegedly violated, and the penalty
23 imposed. The citation must clearly state that the subject may
24 choose, in lieu of accepting the citation, to follow the
25 procedure under s. 455.225. If the subject disputes the matter
26 in the citation, the procedures set forth in s. 455.225 must
27 be followed. However, if the subject does not dispute the
28 matter in the citation with the department within 30 days
29 after the citation is served, the citation becomes a final
30 order and constitutes discipline. The penalty shall be a fine
31 or other conditions as established by rule.

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

6 (3) The department shall be entitled to recover the
7 costs of investigation, in addition to any penalty provided
8 according to board or department rule, as part of the penalty
9 levied pursuant to the citation.

10 (4) A citation must be issued within 6 months after
11 the filing of the complaint that is the basis for the
12 citation.

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

16 (6) Within its jurisdiction, the department has
17 exclusive authority to, and shall adopt rules to, designate
18 those violations for which the licensee is subject to the
19 issuance of a citation and designate the penalties for those
20 violations if any board fails to incorporate this section into
21 rules by January 1, 1992. A board created on or after January
22 1, 1992, has 6 months in which to enact rules designating
23 violations and penalties appropriate for citation offenses.
24 Failure to enact such rules gives the department exclusive
25 authority to adopt rules as required for implementing this
26 section. A board has continuous authority to amend its rules
27 adopted pursuant to this section.

28 (7) Notwithstanding s. 455.017, any division within
29 the department may establish a citation program pursuant to
30 the provisions of this section in the enforcement of its
31 regulatory provisions. Any citation issued by a division

1 pursuant to this section must clearly state that the subject
2 may choose, in lieu of accepting the citation, to follow the
3 existing procedures established by law. If the subject does
4 not dispute the matter in the citation with the division
5 within 30 days after the citation is served, the citation
6 becomes a final order and constitutes discipline. The penalty
7 shall be a fine or other conditions as established by rule of
8 the appropriate division.

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

11 468.401 Regulation of talent agencies;
12 definitions.--As used in this part or any rule adopted
13 pursuant hereto:

14 (10) "Registration"~~License~~ means a registration
15 ~~license~~ issued by the department of ~~Business and Professional~~
16 ~~Regulation~~ to carry on the business of a talent agency under
17 this part.

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

21 Section 12. Section 468.402, Florida Statutes, is
22 amended to read:

23 468.402 Operation of a talent agency ~~Duties of the~~
24 ~~department; authority to issue and revoke license; adoption of~~
25 ~~rules.--~~

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

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

31

1 (b) Violated any provision of this part, chapter 455,
2 any lawful disciplinary order of the department, or any rule
3 of the department.

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

8 (d) Made, printed, published, distributed, or caused,
9 authorized, or knowingly permitted the making, printing,
10 publication, or distribution of any false statement,
11 description, or promise of such a character as to reasonably
12 induce any person to act to his or her damage or injury, if
13 such statement, description, or promises were purported to be
14 performed by the talent agency and if the owner or operator
15 then knew, or by the exercise of reasonable care and inquiry,
16 could have known, of the falsity of the statement,
17 description, or promise.

18 (e) Knowingly committed or been a party to any
19 material fraud, misrepresentation, concealment, conspiracy,
20 collusion, trick, scheme, or device whereby any other person
21 lawfully relying upon the work, representation, or conduct of
22 the talent agency acts or has acted to his or her injury or
23 damage.

24 (f) Failed or refused upon demand to disclose any
25 information, as required by this part, within his or her
26 knowledge, or failed or refused to produce any document, book,
27 or record in his or her possession for inspection as required
28 ~~by to the department or any authorized agent thereof acting~~
29 ~~within its jurisdiction or by authority of law.~~

30
31

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

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

8 (i) Had a license or registration to operate a talent
9 agency revoked, suspended, or otherwise acted against,
10 including, but not limited to, having been denied a license or
11 registration for good cause by the licensing authority of
12 another state, territory, or country.

13 (j) Willfully made or filed a report or record that
14 the registrant ~~licensee~~ knew to be false, failed to file a
15 report or record required by state or federal law, impeded or
16 obstructed such filing, or induced another person to impede or
17 obstruct such filing. Such reports or records shall include
18 only those that are signed in the registrant's ~~licensee's~~
19 capacity as a registered ~~licensed~~ talent agency.

20 (k) Advertised goods or services in a manner that was
21 fraudulent, false, deceptive, or misleading in form or
22 content.

23 (l) Advertised, operated, or attempted to operate
24 under a name other than the name appearing on the registration
25 license.

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

28 (n) Operated with a revoked, suspended, inactive, or
29 delinquent registration ~~license~~.

30
31

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

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

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

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

14 (s) Solicited business, either personally or through
15 an agent or through any other person, through the use of fraud
16 or deception or by other means; through the use of misleading
17 statements; or through the exercise of intimidation or undue
18 influence.

19 (t) Exercised undue influence on the artist in such a
20 manner as to exploit the artist for financial gain of the
21 registrant licensee or a third party, which includes, but is
22 not limited to, the promoting or selling of services to the
23 artist.

24 ~~(2) The department may revoke any license that is~~
25 ~~issued as a result of the mistake or inadvertence of the~~
26 ~~department.~~

27 (2)(3) The department may ~~has~~ authority to adopt rules
28 pursuant to ss. 120.536(1) and 120.54 necessary to administer
29 ~~implement the provisions of~~ this part.

30
31

1 ~~(3)(4)~~ A revoked or suspended registration license
2 must be returned to the department within 7 days after the
3 time for appeal has elapsed.

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

8 (a) Deny an application for registration licensure as
9 a talent agency.

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

12 ~~(c) Impose an administrative fine, not to exceed~~
13 ~~\$5,000, for each count or separate offense.~~

14 ~~(d) Require restitution.~~

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

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

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

22 ~~(5)(7)~~ The department may deny a registration license
23 if any owner or operator listed on the application has been
24 associated with a talent agency whose registration license has
25 been revoked or otherwise disciplined.

26 Section 13. Section 468.403, Florida Statutes, is
27 amended to read:

28 468.403 Registration License requirements.--

29 (1) A person may not own, operate, solicit business,
30 or otherwise engage in or carry on the occupation of a talent
31 agency in this state unless such person first registers with

1 ~~procures a license for the talent agency from the department.~~
2 However, a registration license is not required for a person
3 who acts as an agent for herself or himself, a family member,
4 or exclusively for one artist.

5 (2) Each application for a registration license must
6 be accompanied by an application fee set by the department not
7 to exceed \$300, ~~plus the actual cost for fingerprint analysis~~
8 ~~for each owner application, to cover the costs of~~
9 ~~investigating the applicant.~~ Each application for a change of
10 operator must be accompanied by an application fee of \$150.
11 These fees are not refundable.

12 ~~(3)(a) Each owner of a talent agency if other than a~~
13 ~~corporation and each operator of a talent agency shall submit~~
14 ~~to the department with the application for licensure of the~~
15 ~~agency a full set of fingerprints and a photograph of herself~~
16 ~~or himself taken within the preceding 2 years. The department~~
17 ~~shall conduct an examination of fingerprint records and police~~
18 ~~records.~~

19 ~~(b) Each owner of a talent agency that is a~~
20 ~~corporation shall submit to the department, with the~~
21 ~~application for licensure of the agency, a full set of~~
22 ~~fingerprints of the principal officer signing the application~~
23 ~~form and the bond form, and a full set of fingerprints of each~~
24 ~~operator, and a photograph of each taken within the preceding~~
25 ~~2 years. The department shall conduct an examination of~~
26 ~~fingerprint records and police records.~~

27 (3)(4) Each application must include:

28 (a) The name and address of the owner of the talent
29 agency.

30 ~~(b) Proof of at least 1 year of direct experience or~~
31 ~~similar experience of the operator of such agency in the~~

1 ~~talent agency business or as a subagent, casting director,~~
2 ~~producer, director, advertising agency, talent coordinator, or~~
3 ~~musical booking agent.~~

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

6 ~~(5) The department shall investigate the owner of an~~
7 ~~applicant talent agency only to determine her or his ability~~
8 ~~to comply with this part and shall investigate the operator of~~
9 ~~an applicant talent agency to determine her or his employment~~
10 ~~experience and qualifications.~~

11 (4)~~(6)~~ If the applicant is other than a corporation,
12 the application shall also include the names and addresses of
13 all persons, except bona fide employees on stated salaries,
14 financially interested, either as partners, associates, or
15 profit sharers, in the operation of the talent agency in
16 question, together with the amount of their respective
17 interest.

18 (5)~~(7)~~ If the applicant is a corporation, the
19 application shall include the corporate name and the names,
20 residential addresses, and telephone numbers of all persons
21 actively participating in the business of the corporation and
22 shall include the names of all persons exercising managing
23 responsibility in the applicant's or registrant's ~~licensee's~~
24 office.

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

31

1 ~~(6)(9)~~ If any information in the application supplied
2 to the department by the applicant or registrant licensee
3 changes in any manner whatsoever, the applicant or registrant
4 licensee shall submit such changes to the department within 30
5 days after the date of such change or after the date such
6 change is known or should have been known to the applicant or
7 registrant licensee.

8 Section 14. Section 468.404, Florida Statutes, is
9 amended to read:

10 468.404 Registration License; fees; renewals.--

11 (1) The department by rule shall establish biennial
12 fees for initial registration licensing, renewal of
13 registration license, and reinstatement of registration
14 license, none of which fees shall exceed \$400. The department
15 may by rule establish a delinquency fee of no more than \$50.
16 The fees shall be adequate to proportionately fund the
17 expenses of the department which are allocated to the
18 registering regulation of talent agencies and shall be based
19 on the department's estimate of the revenue required to
20 administer this part.

21 (2) If one or more individuals on the basis of whose
22 qualifications a talent agency registration license has been
23 obtained cease to be connected with the agency for any reason,
24 the agency business may be carried on for a temporary period,
25 not to exceed 90 days, under such terms and conditions as the
26 department provides by rule for the orderly closing of the
27 business or the replacement and qualifying of a new owner or
28 operator. The registrant's licensee's good standing under this
29 part shall be contingent upon the department's approval of any
30 such new owner or operator.

31

1 (3) No registration license shall be valid to protect
2 any business transacted under any name other than that
3 designated on in the registration license, unless consent is
4 first obtained from the department, ~~unless written consent of~~
5 ~~the surety or sureties on the original bond required by s.~~
6 ~~468.408 is filed with the department,~~ and unless the
7 registration license is returned to the department for the
8 recording thereon of such changes. A charge of \$25 shall be
9 made by the department for the recording of authorization for
10 each change of name or change of location.

11 (4) No registration license issued under this part
12 shall be assignable.

13 Section 15. Section 468.406, Florida Statutes, is
14 amended to read:

15 468.406 Fees to be charged by talent agencies; rates;
16 display.--

17 (1) Each talent agency applicant for a license shall
18 maintain and provide to its artists or potential clients file
19 ~~with the application~~ an itemized schedule of maximum fees,
20 charges, and commissions which it intends to charge and
21 collect for its services. This schedule may thereafter be
22 raised only by notifying its artists filing with the
23 ~~department an amended or supplemental schedule~~ at least 30
24 days before the change is to become effective. The schedule
25 shall be posted in a conspicuous place in each place of
26 business of the agency and shall be printed in not less than a
27 30-point boldfaced type, except that an agency that uses
28 written contracts containing maximum fee schedules need not
29 post such schedules.

30 (2) All money collected by a talent agency from an
31 employer for the benefit of an artist shall be paid to the

1 artist, less the talent agency's fee, within 5 business days
2 after the receipt of such money by the talent agency. No
3 talent agency is required to pay money to an artist until the
4 talent agency receives payment from the employer or buyer.

5 Section 16. Section 468.407, Florida Statutes, is
6 amended to read:

7 468.407 Registration License; content; posting.--

8 (1) The talent agency registration license shall be
9 valid for the biennial period in which issued and shall be in
10 such form as may be determined by the department, but shall at
11 least specify the name under which the applicant is to
12 operate, the address of the place of business, the expiration
13 date of the registration license, the full names and titles of
14 the owner and the operator, and the number of the registration
15 license.

16 (2) The talent agency registration license shall at
17 all times be displayed conspicuously in the place of business
18 in such manner as to be open to the view of the public and
19 subject to the inspection of all duly authorized officers of
20 the state and county.

21 (3) If a registrant licensee desires to cancel his or
22 her registration license, he or she must notify the department
23 and forthwith return to the department the registration
24 license so canceled. No registration license fee may be
25 refunded upon cancellation of the registration license.

26 Section 17. Subsection (3) of section 468.410, Florida
27 Statutes, is amended to read:

28 468.410 Prohibition against registration fees;
29 referral.--

30 (3) A talent agency shall give each applicant a copy
31 of a contract which lists the services to be provided and the

1 fees to be charged. The contract shall state that the talent
2 agency is registered with ~~regulated by~~ the department and
3 shall list the address and telephone number of the department.

4 Section 18. Section 468.412, Florida Statutes, is
5 amended to read:

6 468.412 Talent agency requirements ~~regulations~~.--

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

11 (2) Each talent agency shall keep records in which
12 shall be entered:

13 (a) The name and address of each artist employing such
14 talent agency;

15 (b) The amount of fees received from each such artist;
16 and

17 (c) The employment in which each such artist is
18 engaged at the time of employing such talent agency and the
19 amount of compensation of the artist in such employment, if
20 any, and the employments subsequently secured by such artist
21 during the term of the contract between the artist and the
22 talent agency and the amount of compensation received by the
23 artist pursuant thereto. ~~and~~

24 ~~(d) Other information which the department may require~~
25 ~~from time to time.~~

26 ~~(3) All books, records, and other papers kept pursuant~~
27 ~~to this act by any talent agency shall be open at all~~
28 ~~reasonable hours to the inspection of the department and its~~
29 ~~agents. Each talent agency shall furnish to the department,~~
30 ~~upon request, a true copy of such books, records, and papers,~~

31

1 ~~or any portion thereof, and shall make such reports as the~~
2 ~~department may prescribe from time to time.~~

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

10 (4)~~(5)~~ No talent agency may knowingly issue a contract
11 for employment containing any term or condition which, if
12 complied with, would be in violation of law, or attempt to
13 fill an order for help to be employed in violation of law.

14 (5)~~(6)~~ No talent agency may publish or cause to be
15 published any false, fraudulent, or misleading information,
16 representation, notice, or advertisement. All advertisements
17 of a talent agency by means of card, circulars, or signs, and
18 in newspapers and other publications, and all letterheads,
19 receipts, and blanks shall be printed and contain the
20 registered licensed name, department registration license
21 number, and address of the talent agency and the words "talent
22 agency." No talent agency may give any false information or
23 make any false promises or representations concerning an
24 engagement or employment to any applicant who applies for an
25 engagement or employment.

26 (6)~~(7)~~ No talent agency may send or cause to be sent
27 any person as an employee to any house of ill fame, to any
28 house or place of amusement for immoral purposes, to any place
29 resorted to for the purposes of prostitution, to any place for
30 the modeling or photographing of a minor in the nude in the
31 absence of written permission from the minor's parents or

1 legal guardians, the character of which places the talent
2 agency could have ascertained upon reasonable inquiry.

3 ~~(7)(8)~~ No talent agency may divide fees with anyone,
4 including, but not limited to, an agent or other employee of
5 an employer, a buyer, a casting director, a producer, a
6 director, or any venue that uses entertainment.

7 ~~(8)(9)~~ If a talent agency collects from an artist a
8 fee or expenses for obtaining employment for the artist, and
9 the artist fails to procure such employment, or the artist
10 fails to be paid for such employment if procured, such talent
11 agency shall, upon demand therefor, repay to the artist the
12 fee and expenses so collected. Unless repayment thereof is
13 made within 48 hours after demand therefor, the talent agency
14 shall pay to the artist an additional sum equal to the amount
15 of the fee.

16 ~~(9)(10)~~ Each talent agency must maintain a permanent
17 office and must maintain regular operating hours at that
18 office.

19 Section 19. Section 468.413, Florida Statutes, is
20 amended to read:

21 468.413 Unlawful acts ~~Legal requirements~~; penalties.--

22 (1) Each of the following acts constitutes a felony of
23 the third degree, punishable as provided in s. 775.082, s.
24 775.083, or s. 775.084:

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

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

30
31

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

4 (a) Relocating a business as a talent agency, or
5 operating under any name other than that designated on the
6 registration license, ~~unless written notification is given to~~
7 ~~the department and to the surety or sureties on the original~~
8 ~~bond, and unless the registration license is returned to the~~
9 department for the recording thereon of such changes.

10 (b) Assigning or attempting to assign a registration
11 license issued under this part.

12 (c) Failing to show on a registration license
13 application whether or not the agency or any owner of the
14 agency is financially interested in any other business of like
15 nature and, if so, failing to specify such interest or
16 interests.

17 (d) Failing to maintain the records required by s.
18 468.409 or knowingly making false entries in such records.

19 (e) Requiring as a condition to registering or
20 obtaining employment or placement for any applicant that the
21 applicant subscribe to, purchase, or attend any publication,
22 postcard service, advertisement, resume service, photography
23 service, school, acting school, workshop, or acting workshop.

24 (f) Failing to give each applicant a copy of a
25 contract which lists the services to be provided and the fees
26 to be charged, which states that the talent agency is
27 registered with ~~regulated by~~ the department, ~~and which lists~~
28 ~~the address and telephone number of the department.~~

29 (g) Failing to maintain a record sheet as required by
30 s. 468.412(1).
31

1 (h) Knowingly sending or causing to be sent any artist
2 to a prospective employer or place of business, the character
3 or operation of which employer or place of business the talent
4 agency knows to be in violation of the laws of the United
5 States or of this state.

6 (3) The court may, in addition to other punishment
7 provided for in subsection (1) or subsection (2), suspend or
8 revoke the registration license of any person licensee under
9 this part who has been found guilty of any violation of
10 subsection (1) or misdemeanor listed in subsection (2).

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

23 (5) Any person injured by a prohibited act or practice
24 in violation of this part may bring a civil action in circuit
25 court for temporary or permanent injunctive relief and may
26 seek appropriate civil relief, including, but not limited to,
27 a civil penalty not to exceed \$5,000 for each violation,
28 restitution and treble damages for injured parties, and court
29 costs and reasonable attorney's fees.

30 Section 20. Section 468.414, Florida Statutes, is
31 amended to read:

1 468.414 Collection and deposit of moneys;
2 appropriation.--Proceeds from the ~~finer, fees, and penalties~~
3 imposed pursuant to this part shall be deposited in the
4 Professional Regulation Trust Fund, created by s. 215.37.

5 Section 21. Section 468.415, Florida Statutes, is
6 amended to read:

7 468.415 Sexual misconduct in the operation of a talent
8 agency.--The talent agent-artist relationship is founded on
9 mutual trust. Sexual misconduct in the operation of a talent
10 agency means violation of the talent agent-artist relationship
11 through which the talent agent uses the relationship to induce
12 or attempt to induce the artist to engage or attempt to engage
13 in sexual activity. Sexual misconduct is prohibited in the
14 operation of a talent agency. If any agent, owner, or operator
15 of a registered ~~licensed~~ talent agency is found to have
16 committed sexual misconduct in the operation of a talent
17 agency, the agency registration ~~license~~ shall be permanently
18 revoked. Such agent, owner, or operator shall be permanently
19 disqualified from present and future registration ~~licensure~~ as
20 owner or operator of a Florida talent agency.

21 Section 22. Sections 468.405 and 468.408, Florida
22 Statutes, are repealed.

23 Section 23. Subsection (7) of section 468.609, Florida
24 Statutes, is amended to read:

25 468.609 Administration of this part; standards for
26 certification; additional categories of certification.--

27 (7)(a) The board may provide for the issuance of
28 provisional certificates valid for such period, not less than
29 3 years nor more than 5 years, as specified by board rule, to
30 any newly employed or promoted building code inspector or
31 plans examiner who meets the eligibility requirements

1 described in subsection (2) and any newly employed or promoted
2 building code administrator who meets the eligibility
3 requirements described in subsection (3).

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

7 (c) The board may provide for appropriate levels of
8 provisional certificates and may issue these certificates with
9 such special conditions or requirements relating to the place
10 of employment of the person holding the certificate, the
11 supervision of such person on a consulting or advisory basis,
12 or other matters as the board may deem necessary to protect
13 the public safety and health.

14 (d)1. A newly employed or hired person may perform the
15 duties of a plans examiner or building code inspector for 90
16 days if a provisional certificate application has been
17 submitted, provided such person is under the direct
18 supervision of a certified building code administrator who
19 holds a standard certification and who has found such person
20 qualified for a provisional certificate. ~~However,~~

21 2. Direct supervision and the determination of
22 qualifications under this paragraph may be provided by a
23 building code administrator who holds a limited or provisional
24 certificate in any county with a population of less than
25 75,000 and in any municipality located within such a county.

26 3. Direct supervision under this paragraph may be
27 provided in any county with a population of less than 75,000
28 and in any municipality within such county by
29 telecommunication devices if the supervision is appropriate
30 for the facts surrounding the performance of the duties being
31 supervised.

1 Section 24. Subsection (4) of section 468.627, Florida
2 Statutes, is amended to read:

3 468.627 Application; examination; renewal; fees.--

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

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

19 471.025 Seals.--

20 (1) The board shall prescribe, by rule, the forms a
21 form of seals ~~seal~~ to be used by registrants holding valid
22 certificates of registration. Each registrant shall obtain at
23 least one ~~an impression-type metal~~ seal in the form approved
24 by board rule ~~aforsaid~~ and may, in addition, register his or
25 her seal electronically in accordance with ss. 282.70-282.75.
26 All final drawings, specifications, plans, reports, or
27 documents prepared or issued by the registrant and being filed
28 for public record and all final bid documents provided to the
29 owner or the owner's representative shall be signed by the
30 registrant, dated, and stamped with said seal. Such signature,
31 date, and seal shall be evidence of the authenticity of that

1 to which they are affixed. Drawings, specifications, plans,
2 reports, final bid documents, or documents prepared or issued
3 by a registrant may be transmitted electronically and may be
4 signed by the registrant, dated, and stamped electronically
5 with said seal in accordance with ss. 282.70-282.75.

6 Section 26. Section 472.001, Florida Statutes, is
7 amended to read:

8 472.001 Purpose.--The Legislature deems it necessary
9 to regulate surveyors and mappers as provided in this chapter
10 ~~ss. 472.001-472.041.~~

11 Section 27. Section 472.003, Florida Statutes, is
12 amended to read:

13 472.003 Exemptions ~~Persons not affected by ss.~~
14 ~~472.001-472.041.~~--This chapter does ~~Sections 472.001-472.041~~
15 ~~do~~ not apply to:

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

19 (2) A registered professional engineer who takes or
20 contracts for professional surveying and mapping services
21 incidental to her or his practice of engineering and who
22 delegates such surveying and mapping services to a registered
23 professional surveyor and mapper qualified within her or his
24 firm or contracts for such professional surveying and mapping
25 services to be performed by others who are registered
26 professional surveyors and mappers under this chapter ~~the~~
27 ~~provisions of ss. 472.001-472.041.~~

28 (3) The following persons when performing construction
29 layout from boundary, horizontal, and vertical controls that
30 have been established by a registered professional surveyor
31 and mapper:

1 (a) Contractors performing work on bridges, roads,
2 streets, highways, or railroads, or utilities and services
3 incidental thereto, or employees who are subordinates of such
4 contractors provided that the employee does not hold herself
5 or himself out for hire or engage in such contracting except
6 as an employee;

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

12 (c) Registered professional engineers licensed
13 pursuant to chapter 471 and employees of a firm, corporation,
14 or partnership who are the subordinates of the registered
15 professional engineer in responsible charge.

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

22 (5)(a) Persons who are employees of any state, county,
23 municipal, or other governmental unit of this state and who
24 are the subordinates of a person in responsible charge
25 registered under this chapter, to the extent that the
26 supervision meets standards adopted by rule of the board, if
27 any.

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

1 (c) Persons who are employees of an individual
2 registered or legal entity certified under this chapter and
3 who are the subordinates of a person in responsible charge
4 registered under this chapter, to the extent that the
5 supervision meets standards adopted by rule of the board, if
6 any.

7 Section 28. Section 472.005, Florida Statutes, is
8 amended to read:

9 472.005 Definitions.--As used in this chapter ~~ss.~~
10 ~~472.001-472.041~~:

11 (1) "Board" means the Board of Professional Surveyors
12 and Mappers.

13 (2) "Department" means the Department of Business and
14 Professional Regulation.

15 (3) "Surveyor and mapper" includes the term
16 "professional surveyor and mapper" and means a person who is
17 registered to engage in the practice of surveying and mapping
18 under this chapter ~~ss. 472.001-472.041~~. For the purposes of
19 this subsection ~~statute~~, a surveyor and mapper means a person
20 who determines and displays the facts of size, shape,
21 topography, tidal datum planes, legal or geodetic location or
22 relation, and orientation of improved or unimproved real
23 property through direct measurement or from certifiable
24 measurement through accepted photogrammetric procedures.

25 (4)(a) "Practice of surveying and mapping" means,
26 among other things, any professional service or work, the
27 adequate performance of which involves the application of
28 special knowledge of the principles of mathematics, the
29 related physical and applied sciences, and the relevant
30 requirements of law for adequate evidence of the act of
31 measuring, locating, establishing, or reestablishing lines,

1 angles, elevations, natural and manmade features in the air,
 2 on the surface and immediate subsurface of the earth, within
 3 underground workings, and on the beds or surface of bodies of
 4 water, for the purpose of determining, establishing,
 5 describing, displaying, or interpreting the facts of size,
 6 shape, topography, tidal datum planes, legal or geodetic
 7 location or relocation, and orientation of improved or
 8 unimproved real property and appurtenances thereto, including
 9 acreage and condominiums.

10 (b) The practice of surveying and mapping also
 11 includes, but is not limited to, photogrammetric control; the
 12 monumentation and remonumentation of property boundaries and
 13 subdivisions; the measurement of and preparation of plans
 14 showing existing improvements after construction; the layout
 15 of proposed improvements; the preparation of descriptions for
 16 use in legal instruments of conveyance of real property and
 17 property rights; the preparation of subdivision planning maps
 18 and record plats, as provided for in chapter 177; the
 19 determination of, but not the design of, grades and elevations
 20 of roads and land in connection with subdivisions or divisions
 21 of land; and the creation and perpetuation of alignments
 22 related to maps, record plats, field note records, reports,
 23 property descriptions, and plans and drawings that represent
 24 them.

25 (5) ~~The term~~ "Surveyor and mapper intern" includes ~~the~~
 26 ~~term~~ "surveyor-mapper-in-training" and means a person who
 27 complies with the requirements of this chapter ~~provided by ss.~~
 28 ~~472.001-472.041~~ and who has passed an examination as provided
 29 by rules adopted by the board.

30 (6) ~~The term~~ "Responsible charge" means direct control
 31 and personal supervision of surveying and mapping work, but

1 does not include experience as a chainperson, rodperson,
2 instrumentperson, ordinary draftsman, digitizer, scribe,
3 photo lab technician, ordinary stereo plotter operator, aerial
4 photo pilot, photo interpreter, and other positions of routine
5 work.

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

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

12 (9) "Employee" means a person who receives
13 compensation from and is under the supervision and control of
14 an employer who regularly deducts the F.I.C.A. and withholding
15 tax and provides workers' compensation, all as prescribed by
16 law.

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

20 (11) "Monument" means an artificial or natural object
21 that is permanent or semipermanent and used or presumed to
22 occupy any real property corner, any point on a boundary line,
23 or any reference point or other point to be used for
24 horizontal or vertical control.

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

28 Section 29. Subsection (1) of section 472.011, Florida
29 Statutes, is amended to read:

30 472.011 Fees.--
31

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

12 Section 30. Subsection (4) of section 472.015, Florida
13 Statutes, is amended to read:

14 472.015 Licensure.--

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

21 Section 31. Subsection (1) of section 472.021, Florida
22 Statutes, is amended to read:

23 472.021 Certification of partnerships and
24 corporations.--

25 (1) The practice of or the offer to practice surveying
26 and mapping by registrants through a corporation or
27 partnership offering surveying and mapping services to the
28 public, or by a corporation or partnership offering said
29 services to the public through registrants under this chapter
30 ~~ss. 472.001-472.041~~ as agents, employees, officers, or
31 partners, is permitted subject to the provisions of this

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

24 Section 32. Section 472.027, Florida Statutes, is
 25 amended to read:

26 472.027 Minimum technical standards for surveying and
 27 mapping.--The board shall adopt rules relating to the practice
 28 of surveying and mapping which establish minimum technical
 29 standards to ensure the achievement of no less than minimum
 30 degrees of accuracy, completeness, and quality in order to
 31 assure adequate and defensible real property boundary

1 locations and other pertinent information provided by
2 surveyors and mappers under the authority of this chapter ~~ss.~~
3 ~~472.001-472.041~~.

4 Section 33. Section 472.029, Florida Statutes, is
5 amended to read:

6 472.029 Authorization ~~Surveyors and mappers authorized~~
7 ~~to enter lands of third parties; under certain~~
8 ~~conditions.--Surveyors and mappers~~ and their subordinates may
9 go on, over, and upon the lands of others when necessary to
10 make surveys and maps or to search for, uncover, locate, or
11 set monuments, and, in so doing, may carry with them their
12 agents and employees necessary for that purpose. Entry under
13 the right hereby granted does not constitute trespass, and
14 surveyors and mappers and their subordinates and duly
15 authorized agents or employees so entering are not liable to
16 arrest or to a civil action by reason of such entry as long as
17 the entering is in compliance with all federal, state, and
18 local regulations pertaining to premises security,
19 agricultural protections, and other health and safety
20 requirements. However, this section does not give authority
21 to registrants, subordinates, agents, or employees to destroy,
22 injure, damage, or otherwise move any physical improvements
23 ~~anything~~ on lands of another without the written permission of
24 the landowner. No landowner shall be liable to any third party
25 for any civil or criminal act, or any damages, which result in
26 whole or in part through the negligent or intentional conduct
27 of any person regulated by this section. If written notice is
28 delivered to a landowner or the landowner's registered agent
29 three business days prior to entry on a parcel containing more
30 than 160 acres classified as agricultural land, the duty of
31 care owed to those regulated by this section shall be that due

1 to a licensee under this chapter; however, if no such notice
2 is given, the landowner's duty of care shall be that due to an
3 unforeseen trespasser.

4 Section 34. Subsection (5) of section 810.12, Florida
5 Statutes, is amended to read:

6 810.12 Unauthorized entry on land; prima facie
7 evidence of trespass.--

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

19 Section 35. Subsection (1) of section 472.031, Florida
20 Statutes, is amended to read:

21 472.031 Prohibitions; penalties.--

22 (1) No person shall:

23 (a) Practice surveying and mapping unless such person
24 is registered under this chapter ~~pursuant to ss.~~

25 ~~472.001-472.041;~~

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

29 (c) Present as his or her own the registration of
30 another;

31

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

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

5 Section 36. Section 472.037, Florida Statutes, is
6 amended to read:

7 472.037 Application of chapter ~~ss. 472.001-472.041~~--

8 (1) Nothing contained in this chapter ~~ss.~~
9 ~~472.001-472.041~~ shall be construed to repeal, amend, limit, or
10 otherwise affect any local building code or zoning law or
11 ordinance, now or hereafter enacted, which is more restrictive
12 with respect to the services of registered surveyors and
13 mappers than the provisions of this chapter ~~ss.~~
14 ~~472.001-472.041~~.

15 (2) In counties or municipalities that issue building
16 permits, such permits shall not be issued in any case where it
17 is apparent from the application for such building permit that
18 the provisions of this chapter ~~ss. 472.001-472.041~~ have been
19 violated. However, this shall not authorize the withholding of
20 building permits in any cases within the exempt classes set
21 forth in this chapter ~~ss. 472.001-472.041~~.

22 Section 37. A new subsection (4) is added to section
23 475.01, Florida Statutes, to read:

24 475.01 Definitions.--

25 (4) A broker acting as a trustee or in a fiduciary
26 capacity is subject to the provisions of this chapter.

27 Section 38. Section 476.014, Florida Statutes, is
28 amended to read:

29 476.014 Short title.--This chapter ~~act~~ may be cited as
30 the "Barbers' Act."
31

1 Section 39. Section 476.034, Florida Statutes, is
2 amended to read:

3 476.034 Definitions.--As used in this chapter act:

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

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

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

17 (4) "Board" means the ~~Barbers~~Board of Barbering and
18 Cosmetology.

19 (5) "Department" means the Department of Business and
20 Professional Regulation.

21 Section 40. Section 476.054, Florida Statutes, is
22 amended to read:

23 476.054 ~~Barbers~~Board of Barbering and Cosmetology--

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

28 (2) Two ~~Five~~ members of the board must ~~shall~~ be
29 licensed barbers who have practiced ~~the occupation of~~
30 barbering in this state for at least 5 years. Three members
31 must be licensed cosmetologists who have practiced cosmetology

1 in this state for at least 5 years, and one member must be a
2 registered cosmetology specialist who has practiced his or her
3 specialty in this state for a least 5 years. The remaining
4 member must ~~two members of the board shall~~ be a resident
5 ~~citizens~~ of the state who ~~is~~ are not presently a licensed
6 barber or cosmetologist ~~barbers~~. No person ~~may~~ shall be
7 appointed to the board who is ~~in any way~~ connected with the
8 manufacture, rental, or wholesale distribution of barber or
9 cosmetology 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 41. 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 42. 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 43. 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 44. 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 45. 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 46. 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 47. 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 48. Section 477.015, Florida Statutes, is
7 repealed.

8 Section 49. 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 50. 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 51. 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 52. 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 shall by rule establish criteria for the
25 approval of continuing education courses and providers.~~The
26 board may, by rule, require any licensee in violation of a
27 continuing education requirement to take a refresher course or
28 refresher course and examination in addition to any other
29 penalty. The number of hours for the refresher course may not
30 exceed 48 hours.~~

31

1 (d) The department shall approve all continuing
2 education courses and providers as set forth in this
3 subsection. The board may not approve any course which does
4 not substantially and exclusively relate to the practice of
5 cosmetology and serve to ensure the protection of the public.
6 Courses given at cosmetology conferences may be counted toward
7 the number of continuing education hours required if approved
8 by the department.

9 (e) Correspondence courses may be approved if offered
10 by a provider approved by the board under paragraph (d) and
11 meet all relevant course criteria established by the board.
12 Correspondence courses must include a written post course
13 examination developed and graded by the course provider which
14 demonstrates the licensee's understanding of the subject
15 matter taught by the course. The board may, by rule, set the
16 minimum allowed passing score for such examinations.

17 Section 53. Subsection (1) of section 477.026, Florida
18 Statutes, is amended to read:

19 477.026 Fees; disposition.--

20 (1) The board shall set fees according to the
21 following schedule:

22 (a) For cosmetologists, fees for original licensing,
23 license renewal, and delinquent renewal shall not exceed \$25.

24 (b) For cosmetologists, fees for endorsement
25 application, examination, and reexamination shall not exceed
26 \$50.

27 (c) For cosmetology and specialty salons, fees for
28 license application, original licensing, license renewal, and
29 delinquent renewal shall not exceed \$50.

30 (d) For specialists, fees for application and
31 endorsement registration shall not exceed \$30.

1 (e) For specialists, fees for initial registration,
2 registration renewal, and delinquent renewal shall not exceed
3 \$50.

4 (f) For hair braiders, hair wrappers, and body
5 wrappers, fees for initial registration, registration renewal,
6 and delinquent renewal shall not exceed \$25.

7 Section 54. Subsection (1) of section 481.209, Florida
8 Statutes, is amended to read:

9 481.209 Examinations.--

10 (1) A person desiring to be licensed as a registered
11 architect shall apply to the department to take the licensure
12 examination. The department shall administer the licensure
13 examination for architects to each applicant who the board
14 certifies:

15 (a) Has completed the application form and remitted a
16 nonrefundable application fee and an examination fee which is
17 refundable if the applicant is found to be ineligible to take
18 the examination;

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

23 2. Is a graduate of an approved architectural
24 curriculum, evidenced by a degree from an unaccredited school
25 or college of architecture approved by the board. The board
26 shall adopt rules providing for the review and approval of
27 unaccredited schools and colleges of architecture and courses
28 of architectural study based on a review and inspection by the
29 board of the curriculum of accredited schools and colleges of
30 architecture in the United States, ~~including those schools and~~
31

1 ~~colleges accredited by the National Architectural~~
2 ~~Accreditation Board; and~~

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

5 Section 55. Section 481.223, Florida Statutes, is
6 amended to read:

7 481.223 Prohibitions; penalties; injunctive relief.--

8 (1) A person may not knowingly:

9 (a) Practice architecture unless the person is an
10 architect or a registered architect;

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

13 (c) Use the name or title "architect" or "registered
14 architect," or "interior designer" or "registered interior
15 designer," or words to that effect, when the person is not
16 then the holder of a valid license issued pursuant to this
17 part;

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

19 (e) Give false or forged evidence to the board or a
20 member thereof;

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

24 (g) Employ unlicensed persons to practice architecture
25 or interior design; or

26 (h) Conceal information relative to violations of this
27 part.

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

31

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

7 (b) For purposes of this subsection, "affected person"
8 means a person directly affected by the actions of a person
9 suspected of violating paragraph (1)(a), paragraph (1)(b), or
10 paragraph (1)(c) and includes, but is not limited to, the
11 department, any person who received services from the alleged
12 violator, or any private association composed primarily of
13 members of the profession the alleged violator is practicing
14 or offering to practice or holding himself or herself out as
15 qualified to practice.

16 Section 56. Effective July 1, 2001, subsections (2)
17 and (4) of section 489.107, Florida Statutes, are amended to
18 read:

19 489.107 Construction Industry Licensing Board.--

20 (2) The board shall consist of 16 ~~18~~ members, of whom:

21 (a) Four are primarily engaged in business as general
22 contractors;

23 (b) Three are primarily engaged in business as
24 building contractors or residential contractors, however, at
25 least one building contractor and one residential contractor
26 shall be appointed;

27 (c) One is primarily engaged in business as a roofing
28 contractor;

29 (d) One is primarily engaged in business as a sheet
30 metal contractor;

31

1 (e) One is primarily engaged in business as an
2 air-conditioning contractor;

3 (f) One is primarily engaged in business as a
4 mechanical contractor;

5 (g) One is primarily engaged in business as a pool
6 contractor;

7 (h) One is primarily engaged in business as a plumbing
8 contractor;

9 (i) One is primarily engaged in business as an
10 underground utility and excavation contractor;

11 (j) Notwithstanding the provisions of s. 20.165(6),
12 one is a ~~Two are~~ consumer member ~~members~~ who is ~~are~~ not, and
13 has ~~have~~ never been, a member ~~members~~ or practitioner
14 ~~practitioners~~ of a profession regulated by the board or a
15 member ~~members~~ of any closely related profession; and

16 (k) One is a ~~Two are~~ building official ~~officials~~ of a
17 municipality or county.

18 (l) On the date the reduction of the number of members
19 on the board made by this act becomes effective, the affected
20 appointments shall be those in the reduced membership class
21 whose terms next expire.

22 (4) The board shall be divided into two divisions,
23 Division I and Division II.

24 (a) Division I is comprised of the general contractor,
25 building contractor, and residential contractor members of the
26 board; ~~one of the members appointed pursuant to paragraph~~
27 ~~(2)(j) and one of the~~ member ~~members~~ appointed pursuant to
28 paragraph (2)(k). Division I has jurisdiction over the
29 regulation of general contractors, building contractors, and
30 residential contractors.

31

1 (b) Division II is comprised of the roofing
2 contractor, sheet metal contractor, air-conditioning
3 contractor, mechanical contractor, pool contractor, plumbing
4 contractor, and underground utility and excavation contractor
5 members of the board; ~~and one of the member members~~ appointed
6 pursuant to paragraph (2)(j); ~~and one of the members appointed~~
7 ~~pursuant to paragraph (2)(k)~~. Division II has jurisdiction
8 over the regulation of contractors defined in s.
9 489.105(3)(d)-(p).

10 (c) Jurisdiction for the regulation of specialty
11 contractors defined in s. 489.105(3)(q) shall lie with the
12 division having jurisdiction over the scope of work of the
13 specialty contractor as defined by board rule.

14 Section 57. Section 489.1133, Florida Statutes, is
15 created to read:

16 489.1133 Temporary certificate or registration.--The
17 department may issue a temporary certificate or registration
18 to any applicant who has submitted a completed application and
19 who appears to meet all qualifications for certification or
20 registration, pending final approval of the application and
21 the granting of a permanent certificate or registration by the
22 board. If the board determines that the applicant does not
23 meet all of the requirements for certification or registration
24 under this part, the board shall, upon notifying the applicant
25 of his or her failure to qualify, revoke the applicant's
26 temporary certificate or registration.

27 Section 58. Paragraph (b) of subsection (4) of section
28 489.115, Florida Statutes, as amended by chapters 98-287 and
29 2000-141, Laws of Florida, is amended to read:

30 489.115 Certification and registration; endorsement;
31 reciprocity; renewals; continuing education.--

1 (4)

2 (b)1. Each certificateholder or registrant shall

3 provide proof, in a form established by rule of the board,

4 that the certificateholder or registrant has completed at

5 least 14 classroom hours of at least 50 minutes each of

6 continuing education courses during each biennium since the

7 issuance or renewal of the certificate or registration. The

8 board shall establish by rule that a portion of the required

9 14 hours must deal with the subject of workers' compensation,

10 business practices, and workplace safety. The board shall by

11 rule establish criteria for the approval of continuing

12 education courses and providers, including requirements

13 relating to the content of courses and standards for approval

14 of providers, and may by rule establish criteria for accepting

15 alternative nonclassroom continuing education on an

16 hour-for-hour basis. The board shall prescribe by rule the

17 continuing education, if any, which is required during the

18 first biennium of initial licensure. A person who has been

19 licensed for less than an entire biennium must not be required

20 to complete the full 14 hours of continuing education.

21 2. In addition, the board may approve specialized

22 continuing education courses on compliance with the wind

23 resistance provisions for one and two family dwellings

24 contained in the Florida Building Code and any alternate

25 methodologies for providing such wind resistance which have

26 been approved for use by the Florida Building Commission.

27 Contractors defined in s. 489.105(3)(a)-(c) Division I

28 ~~certificateholders or registrants~~ who demonstrate proficiency

29 upon completion of such specialized courses may certify plans

30 and specifications for one and two family dwellings to be in

31 compliance with the code or alternate methodologies, as

1 appropriate, except for dwellings located in floodways or
2 coastal hazard areas as defined in ss. 60.3D and E of the
3 National Flood Insurance Program.

4 3. Each certificateholder or registrant shall provide
5 to the board proof of completion of the core curriculum
6 courses, or passing the equivalency test of the Building Code
7 Training Program established under s. 553.841, specific to the
8 licensing category sought, within 2 years after commencement
9 of the program or of initial certification or registration,
10 whichever is later. Classroom hours spent taking core
11 curriculum courses shall count toward the number required for
12 renewal of certificates or registration. A certificateholder
13 or registrant who passes the equivalency test in lieu of
14 taking the core curriculum courses shall receive full credit
15 for core curriculum course hours.

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

22 Section 59. Subsection (1) of section 489.118, Florida
23 Statutes, is amended to read:

24 489.118 Certification of registered contractors;
25 grandfathering provisions.--The board shall, upon receipt of a
26 completed application and appropriate fee, issue a certificate
27 in the appropriate category to any contractor registered under
28 this part who makes application to the board and can show that
29 he or she meets each of the following requirements:

30 (1) Currently holds a valid registered local license
31 in one of the contractor categories defined in s.

1 489.105(3)(a)-(p) or holds a valid registered local specialty
2 license which substantially corresponds to a type of specialty
3 contractor recognized for state certification pursuant to
4 board rule under s. 489.113(6).

5 Section 60. Subsection (6) of section 489.507, Florida
6 Statutes, is repealed.

7 Section 61. The Electrical Contractors' Licensing
8 Board shall review its operations and its regular board
9 meeting lengths and locations and develop a plan to reduce its
10 annual operating budget by \$25,000, and shall submit the plan
11 to the Department of Business and Professional Regulation by
12 January 1, 2002.

13 Section 62. Subsection (6) of section 489.511, Florida
14 Statutes, is amended to read:

15 489.511 Certification; application; examinations;
16 endorsement.--

17 (6) The board shall certify as qualified for
18 certification by endorsement any individual who applies from a
19 state that has a mutual reciprocity endorsement agreement with
20 the board and ~~applying for certification~~ who:

21 ~~(a)~~ meets the requirements for certification ~~as set~~
22 ~~forth~~ in this section; has passed a national, regional, state,
23 or United States territorial licensing examination that is
24 substantially equivalent to the examination required by this
25 part; and has satisfied the requirements set forth in s.
26 489.521. ~~† or~~

27 ~~(b) Holds a valid license to practice electrical or~~
28 ~~alarm system contracting issued by another state or territory~~
29 ~~of the United States, if the criteria for issuance of such~~
30 ~~license was substantially equivalent to the certification~~
31

1 ~~criteria that existed in this state at the time the~~
2 ~~certificate was issued.~~

3 Section 63. Paragraph (f) is added to subsection (3)
4 of section 489.537, Florida Statutes, to read:

5 489.537 Application of this part.--

6 (3) Nothing in this act limits the power of a
7 municipality or county:

8 (f) To require that one electrical journeyman, who is
9 a graduate of the Institute of Applied Technology in
10 Construction Excellence or licensed pursuant to s. 489.5335,
11 be present on an industrial or commercial new construction
12 site with a facility of 50,000 gross square feet or more when
13 electrical work in excess of 77 volts is being performed in
14 order to supervise or perform such work, except as provided in
15 s. 489.503.

16 Section 64. Subsection (5) of section 498.005, Florida
17 Statutes, is amended to read:

18 498.005 Definitions.--As used in this chapter, unless
19 the context otherwise requires, the term:

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

23 Section 65. Section 498.019, Florida Statutes, is
24 amended to read:

25 498.019 Professional Regulation ~~Division of Florida~~
26 ~~Land Sales, Condominiums, and Mobile Homes~~ Trust Fund.--

27 ~~(1) There is created within the State Treasury the~~
28 ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~
29 ~~Trust Fund to be used for the administration and operation of~~
30 ~~this chapter and chapters 718, 719, 721, and 723 by the~~
31 ~~division.~~

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

23 Section 66. Subsection (5) of section 498.049, Florida
 24 Statutes, is amended to read:

25 498.049 Suspension; revocation; civil penalties.--

26 (5) Each person who materially participates in any
 27 offer or disposition of any interest in subdivided lands in
 28 violation of this chapter or relevant rules involving fraud,
 29 deception, false pretenses, misrepresentation, or false
 30 advertising or the disposition, concealment, or diversion of
 31 any funds or assets of any person which adversely affects the

1 interests of a purchaser of any interest in subdivided lands,
 2 and who directly or indirectly controls a subdivider or is a
 3 general partner, officer, director, agent, or employee of a
 4 subdivider shall also be liable under this subsection jointly
 5 and severally with and to the same extent as the subdivider,
 6 unless that person did not know, and in the exercise of
 7 reasonable care could not have known, of the existence of the
 8 facts creating the alleged liability. Among these persons a
 9 right of contribution shall exist, except that a creditor of a
 10 subdivider shall not be jointly and severally liable unless
 11 the creditor has assumed managerial or fiduciary
 12 responsibility in a manner related to the basis for the
 13 liability of the subdivider under this subsection. Civil
 14 penalties shall be limited to \$10,000 for each offense, and
 15 all amounts collected shall be deposited with the Treasurer to
 16 the credit of the Professional Regulation ~~Division of Florida~~
 17 ~~Land Sales, Condominiums, and Mobile Homes~~ Trust Fund. No
 18 order requiring the payment of a civil penalty shall become
 19 effective until 20 days after the date of the order, unless
 20 otherwise agreed in writing by the person on whom the penalty
 21 is imposed.

22 Section 67. Subsection (2) of section 190.009, Florida
 23 Statutes, is amended to read:

24 190.009 Disclosure of public financing.--

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

30 Section 68. The regulation of land sales pursuant to
 31 chapter 498, Florida Statutes, shall remain under the

1 Department of Business and Professional Regulation but is
2 reassigned from the Division of Florida Land Sales,
3 Condominiums, and Mobile Homes to the Division of Real Estate.
4 All funds collected by the department pursuant to this
5 regulation and all funds in the account created within the
6 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund
7 for the purpose of this regulation shall be deposited in an
8 account created within the Professional Regulation Trust Fund
9 for this same purpose.

10 Section 69. Subsection (17) of section 718.103,
11 Florida Statutes, is amended to read:

12 718.103 Definitions.--As used in this chapter, the
13 term:

14 (17) "Division" means the Division of ~~Florida Land~~
15 ~~Sales, Condominiums, Timeshare,~~ and Mobile Homes of the
16 Department of Business and Professional Regulation.

17 Section 70. Paragraph (c) of subsection (4) of section
18 718.105, Florida Statutes, is amended to read:

19 718.105 Recording of declaration.--

20 (4)

21 (c) If the sum of money held by the clerk has not been
22 paid to the developer or association as provided in paragraph
23 (b) by 3 years after the date the declaration was originally
24 recorded, the clerk in his or her discretion may notify, in
25 writing, the registered agent of the association that the sum
26 is still available and the purpose for which it was deposited.
27 If the association does not record the certificate within 90
28 days after the clerk has given the notice, the clerk may
29 disburse the money to the developer. If the developer cannot
30 be located, the clerk shall disburse the money to the division
31 ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ for

1 deposit in the Division of ~~Florida Land Sales~~, Condominiums,
2 Timeshare, and Mobile Homes Trust Fund.

3 Section 71. Section 718.1255, Florida Statutes, is
4 amended to read:

5 718.1255 Alternative dispute resolution; ~~voluntary~~
6 ~~mediation~~; mandatory nonbinding arbitration and mediation;
7 local resolution; exemptions; legislative findings.--

8 (1) APPLICABILITY DEFINITIONS.--

9 (a) The provisions of subsection (3) apply to ~~As used~~
10 ~~in this section, the term "dispute" means any disagreement~~
11 ~~between two or more parties that involves+~~

12 ~~(a) The authority of the board of directors, under~~
13 ~~this chapter or association document to+~~

14 1. ~~Require any owner to take any action, or not to~~
15 ~~take any action, involving that owner's unit or the~~
16 ~~appurtenances thereto.~~

17 2. ~~Alter or add to a common area or element.~~

18 ~~(b) the failure of a governing body, when required by~~
19 ~~this chapter or an association document, to+~~

20 1. properly conduct elections or to recall a board
21 member.

22 (b) The provisions of paragraph (3)(f)-(n) apply to
23 any disagreement between two or more parties that involves:

24 1. The authority of the board of directors, under this
25 chapter or an association document, to:

26 a. Require any owner to take any action, or not to
27 take any action, involving that owner's unit or the
28 appurtenances thereto; or

29 b. Alter or add to a common area or element.

30 2. The failure of a governing body, when required by
31 this chapter or an association document, to:

1 a.2. Give adequate notice of meetings or other
2 actions;:-

3 b.3. Properly conduct meetings; or:-

4 c.4. Allow inspection of books and records.
5

6 ~~"Dispute" does not include any disagreement that primarily~~
7 ~~involves: title to any unit or common element; the~~
8 ~~interpretation or enforcement of any warranty; the levy of a~~
9 ~~fee or assessment, or the collection of an assessment levied~~
10 ~~against a party; the eviction or other removal of a tenant~~
11 ~~from a unit; alleged breaches of fiduciary duty by one or more~~
12 ~~directors; or claims for damages to a unit based upon the~~
13 ~~alleged failure of the association to maintain the common~~
14 ~~elements or condominium property.~~

15 ~~(2) VOLUNTARY MEDIATION.--Voluntary mediation through~~
16 ~~Citizen Dispute Settlement Centers as provided for in s.~~
17 ~~44.201 is encouraged.~~

18 (2)(3) LEGISLATIVE FINDINGS.--

19 (a) The Legislature finds that unit owners are
20 frequently at a disadvantage when litigating against an
21 association. Specifically, a condominium association, with its
22 statutory assessment authority, is often more able to bear the
23 costs and expenses of litigation than the unit owner who must
24 rely on his or her own financial resources to satisfy the
25 costs of litigation against the association.

26 (b) The Legislature finds that the courts are becoming
27 overcrowded with condominium and other disputes, and further
28 finds that alternative dispute resolution has been making
29 progress in reducing court dockets and trials and in offering
30 a more efficient, cost-effective option to court litigation.
31 However, the Legislature also finds that alternative dispute

1 resolution should not be used as a mechanism to encourage the
2 filing of frivolous or nuisance suits.

3 (c) There exists a need to develop a flexible means of
4 alternative dispute resolution that directs disputes to the
5 most efficient means of resolution.

6 (d) The high cost and significant delay of circuit
7 court litigation faced by unit owners in the state can be
8 alleviated by requiring nonbinding arbitration and mediation
9 in appropriate cases, thereby reducing delay and attorney's
10 fees while preserving the right of either party to have its
11 case heard by a jury, if applicable, in a court of law.

12 (3)~~(4)~~ MANDATORY NONBINDING ARBITRATION AND MEDIATION
13 OF DISPUTES.--The division ~~of Florida Land Sales,~~
14 ~~Condominiums, and Mobile Homes of the Department of Business~~
15 ~~and Professional Regulation shall provide employ full-time~~
16 ~~attorneys to act as~~ arbitrators to conduct the arbitration
17 hearings as required ~~provided~~ by this chapter. The department
18 may employ attorneys to act as arbitrators, and the division
19 may also certify attorneys who are not employed by the
20 division to act as arbitrators to conduct the arbitration
21 hearings provided by this chapter ~~section~~. No person may be
22 employed by the department as an ~~a full-time~~ arbitrator unless
23 he or she is a member in good standing of The Florida Bar. The
24 department shall promulgate rules of procedure to govern such
25 arbitration hearings including mediation incident thereto.
26 The decision of an arbitrator shall be final; however, such a
27 decision shall not be deemed final agency action. Nothing in
28 this provision shall be construed to foreclose parties from
29 proceeding in a trial de novo unless the parties have agreed
30 that the arbitration is binding. If such judicial proceedings
31

1 are initiated, the final decision of the arbitrator shall be
2 admissible in evidence in the trial de novo.

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

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

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

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

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

19

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

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

1 arbitration pending a court hearing and disposition of a
2 motion for temporary injunction.

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

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

18 (f) The arbitrator or the division may refer the
19 parties to a Citizens Dispute Settlement Center under s.
20 44.201 in the county in which the dispute arose ~~Upon referral~~
21 ~~of a case to mediation, or~~ the parties may agree on ~~must~~
22 ~~select~~ a mutually acceptable mediator. To assist in the
23 selection, the arbitrator shall provide the parties with a
24 list of both volunteer and paid mediators that have been
25 certified by the division under s. 718.501. If the parties
26 are unable to agree on a mediator within the time allowed by
27 the arbitrator or the division, the arbitrator or the division
28 shall appoint a mediator from the list of certified mediators.
29 If a case is referred to mediation, the parties shall attend a
30 mediation conference, as scheduled by the parties and the
31 mediator. If any party fails to attend a duly noticed

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

19 (g) The purpose of mediation as provided for by this
 20 section is to present the parties with an opportunity to
 21 resolve the underlying dispute ~~in good faith, and~~ with a
 22 minimum expenditure of time and resources.

23 (h) Mediation proceedings must generally be conducted
 24 in accordance with the Florida Rules of Civil Procedure, and
 25 these proceedings are privileged and confidential to the same
 26 extent as court-ordered mediation. Persons who are not parties
 27 to the dispute are not allowed to attend the mediation
 28 conference without the consent of all parties, with the
 29 exception of counsel for the parties and corporate
 30 representatives designated to appear for a party. If the case
 31 was referred to mediation by an arbitrator and the mediator

1 ~~declares an impasse after a~~ mediation conference ends in an
 2 impasse has been held, the arbitration proceeding terminates,
 3 unless all parties agree in writing to continue the
 4 arbitration proceeding, in which case the arbitrator's
 5 decision shall be either binding or nonbinding, as agreed upon
 6 by the parties; in the arbitration proceeding, the arbitrator
 7 shall not consider any evidence relating to the unsuccessful
 8 mediation except in a proceeding to impose sanctions for
 9 failure to appear at the mediation conference. If the parties
 10 do not agree to continue arbitration, the arbitrator shall
 11 enter an order of dismissal, and either party may institute a
 12 suit in a court of competent jurisdiction. If the case was
 13 referred to mediation by the division and ends in an impasse,
 14 either party may institute a suit in a court of competent
 15 jurisdiction.The parties may seek to recover any costs and
 16 attorneys' fees incurred in connection with arbitration and
 17 mediation proceedings under this section as part of the costs
 18 and fees that may be recovered by the prevailing party in any
 19 subsequent litigation.

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

23 (j) At the request of any party to the arbitration,
 24 such arbitrator shall issue subpoenas for the attendance of
 25 witnesses and the production of books, records, documents, and
 26 other evidence and any party on whose behalf a subpoena is
 27 issued may apply to the court for orders compelling such
 28 attendance and production. Subpoenas shall be served and shall
 29 be enforceable in the manner provided by the Florida Rules of
 30 Civil Procedure. Discovery may, in the discretion of the
 31 arbitrator, be permitted in the manner provided by the Florida

1 Rules of Civil Procedure. Rules adopted by the division may
2 authorize any reasonable sanctions except contempt for a
3 violation of the arbitration procedural rules of the division
4 or for the failure of a party to comply with a reasonable
5 nonfinal order issued by an arbitrator which is not under
6 judicial review.

7 (k) The arbitration decision shall be presented to the
8 parties in writing. An arbitration decision is final in those
9 disputes in which the parties have agreed to be bound. An
10 arbitration decision is also final if a complaint for a trial
11 de novo is not filed in a court of competent jurisdiction in
12 which the condominium is located within 30 days. The right to
13 file for a trial de novo entitles the parties to file a
14 complaint in the appropriate trial court for a judicial
15 resolution of the dispute. The prevailing party in an
16 arbitration proceeding shall be awarded the costs of the
17 arbitration and reasonable attorney's fees in an amount
18 determined by the arbitrator. Such an award shall include the
19 costs and reasonable attorney's fees incurred in the
20 arbitration proceeding as well as the costs and reasonable
21 attorney's fees incurred in preparing for and attending any
22 scheduled mediation.

23 (l) The party who files a complaint for a trial de
24 novo shall be assessed the other party's arbitration costs,
25 court costs, and other reasonable costs, including attorney's
26 fees, investigation expenses, and expenses for expert or other
27 testimony or evidence incurred after the arbitration hearing
28 if the judgment upon the trial de novo is not more favorable
29 than the arbitration decision. If the judgment is more
30 favorable, the party who filed a complaint for trial de novo
31 shall be awarded reasonable court costs and attorney's fees.

1 (m) Any party to an arbitration proceeding may enforce
2 an arbitration award by filing a petition in a court of
3 competent jurisdiction in which the condominium is located. A
4 petition may not be granted unless the time for appeal by the
5 filing of a complaint for trial de novo has expired. If a
6 complaint for a trial de novo has been filed, a petition may
7 not be granted with respect to an arbitration award that has
8 been stayed. If the petition for enforcement is granted, the
9 petitioner shall recover reasonable attorney's fees and costs
10 incurred in enforcing the arbitration award. A mediation
11 settlement may also be enforced through the county or circuit
12 court, as applicable, by the filing of a court case.~~and~~ Any
13 costs and fees incurred in the enforcement of a settlement
14 agreement reached at mediation must be awarded to the
15 prevailing party in any enforcement action.

16 (n) In the resolution of these cases on the local
17 level, past precedent of prior division arbitration decisions
18 shall be considered and followed where appropriate.

19 (4) EXEMPTIONS.--A dispute is not subject to
20 resolution under this section if it includes any disagreement
21 that primarily involves:

22 (a) Title to any unit or common element;

23 (b) The interpretation or enforcement of any warranty;

24 (c) The levy of a fee or assessment or the collection
25 of an assessment levied against a party;

26 (d) The eviction or other removal of a tenant from a
27 unit;

28 (e) Alleged breaches of fiduciary duty by one or more
29 directors; or

30
31

1 (f) Claims for damages to a unit based upon the
2 alleged failure of the association to maintain the common
3 elements or condominium property.

4 (5) DISPUTES INVOLVING ELECTION IRREGULARITIES.--Every
5 arbitration petition received by the division and required to
6 be filed under this section challenging the legality of the
7 election of any director of the board of administration shall
8 be handled on an expedited basis in the manner provided by
9 division rules for recall arbitration disputes.

10 Section 72. The Division of Condominiums, Timeshare,
11 and Mobile Homes of the Department of Business and
12 Professional Regulation shall continue the arbitration of any
13 cases which qualified for arbitration on the date the case was
14 filed with the division and which were filed with the division
15 prior to the date on which this act becomes law.

16 Section 73. There is appropriated 1 FTE and \$440,626
17 from the Division of Condominiums, Timeshare, and Mobile Homes
18 Trust Fund to the Department of Business and Professional
19 Regulation for the purpose of investigating and resolving
20 disputes and dealing with compliance issues relating to
21 condominiums and cooperatives. This appropriation shall not
22 take effect if a similar amount of funding is included in the
23 various appropriations for compliance and enforcement in the
24 Florida Condominiums, Timeshare, and Mobile Homes program in
25 the fiscal year 2001-2002 General Appropriations Act.

26 Section 74. Section 718.501, Florida Statutes, is
27 amended to read:

28 718.501 Powers and duties of Division of ~~Florida Land~~
29 ~~Sales~~, Condominiums, Timeshare, and Mobile Homes.--

30 (1) The Division of ~~Florida Land Sales~~, Condominiums,
31 Timeshare, and Mobile Homes of the Department of Business and

1 Professional Regulation, referred to as the "division" in this
2 part, in addition to other powers and duties prescribed by
3 chapter 498, has the power to enforce and ensure compliance
4 with the provisions of this chapter and rules adopted
5 ~~promulgated~~ pursuant hereto relating to the development,
6 construction, sale, lease, ownership, operation, and
7 management of residential condominium units. In performing its
8 duties, the division has the following powers and duties:

9 (a) The division may make necessary public or private
10 investigations within or outside this state to determine
11 whether any person has violated this chapter or any rule or
12 order hereunder, to aid in the enforcement of this chapter, or
13 to aid in the adoption of rules or forms hereunder.

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

18 (c) For the purpose of any investigation under this
19 chapter, the division director or any officer or employee
20 designated by the division director may administer oaths or
21 affirmations, subpoena witnesses and compel their attendance,
22 take evidence, and require the production of any matter which
23 is relevant to the investigation, including the existence,
24 description, nature, custody, condition, and location of any
25 books, documents, or other tangible things and the identity
26 and location of persons having knowledge of relevant facts or
27 any other matter reasonably calculated to lead to the
28 discovery of material evidence. Upon the failure by a person
29 to obey a subpoena or to answer questions propounded by the
30 investigating officer and upon reasonable notice to all

31

1 persons affected thereby, the division may apply to the
2 circuit court for an order compelling compliance.

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

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

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

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

26 4. The division may impose a civil penalty against a
27 developer or association, or its assignee or agent, for any
28 violation of this chapter or a rule promulgated pursuant
29 hereto. The division may impose a civil penalty individually
30 against any officer or board member who willfully and
31 knowingly violates a provision of this chapter, a rule adopted

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

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

22 (e) The division is authorized to prepare and
 23 disseminate a prospectus and other information to assist
 24 prospective owners, purchasers, lessees, and developers of
 25 residential condominiums in assessing the rights, privileges,
 26 and duties pertaining thereto.

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

30 (g) The division shall establish procedures for
 31 providing notice to an association when the division is

1 considering the issuance of a declaratory statement with
2 respect to the declaration of condominium or any related
3 document governing in such condominium community.

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

10 (i) The division shall annually provide each
11 association with a summary of declaratory statements and
12 formal legal opinions relating to the operations of
13 condominiums which were rendered by the division during the
14 previous year.

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

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

19 (l) The division shall develop a program to certify
20 both volunteer and paid mediators to provide mediation of
21 condominium disputes. The division shall provide, upon
22 request, a list of such mediators to any association, unit
23 owner, or other participant in arbitration proceedings under
24 s. 718.1255 requesting a copy of the list. The division shall
25 include on the list of volunteer mediators only the names of
26 persons who have received at least 20 hours of training in
27 mediation techniques or who have mediated at least 20
28 disputes. In order to become initially certified by the
29 division, paid mediators must be certified by the Supreme
30 Court to mediate court cases in either county or circuit
31 courts. However, the division may adopt, by rule, additional

1 factors for the certification of paid mediators, which factors
 2 must be related to experience, education, or background. Any
 3 person initially certified as a paid mediator by the division
 4 must, in order to continue to be certified, comply with the
 5 factors or requirements imposed by rules adopted by the
 6 division.

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

29 (2)(a) Effective January 1, 1992, each condominium
 30 association which operates more than two units shall pay to
 31 the division an annual fee in the amount of \$4 for each

1 residential unit in condominiums operated by the association.
2 If the fee is not paid by March 1, then the association shall
3 be assessed a penalty of 10 percent of the amount due, and the
4 association will not have standing to maintain or defend any
5 action in the courts of this state until the amount due, plus
6 any penalty, is paid.

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

10 Section 75. Paragraph (a) of subsection (2) of section
11 718.502, Florida Statutes, is amended to read:

12 718.502 Filing prior to sale or lease.--

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

1 reservation agreement form shall include a statement of the
2 right of the prospective purchaser to an immediate unqualified
3 refund of the reservation deposit moneys upon written request
4 to the escrow agent by the prospective purchaser or the
5 developer.

6 Section 76. Section 718.504, Florida Statutes, is
7 amended to read:

8 718.504 Prospectus or offering circular.--Every
9 developer of a residential condominium which contains more
10 than 20 residential units, or which is part of a group of
11 residential condominiums which will be served by property to
12 be used in common by unit owners of more than 20 residential
13 units, shall prepare a prospectus or offering circular and
14 file it with the division ~~of Florida Land Sales, Condominiums,~~
15 ~~and Mobile Homes~~ prior to entering into an enforceable
16 contract of purchase and sale of any unit or lease of a unit
17 for more than 5 years and shall furnish a copy of the
18 prospectus or offering circular to each buyer. In addition to
19 the prospectus or offering circular, each buyer shall be
20 furnished a separate page entitled "Frequently Asked Questions
21 and Answers," which shall be in accordance with a format
22 approved by the division and a copy of the financial
23 information required by s. 718.111. This page shall, in
24 readable language, inform prospective purchasers regarding
25 their voting rights and unit use restrictions, including
26 restrictions on the leasing of a unit; shall indicate whether
27 and in what amount the unit owners or the association is
28 obligated to pay rent or land use fees for recreational or
29 other commonly used facilities; shall contain a statement
30 identifying that amount of assessment which, pursuant to the
31 budget, would be levied upon each unit type, exclusive of any

1 special assessments, and which shall further identify the
2 basis upon which assessments are levied, whether monthly,
3 quarterly, or otherwise; shall state and identify any court
4 cases in which the association is currently a party of record
5 in which the association may face liability in excess of
6 \$100,000; and which shall further state whether membership in
7 a recreational facilities association is mandatory, and if so,
8 shall identify the fees currently charged per unit type. The
9 division shall by rule require such other disclosure as in its
10 judgment will assist prospective purchasers. The prospectus or
11 offering circular may include more than one condominium,
12 although not all such units are being offered for sale as of
13 the date of the prospectus or offering circular. The
14 prospectus or offering circular must contain the following
15 information:

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

18 (a) The name of the condominium.

19 (b) The following statements in conspicuous type:

20 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS
21 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM
22 UNIT.

23 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
24 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL
25 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND
26 SALES MATERIALS.

27 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS
28 CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER
29 TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR
30 CORRECT REPRESENTATIONS.

31

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

4 (3) A separate index of the contents and exhibits of
5 the prospectus.

6 (4) Beginning on the first page of the text (not
7 including the summary and index), a description of the
8 condominium, including, but not limited to, the following
9 information:

10 (a) Its name and location.

11 (b) A description of the condominium property,
12 including, without limitation:

13 1. The number of buildings, the number of units in
14 each building, the number of bathrooms and bedrooms in each
15 unit, and the total number of units, if the condominium is not
16 a phase condominium, or the maximum number of buildings that
17 may be contained within the condominium, the minimum and
18 maximum numbers of units in each building, the minimum and
19 maximum numbers of bathrooms and bedrooms that may be
20 contained in each unit, and the maximum number of units that
21 may be contained within the condominium, if the condominium is
22 a phase condominium.

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

25 3. The estimated latest date of completion of
26 constructing, finishing, and equipping. In lieu of a date,
27 the description shall include a statement that the estimated
28 date of completion of the condominium is in the purchase
29 agreement and a reference to the article or paragraph
30 containing that information.

31

1 (c) The maximum number of units that will use
2 facilities in common with the condominium. If the maximum
3 number of units will vary, a description of the basis for
4 variation and the minimum amount of dollars per unit to be
5 spent for additional recreational facilities or enlargement of
6 such facilities. If the addition or enlargement of facilities
7 will result in a material increase of a unit owner's
8 maintenance expense or rental expense, if any, the maximum
9 increase and limitations thereon shall be stated.

10 (5)(a) A statement in conspicuous type describing
11 whether the condominium is created and being sold as fee
12 simple interests or as leasehold interests. If the condominium
13 is created or being sold on a leasehold, the location of the
14 lease in the disclosure materials shall be stated.

15 (b) If timeshare estates are or may be created with
16 respect to any unit in the condominium, a statement in
17 conspicuous type stating that timeshare estates are created
18 and being sold in units in the condominium.

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

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

25 (b) Each swimming pool, as to its general location,
26 approximate size and depths, approximate deck size and
27 capacity, and whether heated.

28 (c) Additional facilities, as to the number of each
29 facility, its approximate location, approximate size, and
30 approximate capacity.

31

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

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

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

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

16 3. A description of the terms of the lease or other
17 agreements, including the length of the term; the rent
18 payable, directly or indirectly, by each unit owner, and the
19 total rent payable to the lessor, stated in monthly and annual
20 amounts for the entire term of the lease; and a description of
21 any option to purchase the property leased under any such
22 lease, including the time the option may be exercised, the
23 purchase price or how it is to be determined, the manner of
24 payment, and whether the option may be exercised for a unit
25 owner's share or only as to the entire leased property.

26 (g) A statement as to whether the developer may
27 provide additional facilities not described above; their
28 general locations and types; improvements or changes that may
29 be made; the approximate dollar amount to be expended; and the
30 maximum additional common expense or cost to the individual
31

1 unit owners that may be charged during the first annual period
2 of operation of the modified or added facilities.

3
4 Descriptions as to locations, areas, capacities, numbers,
5 volumes, or sizes may be stated as approximations or minimums.

6 (7) A description of the recreational and other
7 facilities that will be used in common with other
8 condominiums, community associations, or planned developments
9 which require the payment of the maintenance and expenses of
10 such facilities, either directly or indirectly, by the unit
11 owners. The description shall include, but not be limited to,
12 the following:

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

14 (b) Facilities not committed to be built except under
15 certain conditions, and a statement of those conditions or
16 contingencies.

17 (c) As to each facility committed to be built, or
18 which will be committed to be built upon the happening of one
19 of the conditions in paragraph (b), a statement of whether it
20 will be owned by the unit owners having the use thereof or by
21 an association or other entity which will be controlled by
22 them, or others, and the location in the exhibits of the lease
23 or other document providing for use of those facilities.

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

28 (e) A general description of the items of personal
29 property, and the approximate number of each item of personal
30 property, that the developer is committing to furnish for each
31 room or other facility or, in the alternative, a

1 representation as to the minimum amount of expenditure that
2 will be made to purchase the personal property for the
3 facility.

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

7
8 Descriptions shall include location, areas, capacities,
9 numbers, volumes, or sizes and may be stated as approximations
10 or minimums.

11 (8) Recreation lease or associated club membership:

12 (a) If any recreational facilities or other facilities
13 offered by the developer and available to, or to be used by,
14 unit owners are to be leased or have club membership
15 associated, the following statement in conspicuous type shall
16 be included: THERE IS A RECREATIONAL FACILITIES LEASE
17 ASSOCIATED WITH THIS CONDOMINIUM; or, THERE IS A CLUB
18 MEMBERSHIP ASSOCIATED WITH THIS CONDOMINIUM. There shall be a
19 reference to the location in the disclosure materials where
20 the recreation lease or club membership is described in
21 detail.

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

26 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
27 MANDATORY FOR UNIT OWNERS; or

28 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF
29 OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES
30 LEASE; or

31

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

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

8
9 Immediately following the applicable statement, the location
10 in the disclosure materials where the development is described
11 in detail shall be stated.

12 (c) If the developer, or any other person other than
13 the unit owners and other persons having use rights in the
14 facilities, reserves, or is entitled to receive, any rent,
15 fee, or other payment for the use of the facilities, then
16 there shall be the following statement in conspicuous type:
17 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND
18 USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES.
19 Immediately following this statement, the location in the
20 disclosure materials where the rent or land use fees are
21 described in detail shall be stated.

22 (d) If, in any recreation format, whether leasehold,
23 club, or other, any person other than the association has the
24 right to a lien on the units to secure the payment of
25 assessments, rent, or other exactions, there shall appear a
26 statement in conspicuous type in substantially the following
27 form:

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

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

7
8 Immediately following the applicable statement, the location
9 in the disclosure materials where the lien or lien right is
10 described in detail shall be stated.

11 (9) If the developer or any other person has the right
12 to increase or add to the recreational facilities at any time
13 after the establishment of the condominium whose unit owners
14 have use rights therein, without the consent of the unit
15 owners or associations being required, there shall appear a
16 statement in conspicuous type in substantially the following
17 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED
18 WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S).

19 Immediately following this statement, the location in the
20 disclosure materials where such reserved rights are described
21 shall be stated.

22 (10) A statement of whether the developer's plan
23 includes a program of leasing units rather than selling them,
24 or leasing units and selling them subject to such leases. If
25 so, there shall be a description of the plan, including the
26 number and identification of the units and the provisions and
27 term of the proposed leases, and a statement in boldfaced type
28 that: **THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

29 (11) The arrangements for management of the
30 association and maintenance and operation of the condominium
31 property and of other property that will serve the unit owners

1 of the condominium property, and a description of the
2 management contract and all other contracts for these purposes
3 having a term in excess of 1 year, including the following:

- 4 (a) The names of contracting parties.
- 5 (b) The term of the contract.
- 6 (c) The nature of the services included.
- 7 (d) The compensation, stated on a monthly and annual
8 basis, and provisions for increases in the compensation.
- 9 (e) A reference to the volumes and pages of the
10 condominium documents and of the exhibits containing copies of
11 such contracts.

12
13 Copies of all described contracts shall be attached as
14 exhibits. If there is a contract for the management of the
15 condominium property, then a statement in conspicuous type in
16 substantially the following form shall appear, identifying the
17 proposed or existing contract manager: THERE IS (IS TO BE) A
18 CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH
19 (NAME OF THE CONTRACT MANAGER). Immediately following this
20 statement, the location in the disclosure materials of the
21 contract for management of the condominium property shall be
22 stated.

23 (12) If the developer or any other person or persons
24 other than the unit owners has the right to retain control of
25 the board of administration of the association for a period of
26 time which can exceed 1 year after the closing of the sale of
27 a majority of the units in that condominium to persons other
28 than successors or alternate developers, then a statement in
29 conspicuous type in substantially the following form shall be
30 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
31 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE

1 UNITS HAVE BEEN SOLD. Immediately following this statement,
2 the location in the disclosure materials where this right to
3 control is described in detail shall be stated.

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

12 (14) If the condominium is part of a phase project,
13 the following information shall be stated:

14 (a) A statement in conspicuous type in substantially
15 the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL
16 LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately
17 following this statement, the location in the disclosure
18 materials where the phasing is described shall be stated.

19 (b) A summary of the provisions of the declaration
20 which provide for the phasing.

21 (c) A statement as to whether or not residential
22 buildings and units which are added to the condominium may be
23 substantially different from the residential buildings and
24 units originally in the condominium. If the added residential
25 buildings and units may be substantially different, there
26 shall be a general description of the extent to which such
27 added residential buildings and units may differ, and a
28 statement in conspicuous type in substantially the following
29 form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO
30 THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER
31 BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following

1 this statement, the location in the disclosure materials where
2 the extent to which added residential buildings and units may
3 substantially differ is described shall be stated.

4 (d) A statement of the maximum number of buildings
5 containing units, the maximum and minimum numbers of units in
6 each building, the maximum number of units, and the minimum
7 and maximum square footage of the units that may be contained
8 within each parcel of land which may be added to the
9 condominium.

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

12 (a) A statement in conspicuous type in substantially
13 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
14 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
15 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately
16 following this statement, the location in the prospectus or
17 offering circular and its exhibits where the multicondominium
18 aspects of the offering are described must be stated.

19 (b) A summary of the provisions in the declaration,
20 articles of incorporation, and bylaws which establish and
21 provide for the operation of the multicondominium, including a
22 statement as to whether unit owners in the condominium will
23 have the right to use recreational or other facilities located
24 or planned to be located in other condominiums operated by the
25 same association, and the manner of sharing the common
26 expenses related to such facilities.

27 (c) A statement of the minimum and maximum number of
28 condominiums, and the minimum and maximum number of units in
29 each of those condominiums, which will or may be operated by
30 the association, and the latest date by which the exact number
31 will be finally determined.

1 (d) A statement as to whether any of the condominiums
2 in the multicondominium may include units intended to be used
3 for nonresidential purposes and the purpose or purposes
4 permitted for such use.

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

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

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

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

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

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

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

5 (20) An explanation of the manner in which the
6 apportionment of common expenses and ownership of the common
7 elements has been determined.

8 (21) An estimated operating budget for the condominium
9 and the association, and a schedule of the unit owner's
10 expenses shall be attached as an exhibit and shall contain the
11 following information:

12 (a) The estimated monthly and annual expenses of the
13 condominium and the association that are collected from unit
14 owners by assessments.

15 (b) The estimated monthly and annual expenses of each
16 unit owner for a unit, other than common expenses paid by all
17 unit owners, payable by the unit owner to persons or entities
18 other than the association, as well as to the association,
19 including fees assessed pursuant to s. 718.113(1) for
20 maintenance of limited common elements where such costs are
21 shared only by those entitled to use the limited common
22 element, and the total estimated monthly and annual expense.
23 There may be excluded from this estimate expenses which are
24 not provided for or contemplated by the condominium documents,
25 including, but not limited to, the costs of private telephone;
26 maintenance of the interior of condominium units, which is not
27 the obligation of the association; maid or janitorial services
28 privately contracted for by the unit owners; utility bills
29 billed directly to each unit owner for utility services to his
30 or her unit; insurance premiums other than those incurred for
31 policies obtained by the condominium; and similar personal

1 expenses of the unit owner. A unit owner's estimated payments
2 for assessments shall also be stated in the estimated amounts
3 for the times when they will be due.

4 (c) The estimated items of expenses of the condominium
5 and the association, except as excluded under paragraph (b),
6 including, but not limited to, the following items, which
7 shall be stated either as an association expense collectible
8 by assessments or as unit owners' expenses payable to persons
9 other than the association:

10 1. Expenses for the association and condominium:

11 a. Administration of the association.

12 b. Management fees.

13 c. Maintenance.

14 d. Rent for recreational and other commonly used
15 facilities.

16 e. Taxes upon association property.

17 f. Taxes upon leased areas.

18 g. Insurance.

19 h. Security provisions.

20 i. Other expenses.

21 j. Operating capital.

22 k. Reserves.

23 l. Fees payable to the division.

24 2. Expenses for a unit owner:

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

26 b. Rent payable by the unit owner directly to the
27 lessor or agent under any recreational lease or lease for the
28 use of commonly used facilities, which use and payment is a
29 mandatory condition of ownership and is not included in the
30 common expense or assessments for common maintenance paid by
31 the unit owners to the association.

1 (d) The estimated amounts shall be stated for a period
2 of at least 12 months and may distinguish between the period
3 prior to the time unit owners other than the developer elect a
4 majority of the board of administration and the period after
5 that date.

6 (22) A schedule of estimated closing expenses to be
7 paid by a buyer or lessee of a unit and a statement of whether
8 title opinion or title insurance policy is available to the
9 buyer and, if so, at whose expense.

10 (23) The identity of the developer and the chief
11 operating officer or principal directing the creation and sale
12 of the condominium and a statement of its and his or her
13 experience in this field.

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

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

18 (b) The articles of incorporation creating the
19 association.

20 (c) The bylaws of the association.

21 (d) The ground lease or other underlying lease of the
22 condominium.

23 (e) The management agreement and all maintenance and
24 other contracts for management of the association and
25 operation of the condominium and facilities used by the unit
26 owners having a service term in excess of 1 year.

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

29 (g) A copy of the floor plan of the unit and the plot
30 plan showing the location of the residential buildings and the
31 recreation and other common areas.

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

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

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

7 (k) A declaration of servitude of properties serving
8 the condominium but not owned by unit owners or leased to them
9 or the association.

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

13 (m) The statement of inspection for termite damage and
14 treatment of the existing improvements, if the condominium is
15 a conversion.

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

17 (o) A copy of the agreement for escrow of payments
18 made to the developer prior to closing.

19 (p) A copy of the documents containing any
20 restrictions on use of the property required by subsection
21 (16).

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

27 (26) A brief narrative description of the location and
28 effect of all existing and intended easements located or to be
29 located on the condominium property other than those described
30 in the declaration.

31

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

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

10 Section 77. Section 718.508, Florida Statutes, is
11 amended to read:

12 718.508 Regulation by Division of Hotels and
13 Restaurants.--In addition to the authority, regulation, or
14 control exercised by the Division of ~~Florida Land Sales,~~
15 Condominiums, Timeshare,and Mobile Homes pursuant to this act
16 with respect to condominiums, buildings included in a
17 condominium property shall be subject to the authority,
18 regulation, or control of the Division of Hotels and
19 Restaurants of the Department of Business and Professional
20 Regulation, to the extent provided for in chapter 399.

21 Section 78. Section 718.509, Florida Statutes, is
22 amended to read:

23 718.509 Division of ~~Florida Land Sales,~~Condominiums,
24 Timeshare,and Mobile Homes Trust Fund.--

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

29 (2) All funds collected by the division and any amount
30 paid for a fee or penalty under this chapter shall be
31 deposited in the State Treasury to the credit of the Division

1 of ~~Florida Land Sales~~, Condominiums, Timeshare, and Mobile
2 Homes Trust Fund created by s. 718.509 ~~498.019~~. The division
3 shall maintain separate revenue accounts in the trust fund for
4 each business regulated by the division, and shall provide for
5 the proportionate allocation among the accounts of expenses
6 incurred in the performance of its duties for each of these
7 businesses. As part of its normal budgetary process, the
8 division shall prepare an annual report of revenue and
9 allocated expenses related to the operation of each of these
10 businesses, which may be used to determine fees charged by the
11 division. The provisions of s. 215.20 apply to the trust fund.

12 Section 79. Paragraph (a) of subsection (2) of section
13 718.608, Florida Statutes, is amended to read:

14 718.608 Notice of intended conversion; time of
15 delivery; content.--

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

20

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

23 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION
24 OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
25 AGREEMENT AS FOLLOWS:

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

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

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

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

6 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45
7 DAYS, you may extend your rental agreement for up to 45 days
8 after the date of this notice while you decide whether to
9 extend your rental agreement as explained above. To do so,
10 you must notify the developer in writing. You will then have
11 the full 45 days to decide whether to extend your rental
12 agreement as explained above.

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

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

17 a. If your rental agreement began or was extended or
18 renewed after May 1, 1980, and your rental agreement,
19 including extensions and renewals, has an unexpired term of
20 180 days or less, you may cancel your rental agreement upon 30
21 days' written notice and move. Also, upon 30 days' written
22 notice, you may cancel any extension of the rental agreement.

23 b. If your rental agreement was not begun or was not
24 extended or renewed after May 1, 1980, you may not cancel the
25 rental agreement without the consent of the developer. If
26 your rental agreement, including extensions and renewals, has
27 an unexpired term of 180 days or less, you may, however, upon
28 30 days' written notice cancel any extension of the rental
29 agreement.

30 5. All notices must be given in writing and sent by
31 mail, return receipt requested, or delivered in person to the

1 developer at this address: ...(name and address of
2 developer)....

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

5 a. You have the right to purchase your apartment and
6 will have 45 days to decide whether to purchase. If you do
7 not buy the unit at that price and the unit is later offered
8 at a lower price, you will have the opportunity to buy the
9 unit at the lower price. However, in all events your right to
10 purchase the unit ends when the rental agreement or any
11 extension of the rental agreement ends or when you waive this
12 right in writing.

13 b. Within 90 days you will be provided purchase
14 information relating to your apartment, including the price of
15 your unit and the condition of the building. If you do not
16 receive this information within 90 days, your rental agreement
17 and any extension will be extended 1 day for each day over 90
18 days until you are given the purchase information. If you do
19 not want this rental agreement extension, you must notify the
20 developer in writing.

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

26 Section 80. Subsection (17) of section 719.103,
27 Florida Statutes, is amended to read:

28 719.103 Definitions.--As used in this chapter:

29 (17) "Division" means the Division of ~~Florida Land~~
30 ~~Sales~~, Condominiums, Timeshare, and Mobile Homes of the
31 Department of Business and Professional Regulation.

1 Section 81. Section 719.1255, Florida Statutes, is
2 amended to read:

3 719.1255 Alternative resolution of disputes.--The
4 ~~division of Florida Land Sales, Condominiums, and Mobile Homes~~
5 ~~of the Department of Business and Professional Regulation~~
6 shall provide for alternative dispute resolution in accordance
7 with s. 718.1255.

8 Section 82. Section 719.501, Florida Statutes, is
9 amended to read:

10 719.501 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 cooperative units. In performing its
21 duties, the division shall have the following powers and
22 duties:

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

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

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 failure by a person to
 12 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 a developer, association, officer, or member of the board, or
 22 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, or
 30 its assignees or agents, to cease and desist from the unlawful
 31 practice and take such affirmative action as in the judgment

1 of the division will carry out the purposes of this chapter.
2 Such affirmative action may include, but is not limited to, an
3 order requiring a developer to pay moneys determined to be
4 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 assignees or agents, 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 to this chapter, or a final order of the division.
15 The term "willfully and knowingly" means that the division
16 informed the officer or board member that his or her action or
17 intended action violates this chapter, a rule adopted under
18 this chapter, or a final order of the division, and that the
19 officer or board member refused to comply with the
20 requirements of this chapter, a rule adopted under this
21 chapter, or a final order of the division. The division, prior
22 to initiating formal agency action under chapter 120, shall
23 afford the officer or board member an opportunity to
24 voluntarily comply with this chapter, a rule adopted under
25 this chapter, or a final order of the division. An officer or
26 board member who complies within 10 days is not subject to a
27 civil penalty. A penalty may be imposed on the basis of each
28 day of continuing violation, but in no event shall the penalty
29 for any offense exceed \$5,000. By January 1, 1998, the
30 division shall adopt, by rule, penalty guidelines applicable
31 to possible violations or to categories of violations of this

1 chapter or rules adopted by the division. The guidelines must
2 specify a meaningful range of civil penalties for each such
3 violation of the statute and rules and must be based upon the
4 harm caused by the violation, the repetition of the violation,
5 and upon such other factors deemed relevant by the division.
6 For example, the division may consider whether the violations
7 were committed by a developer or owner-controlled association,
8 the 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 cooperative
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 shall 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 cooperatives 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 cooperative documents governing such
16 cooperative 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 cooperatives which were rendered by the division during the
27 previous year.

28 (j) The division shall adopt uniform accounting
29 principles, policies, and standards to be used by all
30 associations in the preparation and presentation of all
31 financial statements required by this chapter. The principles,

1 policies, and standards shall take into consideration the size
2 of the association and the total revenue collected by the
3 association.

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

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

8 (m) When a complaint is made to the division, the
9 division shall conduct its inquiry with reasonable dispatch
10 and with due regard to the interests of the affected parties.

11 Within 30 days after receipt of a complaint, the division
12 shall acknowledge the complaint in writing and notify the
13 complainant whether the complaint is within the jurisdiction
14 of the division and whether additional information is needed
15 by the division from the complainant. The division shall
16 conduct its investigation and shall, within 90 days after
17 receipt of the original complaint or timely requested
18 additional information, take action upon the complaint.

19 However, the failure to complete the investigation within 90
20 days does not prevent the division from continuing the
21 investigation, accepting or considering evidence obtained or
22 received after 90 days, or taking administrative action if
23 reasonable cause exists to believe that a violation of this
24 chapter or a rule of the division has occurred. If an
25 investigation is not completed within the time limits
26 established in this paragraph, the division shall, on a
27 monthly basis, notify the complainant in writing of the status
28 of the investigation. When reporting its action to the
29 complainant, the division shall inform the complainant of any
30 right to a hearing pursuant to ss. 120.569 and 120.57.

31

1 (n) The division shall develop a program to certify
2 both volunteer and paid mediators to provide mediation of
3 cooperative 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 voluntary mediators only persons who
8 have received at least 20 hours of training in mediation
9 techniques or have mediated at least 20 disputes. In order to
10 become initially certified by the division, paid mediators
11 must be certified by the Supreme Court to mediate court cases
12 in either county or circuit courts. However, the division may
13 adopt, by rule, additional factors for the certification of
14 paid mediators, which factors must be related to experience,
15 education, or background. Any person initially certified as a
16 paid mediator by the division must, in order to continue to be
17 certified, comply with the factors or requirements imposed by
18 rules adopted by the division.

19 (2)(a) Each cooperative association shall pay to the
20 division, on or before January 1 of each year, an annual fee
21 in the amount of \$4 for each residential unit in cooperatives
22 operated by the association. If the fee is not paid by March
23 1, then the association shall be assessed a penalty of 10
24 percent of the amount due, and the association shall not have
25 the standing to maintain or defend any action in the courts of
26 this state until the amount due is paid.

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

30 Section 83. Paragraph (a) of subsection (2) of section
31 719.502, Florida Statutes, is amended to read:

1 719.502 Filing prior to sale or lease.--

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

26 Section 84. Section 719.504, Florida Statutes, is
27 amended to read:

28 719.504 Prospectus or offering circular.--Every
29 developer of a residential cooperative which contains more
30 than 20 residential units, or which is part of a group of
31 residential cooperatives which will be served by property to

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

1 prospectus or offering circular must contain the following
2 information:

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

5 (a) The name of the cooperative.

6 (b) The following statements in conspicuous type:

7 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS
8 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE
9 UNIT.

10 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
11 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL
12 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND
13 SALES MATERIALS.

14 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS
15 CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER
16 TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR
17 CORRECT REPRESENTATIONS.

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

21 (3) A separate index of the contents and exhibits of
22 the prospectus.

23 (4) Beginning on the first page of the text (not
24 including the summary and index), a description of the
25 cooperative, including, but not limited to, the following
26 information:

27 (a) Its name and location.

28 (b) A description of the cooperative property,
29 including, without limitation:

30 1. The number of buildings, the number of units in
31 each building, the number of bathrooms and bedrooms in each

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

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

11 3. The estimated latest date of completion of
12 constructing, finishing, and equipping. In lieu of a date, a
13 statement that the estimated date of completion of the
14 cooperative is in the purchase agreement and a reference to
15 the article or paragraph containing that information.

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

25 (5)(a) A statement in conspicuous type describing
26 whether the cooperative is created and being sold as fee
27 simple interests or as leasehold interests. If the
28 cooperative is created or being sold on a leasehold, the
29 location of the lease in the disclosure materials shall be
30 stated.

31

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

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

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

10 (b) Each swimming pool, as to its general location,
11 approximate size and depths, approximate deck size and
12 capacity, and whether heated.

13 (c) Additional facilities, as to the number of each
14 facility, its approximate location, approximate size, and
15 approximate capacity.

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

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

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

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

31

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

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

18
19 Descriptions as to locations, areas, capacities, numbers,
20 volumes, or sizes may be stated as approximations or minimums.

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

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

29 (b) Facilities not committed to be built except under
30 certain conditions, and a statement of those conditions or
31 contingencies.

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

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

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

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

22
23 Descriptions shall include location, areas, capacities,
24 numbers, volumes, or sizes and may be stated as approximations
25 or minimums.

26 (8) Recreation lease or associated club membership:

27 (a) If any recreational facilities or other common
28 areas offered by the developer and available to, or to be used
29 by, unit owners are to be leased or have club membership
30 associated, the following statement in conspicuous type shall
31 be included: THERE IS A RECREATIONAL FACILITIES LEASE

1 ASSOCIATED WITH THIS COOPERATIVE; or, THERE IS A CLUB
2 MEMBERSHIP ASSOCIATED WITH THIS COOPERATIVE. There shall be a
3 reference to the location in the disclosure materials where
4 the recreation lease or club membership is described in
5 detail.

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

10 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
11 MANDATORY FOR UNIT OWNERS; or

12 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF
13 OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES
14 LEASE; or

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

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

22
23 Immediately following the applicable statement, the location
24 in the disclosure materials where the development is described
25 in detail shall be stated.

26 (c) If the developer, or any other person other than
27 the unit owners and other persons having use rights in the
28 facilities, reserves, or is entitled to receive, any rent,
29 fee, or other payment for the use of the facilities, then
30 there shall be the following statement in conspicuous type:
31 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND

1 USE FEES FOR RECREATIONAL OR OTHER COMMON AREAS. Immediately
2 following this statement, the location in the disclosure
3 materials where the rent or land use fees are described in
4 detail shall be stated.

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

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

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

21 Immediately following the applicable statement, the location
22 in the disclosure materials where the lien or lien right is
23 described in detail shall be stated.

24 (9) If the developer or any other person has the right
25 to increase or add to the recreational facilities at any time
26 after the establishment of the cooperative whose unit owners
27 have use rights therein, without the consent of the unit
28 owners or associations being required, there shall appear a
29 statement in conspicuous type in substantially the following
30 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT
31 CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately

1 following this statement, the location in the disclosure
2 materials where such reserved rights are described shall be
3 stated.

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

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

- 17 (a) The names of contracting parties.
18 (b) The term of the contract.
19 (c) The nature of the services included.
20 (d) The compensation, stated on a monthly and annual
21 basis, and provisions for increases in the compensation.
22 (e) A reference to the volumes and pages of the
23 cooperative documents and of the exhibits containing copies of
24 such contracts.

25
26 Copies of all described contracts shall be attached as
27 exhibits. If there is a contract for the management of the
28 cooperative property, then a statement in conspicuous type in
29 substantially the following form shall appear, identifying the
30 proposed or existing contract manager: **THERE IS (IS TO BE) A**
31 **CONTRACT FOR THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH**

1 (NAME OF THE CONTRACT MANAGER). Immediately following this
2 statement, the location in the disclosure materials of the
3 contract for management of the cooperative property shall be
4 stated.

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

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

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

27 (a) A statement in conspicuous type in substantially
28 the following form shall be included: THIS IS A PHASE
29 COOPERATIVE. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS
30 COOPERATIVE. Immediately following this statement, the
31

1 location in the disclosure materials where the phasing is
2 described shall be stated.

3 (b) A summary of the provisions of the declaration
4 providing for the phasing.

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

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

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

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

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

1 (16) A summary of the restrictions, if any, to be
2 imposed on units concerning the use of any of the cooperative
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 cooperative 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 (17) 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 cooperative. If any part of such land
15 will serve the cooperative, the statement shall describe the
16 land and the nature and term of service, and the cooperative
17 documents or other instrument creating such servitude shall be
18 included as an exhibit.

19 (18) 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 (19) An explanation of the manner in which the
24 apportionment of common expenses and ownership of the common
25 areas have been determined.

26 (20) An estimated operating budget for the cooperative
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 cooperative 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 assessments payable to the
6 association, payable by the unit owner to persons or entities
7 other than the association, and the total estimated monthly
8 and annual expense. There may be excluded from this estimate
9 expenses that are personal to unit owners, which are not
10 uniformly incurred by all unit owners, or which are not
11 provided for or contemplated by the cooperative documents,
12 including, but not limited to, the costs of private telephone;
13 maintenance of the interior of cooperative units, which is not
14 the obligation of the association; maid or janitorial services
15 privately contracted for by the unit owners; utility bills
16 billed directly to each unit owner for utility services to his
17 or her unit; insurance premiums other than those incurred for
18 policies obtained by the cooperative; and similar personal
19 expenses of the unit owner. A unit owner's estimated payments
20 for assessments shall also be stated in the estimated amounts
21 for the times when they will be due.

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

- 28 1. Expenses for the association and cooperative:
 - 29 a. Administration of the association.
 - 30 b. Management fees.
 - 31 c. Maintenance.

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

1 (23) Copies of the following, to the extent they are
2 applicable, shall be included as exhibits:

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

5 (b) The articles of incorporation creating the
6 association.

7 (c) The bylaws of the association.

8 (d) The ground lease or other underlying lease of the
9 cooperative.

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

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

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

19 (h) The lease of recreational and other facilities
20 that will be used only by unit owners of the subject
21 cooperative.

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

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

25 (k) A declaration of servitude of properties serving
26 the cooperative but not owned by unit owners or leased to them
27 or the association.

28 (l) The statement of condition of the existing
29 building or buildings, if the offering is of units in an
30 operation being converted to cooperative ownership.

31

1 (m) The statement of inspection for termite damage and
2 treatment of the existing improvements, if the cooperative is
3 a conversion.

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

5 (o) A copy of the agreement for escrow of payments
6 made to the developer prior to closing.

7 (p) A copy of the documents containing any
8 restrictions on use of the property required by subsection
9 (16).

10 (24) Any prospectus or offering circular complying
11 with the provisions of former ss. 711.69 and 711.802 may
12 continue to be used without amendment, or may be amended to
13 comply with the provisions of this chapter.

14 (25) A brief narrative description of the location and
15 effect of all existing and intended easements located or to be
16 located on the cooperative property other than those in the
17 declaration.

18 (26) If the developer is required by state or local
19 authorities to obtain acceptance or approval of any dock or
20 marina facility intended to serve the cooperative, a copy of
21 such acceptance or approval acquired by the time of filing
22 with the division pursuant to s. 719.502 or a statement that
23 such acceptance has not been acquired or received.

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

27 Section 85. Section 719.508, Florida Statutes, is
28 amended to read:

29 719.508 Regulation by Division of Hotels and
30 Restaurants.--In addition to the authority, regulation, or
31 control exercised by the Division of ~~Florida Land Sales,~~

1 Condominiums, Timeshare, and Mobile Homes pursuant to this act
2 with respect to cooperatives, buildings included in a
3 cooperative property shall be subject to the authority,
4 regulation, or control of the Division of Hotels and
5 Restaurants of the Department of Business and Professional
6 Regulation, to the extent provided for in chapters 399 and
7 509.

8 Section 86. Paragraph (a) of subsection (2) of section
9 719.608, Florida Statutes, is amended to read:

10 719.608 Notice of intended conversion; time of
11 delivery; content.--

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

16
17 These apartments are being converted to cooperative by
18 ...(name of developer)..., the developer.

19 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION
20 OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
21 AGREEMENT AS FOLLOWS:

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

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

30
31

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

4 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45
5 DAYS, you may extend your rental agreement for up to 45 days
6 after the date of this notice while you decide whether to
7 extend your rental agreement as explained above. To do so, you
8 must notify the developer in writing. You will then have the
9 full 45 days to decide whether to extend your rental agreement
10 as explained above.

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

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

15 a. If your rental agreement began or was extended or
16 renewed after May 1, 1980, and your rental agreement,
17 including extensions and renewals, has an unexpired term of
18 180 days or less, you may cancel your rental agreement upon 30
19 days' written notice and move. Also, upon 30 days' written
20 notice, you may cancel any extension of the rental agreement.

21 b. If your rental agreement was not begun or was not
22 extended or renewed after May 1, 1980, you may not cancel the
23 rental agreement without the consent of the developer. If
24 your rental agreement, including extensions and renewals, has
25 an unexpired term of 180 days or less, you may, however, upon
26 30 days' written notice cancel any extension of the rental
27 agreement.

28 5. All notices must be given in writing and sent by
29 mail, return receipt requested, or delivered in person to the
30 developer at this address: ...(name and address of
31 developer)....

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

3 a. You have the right to purchase your apartment and
4 will have 45 days to decide whether to purchase. If you do
5 not buy the unit at that price and the unit is later offered
6 at a lower price, you will have the opportunity to buy the
7 unit at the lower price. However, in all events your right to
8 purchase the unit ends when the rental agreement or any
9 extension of the rental agreement ends or when you waive this
10 right in writing.

11 b. Within 90 days you will be provided purchase
12 information relating to your apartment, including the price of
13 your unit and the condition of the building. If you do not
14 receive this information within 90 days, your rental agreement
15 and any extension will be extended 1 day for each day over 90
16 days until you are given the purchase information. If you do
17 not want this rental agreement extension, you must notify the
18 developer in writing.

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

24 Section 87. Subsection (10) of section 721.05, Florida
25 Statutes, is amended to read:

26 721.05 Definitions.--As used in this chapter, the
27 term:

28 (10) "Division" means the Division of ~~Florida Land~~
29 ~~Sales, Condominiums, Timeshare, and Mobile Homes~~ of the
30 Department of Business and Professional Regulation.
31

1 Section 88. Paragraph (d) of subsection (2) of section
2 721.07, Florida Statutes, is amended to read:

3 721.07 Public offering statement.--Prior to offering
4 any timeshare plan, the developer must submit a registered
5 public offering statement to the division for approval as
6 prescribed by s. 721.03, s. 721.55, or this section. Until
7 the division approves such filing, any contract regarding the
8 sale of that timeshare plan is voidable by the purchaser.

9 (2)

10 (d) A developer shall have the authority to deliver to
11 purchasers any purchaser public offering statement that is not
12 yet approved by the division, provided that the following
13 shall apply:

14 1. At the time the developer delivers an unapproved
15 purchaser public offering statement to a purchaser pursuant to
16 this paragraph, the developer shall deliver a fully completed
17 and executed copy of the purchase contract required by s.
18 721.06 that contains the following statement in conspicuous
19 type in substantially the following form which shall replace
20 the statements required by s. 721.06(1)(g):

21
22 The developer is delivering to you a public offering statement
23 that has been filed with but not yet approved by the Division
24 of ~~Florida Land Sales~~, Condominiums, Timeshare, and Mobile
25 Homes. Any revisions to the unapproved public offering
26 statement you have received must be delivered to you, but only
27 if the revisions materially alter or modify the offering in a
28 manner adverse to you. After the division approves the public
29 offering statement, you will receive notice of the approval
30 from the developer and the required revisions, if any.

31

1 Your statutory right to cancel this transaction without any
2 penalty or obligation expires 10 calendar days after the date
3 you signed your purchase contract or 10 calendar days after
4 you receive revisions required to be delivered to you, if any,
5 whichever is later.

6
7 2. After receipt of approval from the division and
8 prior to closing, if any revisions made to the documents
9 contained in the purchaser public offering statement
10 materially alter or modify the offering in a manner adverse to
11 a purchaser, the developer shall send the purchaser such
12 revisions together with a notice containing a statement in
13 conspicuous type in substantially the following form:

14
15 The unapproved public offering statement previously delivered
16 to you, together with the enclosed revisions, has been
17 approved by the Division of ~~Florida Land Sales~~, Condominiums,
18 Timeshare, and Mobile Homes. Accordingly, your cancellation
19 right expires 10 calendar days after you sign your purchase
20 contract or 10 calendar days after you receive these
21 revisions, whichever is later. If you have any questions
22 regarding your cancellation rights, you may contact the
23 division at [insert division's current address].

24
25 3. After receipt of approval from the division and
26 prior to closing, if no revisions have been made to the
27 documents contained in the unapproved purchaser public
28 offering statement, or if such revisions do not materially
29 alter or modify the offering in a manner adverse to a
30 purchaser, the developer shall send the purchaser a notice

31

1 containing a statement in conspicuous type in substantially
 2 the following form:

3
 4 The unapproved public offering statement previously delivered
 5 to you has been approved by the Division of ~~Florida Land~~
 6 ~~Sales~~, Condominiums, Timeshare, and Mobile Homes. Revisions
 7 made to the unapproved public offering statement, if any, are
 8 either not required to be delivered to you or are not deemed
 9 by the developer, in its opinion, to materially alter or
 10 modify the offering in a manner that is adverse to you.
 11 Accordingly, your cancellation right expired 10 days after you
 12 signed your purchase contract. A complete copy of the approved
 13 public offering statement is available through the managing
 14 entity for inspection as part of the books and records of the
 15 plan. If you have any questions regarding your cancellation
 16 rights, you may contact the division at [insert division's
 17 current address].

18 Section 89. Subsection (8) of section 721.08, Florida
 19 Statutes, is amended to read:

20 721.08 Escrow accounts; nondisturbance instruments;
 21 alternate security arrangements; transfer of legal title.--

22 (8) An escrow agent holding escrowed funds pursuant to
 23 this chapter that have not been claimed for a period of 5
 24 years after the date of deposit shall make at least one
 25 reasonable attempt to deliver such unclaimed funds to the
 26 purchaser who submitted such funds to escrow. In making such
 27 attempt, an escrow agent is entitled to rely on a purchaser's
 28 last known address as set forth in the books and records of
 29 the escrow agent and is not required to conduct any further
 30 search for the purchaser. If an escrow agent's attempt to
 31 deliver unclaimed funds to any purchaser is unsuccessful, the

1 escrow agent may deliver such unclaimed funds to the division
2 and the division shall deposit such unclaimed funds in the
3 Division of ~~Florida Land Sales~~, Condominiums, Timeshare, and
4 Mobile Homes Trust Fund, 30 days after giving notice in a
5 publication of general circulation in the county in which the
6 timeshare property containing the purchaser's timeshare
7 interest is located. The purchaser may claim the same at any
8 time prior to the delivery of such funds to the division.
9 After delivery of such funds to the division, the purchaser
10 shall have no more rights to the unclaimed funds. The escrow
11 agent shall not be liable for any claims from any party
12 arising out of the escrow agent's delivery of the unclaimed
13 funds to the division pursuant to this section.

14 Section 90. Section 721.26, Florida Statutes, is
15 amended to read:

16 721.26 Regulation by division.--The division has the
17 power to enforce and ensure compliance with the provisions of
18 this chapter, except for parts III and IV, using the powers
19 provided in this chapter, as well as the powers prescribed in
20 chapters 498, 718, and 719. In performing its duties, the
21 division shall have the following powers and duties:

22 (1) To aid in the enforcement of this chapter, or any
23 division rule or order promulgated or issued pursuant to this
24 chapter, the division may make necessary public or private
25 investigations within or outside this state to determine
26 whether any person has violated or is about to violate this
27 chapter, or any division rule or order promulgated or issued
28 pursuant to this chapter.

29 (2) The division may require or permit any person to
30 file a written statement under oath or otherwise, as the
31

1 division determines, as to the facts and circumstances
2 concerning a matter under investigation.

3 (3) For the purpose of any investigation under this
4 chapter, the director of the division or any officer or
5 employee designated by the director may administer oaths or
6 affirmations, subpoena witnesses and compel their attendance,
7 take evidence, and require the production of any matter which
8 is relevant to the investigation, including the identity,
9 existence, description, nature, custody, condition, and
10 location of any books, documents, or other tangible things and
11 the identity and location of persons having knowledge of
12 relevant facts or any other matter reasonably calculated to
13 lead to the discovery of material evidence. Failure to obey a
14 subpoena or to answer questions propounded by the
15 investigating officer and upon reasonable notice to all
16 persons affected thereby shall be a violation of this chapter.
17 In addition to the other enforcement powers authorized in this
18 subsection, the division may, at its discretion, apply to the
19 circuit court for an order compelling compliance.

20 (4) The division may prepare and disseminate a
21 prospectus and other information to assist prospective
22 purchasers, sellers, and managing entities of timeshare plans
23 in assessing the rights, privileges, and duties pertaining
24 thereto.

25 (5) Notwithstanding any remedies available to
26 purchasers, if the division has reasonable cause to believe
27 that a violation of this chapter, or of any division rule or
28 order promulgated or issued pursuant to this chapter, has
29 occurred, the division may institute enforcement proceedings
30 in its own name against any regulated party, as such term is
31 defined in this subsection:

1 (a)1. "Regulated party," for purposes of this section,
2 means any developer, exchange company, seller, managing
3 entity, association, association director, association
4 officer, manager, management firm, escrow agent, trustee, any
5 respective assignees or agents, or any other person having
6 duties or obligations pursuant to this chapter.

7 2. Any person who materially participates in any offer
8 or disposition of any interest in, or the management or
9 operation of, a timeshare plan in violation of this chapter or
10 relevant rules involving fraud, deception, false pretenses,
11 misrepresentation, or false advertising or the disbursement,
12 concealment, or diversion of any funds or assets, which
13 conduct adversely affects the interests of a purchaser, and
14 which person directly or indirectly controls a regulated party
15 or is a general partner, officer, director, agent, or employee
16 of such regulated party, shall be jointly and severally liable
17 under this subsection with such regulated party, unless such
18 person did not know, and in the exercise of reasonable care
19 could not have known, of the existence of the facts giving
20 rise to the violation of this chapter. A right of
21 contribution shall exist among jointly and severally liable
22 persons pursuant to this paragraph.

23 (b) The division may permit any person whose conduct
24 or actions may be under investigation to waive formal
25 proceedings and enter into a consent proceeding whereby an
26 order, rule, or letter of censure or warning, whether formal
27 or informal, may be entered against that person.

28 (c) The division may issue an order requiring a
29 regulated party to cease and desist from an unlawful practice
30 under this chapter and take such affirmative action as in the
31

1 judgment of the division will carry out the purposes of this
2 chapter.

3 (d)1. The division may bring an action in circuit
4 court for declaratory or injunctive relief or for other
5 appropriate relief, including restitution.

6 2. The division shall have broad authority and
7 discretion to petition the circuit court to appoint a receiver
8 with respect to any managing entity which fails to perform its
9 duties and obligations under this chapter with respect to the
10 operation of a timeshare plan. The circumstances giving rise
11 to an appropriate petition for receivership under this
12 subparagraph include, but are not limited to:

13 a. Damage to or destruction of any of the
14 accommodations or facilities of a timeshare plan, where the
15 managing entity has failed to repair or reconstruct same.

16 b. A breach of fiduciary duty by the managing entity,
17 including, but not limited to, undisclosed self-dealing or
18 failure to timely assess, collect, or disburse the common
19 expenses of the timeshare plan.

20 c. Failure of the managing entity to operate the
21 timeshare plan in accordance with the timeshare instrument and
22 this chapter.

23

24 If, under the circumstances, it appears that the events giving
25 rise to the petition for receivership cannot be reasonably and
26 timely corrected in a cost-effective manner consistent with
27 the timeshare instrument, the receiver may petition the
28 circuit court to implement such amendments or revisions to the
29 timeshare instrument as may be necessary to enable the
30 managing entity to resume effective operation of the timeshare
31 plan, or to enter an order terminating the timeshare plan, or

1 to enter such further orders regarding the disposition of the
2 timeshare property as the court deems appropriate, including
3 the disposition and sale of the timeshare property held by the
4 association or the purchasers. In the event of a receiver's
5 sale, all rights, title, and interest held by the association
6 or any purchaser shall be extinguished and title shall vest in
7 the buyer. This provision applies to timeshare estates and
8 timeshare licenses. All reasonable costs and fees of the
9 receiver relating to the receivership shall become common
10 expenses of the timeshare plan upon order of the court.

11 3. The division may revoke its approval of any filing
12 for any timeshare plan for which a petition for receivership
13 has been filed pursuant to this paragraph.

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

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

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

31

1 (f) In order to permit the regulated party an
2 opportunity either to appeal such decision administratively or
3 to seek relief in a court of competent jurisdiction, the order
4 imposing the penalty or the cease and desist order shall not
5 become effective until 20 days after the date of such order.

6 (g) Any action commenced by the division shall be
7 brought in the county in which the division has its executive
8 offices or in the county where the violation occurred.

9 (h) Notice to any regulated party shall be complete
10 when delivered by United States mail, return receipt
11 requested, to the party's address currently on file with the
12 division or to such other address at which the division is
13 able to locate the party. Every regulated party has an
14 affirmative duty to notify the division of any change of
15 address at least 5 business days prior to such change.

16 (6) The division has authority to adopt rules pursuant
17 to ss. 120.536(1) and 120.54 to implement and enforce the
18 provisions of this chapter.

19 (7)(a) The use of any unfair or deceptive act or
20 practice by any person in connection with the sales or other
21 operations of an exchange program or timeshare plan is a
22 violation of this chapter.

23 (b) Any violation of the Florida Deceptive and Unfair
24 Trade Practices Act, ss. 501.201 et seq., relating to the
25 creation, promotion, sale, operation, or management of any
26 timeshare plan shall also be a violation of this chapter.

27 (c) The division is authorized to institute
28 proceedings against any such person and take any appropriate
29 action authorized in this section in connection therewith,
30 notwithstanding any remedies available to purchasers.

31

1 (8) The failure of any person to comply with any order
2 of the division is a violation of this chapter.

3 Section 91. Section 721.28, Florida Statutes, is
4 amended to read:

5 721.28 Division of ~~Florida Land Sales~~, Condominiums,
6 Timeshare, and Mobile Homes Trust Fund.--All funds collected
7 by the division and any amounts paid as fees or penalties
8 under this chapter shall be deposited in the State Treasury to
9 the credit of the Division of ~~Florida Land Sales~~,
10 Condominiums, Timeshare, and Mobile Homes Trust Fund created
11 by s. 718.509 ~~498.019~~.

12 Section 92. Paragraph (c) of subsection (1) of section
13 721.301, Florida Statutes, is amended to read:

14 721.301 Florida Timesharing, Vacation Club, and
15 Hospitality Program.--

16 (1)

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

25 Section 93. Section 721.50, Florida Statutes, is
26 amended to read:

27 721.50 Short title.--This part may be cited as the
28 "McAllister Act" in recognition and appreciation for the years
29 of extraordinary and insightful contributions by Mr. Bryan C.
30 McAllister, Examinations Supervisor, former Division of
31 Florida Land Sales, Condominiums, and Mobile Homes.

1 Section 94. Subsection (10) of section 721.82, Florida
2 Statutes, is amended to read:

3 721.82 Definitions.--As used in this part, the term:

4 (10) "Registered agent" means an agent duly appointed
5 ~~by the obligor~~ under s. 721.84 for the purpose of accepting
6 all notices and service of process under this part for the
7 obligor. A registered agent may be an individual resident in
8 this state whose business office qualifies as a registered
9 office, or a domestic or foreign corporation or a
10 not-for-profit corporation as defined in chapter 617
11 authorized to transact business or to conduct its affairs in
12 this state, whose business office qualifies as a registered
13 office. A registered agent for any obligor may not be the
14 lienholder or the attorney for the lienholder.

15 Section 95. Subsection (5) of section 721.84, Florida
16 Statutes, is amended, present subsections (6) and (7) are
17 renumbered as subsections (9) and (10), respectively, and new
18 subsections (6), (7), and (8) are added to that section, to
19 read:

20 721.84 Appointment of a registered agent; duties.--

21 (5) A registered agent may resign his or her agency
22 appointment for any obligor for which he or she serves as
23 registered agent, provided that:

24 (a) The resigning registered agent executes a written
25 statement of resignation that identifies himself or herself
26 and the street address of his or her registered office, and
27 identifies the obligors affected by his or her resignation;

28 (b)1. A successor registered agent is appointed by the
29 resigning registered agent and such successor registered agent
30 executes an acceptance of appointment as successor registered
31

1 agent and satisfies all of the requirements of subsection (1);
2 ~~or~~;

3 2. The registered agent provides 120 days' prior
4 written notice to the mortgagee as to the mortgage lien and to
5 the owners' association of the timeshare plan as to the
6 assessment lien of its intent to deliver the statement of
7 resignation. Prior to the effective date of termination of the
8 resigning registered agent's agency and registered office, a
9 ~~The resigning registered agent may designate the successor~~
10 ~~registered agent; however, if the resigning registered agent~~
11 ~~fails to designate a successor registered agent or the~~
12 ~~designated successor registered agent fails to accept, the~~
13 successor registered agent for the affected obligors may be
14 designated by the mortgagee as to the mortgage lien and by the
15 owners' association of the timeshare plan as to the assessment
16 lien; and

17 (c)1. If a successor registered agent is appointed
18 under subparagraph (b)1., copies of the statement of
19 resignation and acceptance of appointment as successor
20 registered agent are promptly mailed to the affected obligors
21 at the obligors' last designated address shown on the records
22 of the resigning registered agent and to the affected
23 lienholders; or;

24 2. If a resigning registered agent has previously
25 provided notice under subparagraph (b)2., a copy of the
26 statement of resignation is promptly mailed to the affected
27 obligors at the obligor's last designated address shown on the
28 records of the resigning registered agent and a copy of the
29 statement of resignation and a list of the obligors' last
30 designated addresses shown on the records of the resigning
31

1 registered agent are promptly mailed to the affected
 2 lienholders.

3 (6) If a successor registered agent is appointed under
 4 subparagraph (5)(b)1., the agency and registered office of the
 5 resigning registered agent are terminated and the agency and
 6 registered office of the successor registered agent are
 7 effective as of the 10th day after the date on which the
 8 statement of resignation and acceptance of appointment as
 9 successor registered agent are received by the lienholder,
 10 unless a longer period is provided in the statement of
 11 resignation and acceptance of appointment as successor
 12 registered agent.

13 (7) If a resigning registered agent has previously
 14 provided notice under subparagraph (5)(b)2. and a successor
 15 registered agent is not designated or the designated successor
 16 registered agent fails to accept the appointment as registered
 17 agent, the agency and registered office of the resigning
 18 registered agent are terminated effective as of the 10th day
 19 after the date on which the statement of resignation and list
 20 of obligors required by subparagraph (5)(c)2. are received by
 21 the lienholder, unless a longer period is provided in the
 22 statement of resignation. After the effective date of the
 23 termination of the agency and registered office of the
 24 resigning registered agent, if no successor registered agent
 25 exists, the affected lienholders must mail any notice or
 26 document required to be delivered by a lienholder to the
 27 obligor by first class mail if the obligor's address is within
 28 the United States, and by international air mail if the
 29 obligor's address is outside the United States, with postage
 30 fees prepaid to the obligor at the obligor's last designated
 31 address as shown on the records of the resigning registered

1 agent. If such notice or document requires service of process
2 on persons outside the United States, such service of process
3 shall be accomplished by any internationally agreed means
4 reasonably calculated to give notice. Whenever no successor
5 registered agent exists, a successor registered agent for the
6 affected obligors may be designated by the mortgagee as to the
7 mortgage lien and by the owners' association of the timeshare
8 plan as to the assessment lien.

9 (8) If a successor registered agent is appointed under
10 subparagraph (5)(b)2. or under subsection (7), copies of the
11 acceptance of appointment as successor registered agent must
12 be promptly mailed, by the mortgagee as to a registered agent
13 appointed by the mortgagee as to the mortgage lien, and by the
14 owners' association of the timeshare plan as to the assessment
15 lien, to the affected obligors at the obligor's last address
16 shown on the records of the resigning registered agent. The
17 agency and registered office of the successor registered agent
18 are effective as of the date provided in the acceptance of
19 appointment.

20 Section 96. Subsection (1) of section 723.003, Florida
21 Statutes, is amended to read:

22 723.003 Definitions.--As used in this chapter, the
23 following words and terms have the following meanings unless
24 clearly indicated otherwise:

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

28 Section 97. Paragraph (e) of subsection (5) of section
29 723.006, Florida Statutes, is amended to read:

30 723.006 Powers and duties of division.--In performing
31 its duties, the division has the following powers and duties:

1 (5) Notwithstanding any remedies available to mobile
2 home owners, mobile home park owners, and homeowners'
3 associations, if the division has reasonable cause to believe
4 that a violation of any provision of this chapter or any rule
5 promulgated pursuant hereto has occurred, the division may
6 institute enforcement proceedings in its own name against a
7 developer, mobile home park owner, or homeowners' association,
8 or its assignee or agent, as follows:

9 (e)1. The division may impose a civil penalty against
10 a mobile home park owner or homeowners' association, or its
11 assignee or agent, for any violation of this chapter, a
12 properly promulgated park rule or regulation, or a rule or
13 regulation promulgated pursuant hereto. A penalty may be
14 imposed on the basis of each separate violation and, if the
15 violation is a continuing one, for each day of continuing
16 violation, but in no event may the penalty for each separate
17 violation or for each day of continuing violation exceed
18 \$5,000. All amounts collected shall be deposited with the
19 Treasurer to the credit of the Division of ~~Florida Land Sales,~~
20 Condominiums, Timeshare, and Mobile Homes Trust Fund.

21 2. If a violator fails to pay the civil penalty, the
22 division shall thereupon issue an order directing that such
23 violator cease and desist from further violation until such
24 time as the civil penalty is paid or may pursue enforcement of
25 the penalty in a court of competent jurisdiction. If a
26 homeowners' association fails to pay the civil penalty, the
27 division shall thereupon pursue enforcement in a court of
28 competent jurisdiction, and the order imposing the civil
29 penalty or the cease and desist order shall not become
30 effective until 20 days after the date of such order. Any
31 action commenced by the division shall be brought in the

1 county in which the division has its executive offices or in
2 which the violation occurred.

3 Section 98. Section 723.0065, Florida Statutes, is
4 amended to read:

5 723.0065 Public records exemption; findings.--The
6 Legislature, in narrowing the existing public records
7 exemption pursuant to s. 1, chapter 94-78, Laws of Florida,
8 finds that a public necessity exists to keep confidential and
9 retain the public records exemption for financial records of
10 mobile home park owners acquired by the division ~~of Florida~~
11 ~~Land Sales, Condominiums, and Mobile Homes~~ when performing its
12 duties under the Florida Mobile Home Act unless the mobile
13 home park owner has violated the provisions of this chapter.
14 In that case, only those financial records that are
15 specifically relevant to the finding of violation should be
16 released. If it were otherwise, the division would encounter
17 difficulties in procuring such proprietary information which
18 would impede the effective and efficient performance of the
19 division's public duties. Additionally, release of such
20 proprietary information would harm the business interests of
21 innocent mobile home park owners to the advantage of
22 competitors and potential purchasers. Effective monitoring of
23 the division's performance of its duties can be conducted
24 without access to these records, and these records are
25 otherwise available pursuant to a civil complaint as
26 envisioned by the act. Accordingly, the public good served by
27 access to financial records of a mobile home park owner who
28 has not violated the provisions of this chapter is outweighed
29 by the interference with division investigations and the
30 private harm that could be caused by allowing such access.

31

1 Section 99. Section 723.009, Florida Statutes, is
2 amended to read:

3 723.009 Division of ~~Florida Land Sales~~, Condominiums,
4 Timeshare, and Mobile Homes Trust Fund.--All proceeds from the
5 fees, penalties, and fines imposed pursuant to this chapter
6 shall be deposited into the Division of ~~Florida Land Sales~~,
7 Condominiums, Timeshare, and Mobile Homes Trust Fund created
8 by s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated
9 by the Legislature pursuant to chapter 216, may be used to
10 defray the expenses incurred by the division in administering
11 the provisions of this chapter.

12 Section 100. Subsection (2) of section 73.073, Florida
13 Statutes, is amended to read:

14 73.073 Eminent domain procedure with respect to
15 condominium common elements.--

16 (2) With respect to the exercise of eminent domain or
17 a negotiated sale for the purchase or taking of a portion of
18 the common elements of a condominium, the condemning authority
19 shall have the responsibility of contacting the condominium
20 association and acquiring the most recent rolls indicating the
21 names of the unit owners or contacting the appropriate taxing
22 authority to obtain the names of the owners of record on the
23 tax rolls. Notification shall thereupon be sent by certified
24 mail, return receipt requested, to the unit owners of record
25 of the condominium units by the condemning authority
26 indicating the intent to purchase or take the required
27 property and requesting a response from the unit owner. The
28 condemning authority shall be responsible for the expense of
29 sending notification pursuant to this section. Such notice
30 shall, at a minimum, include:

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

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

2 (c) The public purpose for which the property is
3 needed.

4 (d) The appraisal value of the property.

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

8 (f) A clear, concise statement relating to the power
9 of the association to convey the property on behalf of the
10 unit owners if no objection to the taking or appraisal value
11 is raised, and the effects of this alternative on the unit
12 owner.

13

14 The Division of ~~Florida Land Sales~~, Condominiums, Timeshare,
15 and Mobile Homes of the Department of Business and
16 Professional Regulation may adopt, by rule, a standard form
17 for such notice and may require the notice to include any
18 additional relevant information.

19 Section 101. Paragraph (e) of subsection (6) of
20 section 192.037, Florida Statutes, is amended to read:

21 192.037 Fee timeshare real property; taxes and
22 assessments; escrow.--

23 (6)

24 (e) On or before May 1 of each year, a statement of
25 receipts and disbursements of the escrow account must be filed
26 with the Division of ~~Florida Land Sales~~, Condominiums,
27 Timeshare, and Mobile Homes of the Department of Business and
28 Professional Regulation, which may enforce this paragraph
29 pursuant to s. 721.26. This statement must appropriately show
30 the amount of principal and interest in such account.

31

1 Section 102. Paragraph (i) of subsection (7) of
2 section 213.053, Florida Statutes, is amended to read:

3 213.053 Confidentiality and information sharing.--

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

6 (i) Information relative to chapters 212 and 326 to
7 the ~~Division of Florida Land Sales, Condominiums, and Mobile~~
8 ~~Homes of the~~ Department of Business and Professional
9 Regulation in the conduct of its official duties.

10
11 Disclosure of information under this subsection shall be
12 pursuant to a written agreement between the executive director
13 and the agency. Such agencies, governmental or
14 nongovernmental, shall be bound by the same requirements of
15 confidentiality as the Department of Revenue. Breach of
16 confidentiality is a misdemeanor of the first degree,
17 punishable as provided by s. 775.082 or s. 775.083.

18 Section 103. Paragraph (w) of subsection (4) of
19 section 215.20, Florida Statutes, is amended to read:

20 215.20 Certain income and certain trust funds to
21 contribute to the General Revenue Fund.--

22 (4) The income of a revenue nature deposited in the
23 following described trust funds, by whatever name designated,
24 is that from which the deductions authorized by subsection (3)
25 shall be made:

26 (w) The Division of ~~Florida Land Sales, Condominiums,~~
27 Timeshare, and Mobile Homes Trust Fund established pursuant to
28 s. 718.509 ~~498.019~~.

29
30 The enumeration of the foregoing moneys or trust funds shall
31 not prohibit the applicability thereto of s. 215.24 should the

1 Governor determine that for the reasons mentioned in s. 215.24
2 the money or trust funds should be exempt herefrom, as it is
3 the purpose of this law to exempt income from its force and
4 effect when, by the operation of this law, federal matching
5 funds or contributions or private grants to any trust fund
6 would be lost to the state.

7 Section 104. Paragraph (a) of subsection (4) of
8 section 380.0651, Florida Statutes, is amended to read:

9 380.0651 Statewide guidelines and standards.--

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

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

18 1.a. The same person has retained or shared control of
19 the developments;

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

22 c. There is common management of the developments
23 controlling the form of physical development or disposition of
24 parcels of the development.

25 2. There is a reasonable closeness in time between the
26 completion of 80 percent or less of one development and the
27 submission to a governmental agency of a master plan or series
28 of plans or drawings for the other development which is
29 indicative of a common development effort.

30 3. A master plan or series of plans or drawings exists
31 covering the developments sought to be aggregated which have

1 been submitted to a local general-purpose government, water
2 management district, the Florida Department of Environmental
3 Protection, or the Division of ~~Florida Land Sales,~~
4 Condominiums, Timeshare, and Mobile Homes for authorization to
5 commence development. The existence or implementation of a
6 utility's master utility plan required by the Public Service
7 Commission or general-purpose local government or a master
8 drainage plan shall not be the sole determinant of the
9 existence of a master plan.

10 4. The voluntary sharing of infrastructure that is
11 indicative of a common development effort or is designated
12 specifically to accommodate the developments sought to be
13 aggregated, except that which was implemented because it was
14 required by a local general-purpose government; water
15 management district; the Department of Environmental
16 Protection; the Division of ~~Florida Land Sales,~~ Condominiums,
17 Timeshare, and Mobile Homes; or the Public Service Commission.

18 5. There is a common advertising scheme or promotional
19 plan in effect for the developments sought to be aggregated.

20 Section 105. Subsection (5) of section 455.116,
21 Florida Statutes, is amended to read:

22 455.116 Regulation trust funds.--The following trust
23 funds shall be placed in the department:

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

26 Section 106. Section 475.455, Florida Statutes, is
27 amended to read:

28 475.455 Exchange of disciplinary information.--The
29 commission shall inform the Division of ~~Florida Land Sales,~~
30 Condominiums, Timeshare, and Mobile Homes of the Department of
31 Business and Professional Regulation of any disciplinary

1 action the commission has taken against any of its licensees.
2 The division shall inform the commission of any disciplinary
3 action the division has taken against any broker or
4 salesperson registered with the division.

5 Section 107. Section 509.512, Florida Statutes, is
6 amended to read:

7 509.512 Timeshare plan developer and exchange company
8 exemption.--Sections 509.501-509.511 do not apply to a
9 developer of a timeshare plan or an exchange company approved
10 by the Division of ~~Florida Land Sales, Condominiums,~~
11 Timeshare, and Mobile Homes pursuant to chapter 721, but only
12 to the extent that the developer or exchange company engages
13 in conduct regulated under chapter 721.

14 Section 108. Subsection (1) of section 559.935,
15 Florida Statutes, is amended to read:

16 559.935 Exemptions.--

17 (1) This part does not apply to:

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

20 (b) Any direct common carrier of passengers or
21 property regulated by an agency of the Federal Government or
22 employees of such carrier when engaged solely in the
23 transportation business of the carrier as identified in the
24 carrier's certificate;

25 (c) An intrastate common carrier of passengers or
26 property selling only transportation as defined in the
27 applicable state or local registration or certification, or
28 employees of such carrier when engaged solely in the
29 transportation business of the carrier;

30 (d) Hotels, motels, or other places of public
31 accommodation selling public accommodations, or employees of

1 such hotels, motels, or other places of public accommodation,
2 when engaged solely in making arrangements for lodging,
3 accommodations, or sightseeing tours within the state, or
4 taking reservations for the traveler with times, dates,
5 locations, and accommodations certain at the time the
6 reservations are made, provided that hotels and motels
7 registered with the Department of Business and Professional
8 Regulation pursuant to chapter 509 are excluded from the
9 provisions of this chapter;

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

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

14 (g) Persons who make travel arrangements for
15 themselves; for their employees or agents; for distributors,
16 franchisees, or dealers of the persons' products or services;
17 for entities which are financially related to the persons; or
18 for the employees or agents of the distributor, franchisee, or
19 dealer or financially related entity;

20 (h) A developer of a timeshare plan or an exchange
21 company approved by the Division of ~~Florida Land Sales,~~
22 Condominiums, Timeshare, and Mobile Homes pursuant to chapter
23 721, but only to the extent that the developer or exchange
24 company engages in conduct regulated under chapter 721; or

25 (i) Persons or entities engaged solely in offering
26 diving services, including classes and sales or rentals of
27 equipment, when engaged in making any prearranged
28 travel-related or tourist-related services in conjunction with
29 a primarily dive-related event.

30 Section 109. Effective July 1, 2001, subsection (2) of
31 section 468.452, Florida Statutes, is amended to read:

1 468.452 Definitions.--For purposes of this part, the
2 term:

3 (2) "Athlete agent" means a person who, directly or
4 indirectly, recruits or solicits a student athlete to enter
5 into an agent contract, or who, for any type of financial
6 gain, procures, offers, promises, or attempts to obtain
7 employment or promotional fees or benefits for a student
8 athlete with a professional sports team or as a professional
9 athlete, or with any promoter who markets or attempts to
10 market the student athlete's athletic ability or athletic
11 reputation. This term includes all employees and other persons
12 acting on behalf of an athlete agent who participate in the
13 activities included under this subsection. The term does not
14 include a spouse, parent, sibling, grandparent, or guardian of
15 the student-athlete or an individual acting solely on behalf
16 of a professional sports team or professional sports
17 organization.

18 Section 110. Effective July 1, 2001, section 468.453,
19 Florida Statutes, is amended to read:

20 468.453 Licensure required; qualifications;
21 examination; bond; exception; license nontransferable.--

22 (1) Any person who practices as an athlete agent in
23 this state must be licensed pursuant to this part.

24 (2) A person shall be licensed as an athlete agent if
25 the applicant:

26 (a) Is at least 18 years of age.

27 (b) Is of good moral character.

28 ~~(c) Passes an examination provided by the department~~
29 ~~which tests the applicant's proficiency to practice as an~~
30 ~~athlete agent, including, but not limited to, knowledge of the~~
31

1 ~~laws and rules of this state relating to athlete agents, this~~
2 ~~part, and chapter 455.~~

3 (c)~~(d)~~ Has completed the application form and remitted
4 an application fee not to exceed \$500, ~~an examination fee not~~
5 ~~to exceed the actual cost for the examination plus \$500,~~an
6 active licensure fee not to exceed \$2,000, and all other
7 applicable fees provided for in this part or in chapter 455.

8 (d)~~(e)~~ Has submitted to the department a fingerprint
9 card for a criminal history records check. The fingerprint
10 card shall be forwarded to the Division of Criminal Justice
11 Information Systems within the Department of Law Enforcement
12 for purposes of processing the fingerprint card to determine
13 if the applicant has a criminal history record. The
14 fingerprint card shall also be forwarded to the Federal Bureau
15 of Investigation for purposes of processing the fingerprint
16 card to determine if the applicant has a criminal history
17 record. The information obtained by the processing of the
18 fingerprint card by the Florida Department of Law Enforcement
19 and the Federal Bureau of Investigation shall be sent to the
20 department for the purpose of determining if the applicant is
21 statutorily qualified for licensure.

22 (e)~~(f)~~ Has not in any jurisdiction, within the
23 preceding 5 years, been convicted or found guilty of or
24 entered a plea of nolo contendere for, regardless of
25 adjudication, a crime which relates to the applicant's
26 practice or ability to practice as an athlete agent.

27 ~~(g)~~ Has posted with the department a ~~\$15,000 surety~~
28 ~~bond issued by an insurance company authorized to do business~~
29 ~~in this state. The bond shall be in favor of the State of~~
30 ~~Florida, Department of Business and Professional Regulation,~~
31 ~~for the use and benefit of any student athlete or college or~~

1 ~~university within Florida who or which is injured or damaged,~~
 2 ~~including reasonable costs and attorney's fees, as a result of~~
 3 ~~acts or omissions by the athlete agent pursuant to a license~~
 4 ~~issued under this part. The bond shall be written in the form~~
 5 ~~determined by the department. The bond shall provide that the~~
 6 ~~athlete agent is responsible for the acts or omissions of any~~
 7 ~~representatives acting under the athlete agent's supervision~~
 8 ~~or authority. The bond shall be in effect for and cover all~~
 9 ~~times that the athlete agent has an active license and~~
 10 ~~conducts business pursuant to that license in this or any~~
 11 ~~other state.~~

12 (3) An unlicensed individual may act as an athlete
 13 agent if:

14 (a) A student-athlete or person acting on the
 15 athlete's behalf initiates communication with the individual;
 16 and

17 (b) Within 7 days after an initial act as an athlete
 18 agent, the individual submits an application for licensure.
 19 ~~Members of The Florida Bar are exempt from the state laws and~~
 20 ~~rules component, and the fee for such, of the examination~~
 21 ~~required by this section.~~

22 (4) A license issued to an athlete agent is not
 23 transferable.

24 (5) By acting as an athlete agent in this state, a
 25 nonresident individual appoints the department as the
 26 individual's agent for service of process in any civil action
 27 related to the individual's acting as an athlete agent.

28 (6) The department may issue a temporary license while
 29 an application for licensure is pending. If the department
 30 issues a notice of intent to deny the license application, the
 31

1 initial temporary license expires and may not be extended
2 during any proceeding or administrative or judicial review.

3 (7)(a) An individual who has submitted an application
4 and holds a certificate, registration or license as an athlete
5 agent in another state may submit a copy of the application
6 and certificate, registration or license from the other state
7 in lieu of submitting an application in the form prescribed
8 pursuant to this section. The department shall accept the
9 application and the certificate from the other state as an
10 application for registration in this state if the application
11 in the other state:

12 1. Was submitted in the other state within 6 months
13 next preceding the submission of the application in this state
14 and the applicant certifies that the information contained in
15 the application is current;

16 2. Contains information substantially similar to or
17 more comprehensive than that required in an application
18 submitted in this state; and

19 3. Was signed by the applicant under penalty of
20 perjury.

21 (b) An applicant applying under this subsection must
22 meet all other requirements for licensure as provided by this
23 part.

24 Section 111. Effective July 1, 2001, section 468.454,
25 Florida Statutes, is amended to read:

26 468.454 Contracts.--

27 (1) An agent contract must be in a record, signed, or
28 otherwise authenticated by the parties.

29 (2) An agent contract must state:

30 (a) The amount and method of calculating the
31 consideration to be paid by the student-athlete for services

1 to be provided by the athlete agent and any other
2 consideration the agent has received or will receive from any
3 other source under the contract;

4 (b) The name of any person not listed in the licensure
5 application who will be compensated because the
6 student-athlete signed the agent contract;

7 (c) A description of any expenses that the
8 student-athlete agrees to reimburse;

9 (d) A description of the services to be provided to
10 the student-athlete;

11 (e) The duration of the contract; and

12 (f) The date of execution.

13 (3) An agent contract must contain, in close proximity
14 to the signature of the student-athlete, a conspicuous notice
15 in boldface type in capital letters stating:

16
17 WARNING TO STUDENT-ATHLETE

18
19 IF YOU SIGN THE CONTRACT:

20 1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS
21 A STUDENT-ATHLETE IN YOUR SPORT;

22 2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72
23 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND
24 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
25 DIRECTOR; AND

26 3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS
27 AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS
28 CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

29
30 (4) An agent contract that does not conform to this
31 section is voidable by the student-athlete. If a

1 student-athlete voids an agent contract, the student-athlete
2 is not required to pay any consideration or return any
3 consideration received from the athlete agent to induce the
4 student-athlete to enter into the contract.

5 (5) The athlete agent shall give a record of the
6 signed or authenticated agent contract to the student-athlete
7 at the time of execution.

8 (6) Within 72 hours after entering into an agent
9 contract or before the next scheduled athletic event in which
10 the student-athlete may participate, whichever occurs first,
11 the athlete agent must give notice in a record of the
12 existence of the contract to the athletic director of the
13 educational institution at which the student-athlete is
14 enrolled or the athlete agent has reasonable grounds to
15 believe the student-athlete intends to enroll.

16 (7) Within 72 hours after entering into an agent
17 contract or before the next athletic event in which the
18 student-athlete may participate, whichever occurs first, the
19 student-athlete must inform the athletic director of the
20 educational institution at which the student-athlete is
21 enrolled that he or she has entered into an agent contract.

22 (8) A student-athlete may cancel an agent contract by
23 giving notice of the cancellation to the athlete agent in a
24 record within 14 days after the contract is signed.

25 (9) A student-athlete may not waive the right to
26 cancel an agent contract.

27 (10) If a student-athlete cancels an agent contract,
28 the student-athlete is not required to pay any consideration
29 or return any consideration received from the athlete agent to
30 induce the student-athlete to enter into the contract.

31

1 ~~(1) An athlete agent and a student athlete who enter~~
2 ~~into an agent contract must provide written notice of the~~
3 ~~contract to the athletic director or the president of the~~
4 ~~college or university in which the student athlete is~~
5 ~~enrolled. The athlete agent and the student must give the~~
6 ~~notice before the contracting student athlete practices or~~
7 ~~participates in any intercollegiate athletic event or within~~
8 ~~72 hours after entering into said contract, whichever comes~~
9 ~~first. Failure of the athlete agent to provide this~~
10 ~~notification is a felony of the third degree, punishable as~~
11 ~~provided in ss. 775.082, 775.083, 775.084, 775.089, and~~
12 ~~775.091.~~

13 ~~(2) A written contract between a student athlete and~~
14 ~~an athlete agent must state the fees and percentages to be~~
15 ~~paid by the student athlete to the agent and must have a~~
16 ~~notice printed near the student athlete's signature containing~~
17 ~~the following statement in 10-point boldfaced type:~~

18 ~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS~~
19 ~~CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO~~
20 ~~COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL~~
21 ~~PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED~~
22 ~~INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF~~
23 ~~YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO~~
24 ~~THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE~~
25 ~~ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS~~
26 ~~NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL~~
27 ~~YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY~~
28 ~~CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING~~
29 ~~OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE~~
30 ~~DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS~~
31 ~~CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR~~

1 ~~CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT~~
2 ~~RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE~~
3 ~~ATHLETICS."~~

4 ~~(3) An agent contract which does not meet the~~
5 ~~requirements of this section is void and unenforceable.~~

6 ~~(4) Within 15 days after the date the athletic~~
7 ~~director or president of the college or university of the~~
8 ~~student athlete receives the notice required by this section~~
9 ~~that a student athlete has entered into an athlete agent~~
10 ~~contract, the student athlete shall have the right to rescind~~
11 ~~the contract with the athlete agent by giving written notice~~
12 ~~to the athlete agent of the student athlete's rescission of~~
13 ~~the contract. The student athlete may not under any~~
14 ~~circumstances waive the student athlete's right to rescind the~~
15 ~~agent contract.~~

16 ~~(5) A postdated agent contract is void and~~
17 ~~unenforceable.~~

18 (11)~~(6)~~ An athlete agent shall not enter into an agent
19 contract that purports to or takes effect at a future time
20 after the student athlete no longer has remaining eligibility
21 to participate in intercollegiate athletics. Such a contract
22 is void and unenforceable.

23 (12)~~(7)~~ An agent contract between a student athlete
24 and a person not licensed under this part is void and
25 unenforceable.

26 Section 112. Effective July 1, 2001, subsection (3) of
27 section 468.456, Florida Statutes, is amended to read:

28 468.456 Prohibited acts.--

29 (3) When the department finds any person guilty of any
30 of the prohibited acts set forth in subsection (1), the
31 department may enter an order imposing one or more of the

1 penalties provided for in s. 455.227, and an administrative
2 fine not to exceed \$25,000 for each separate offense. In
3 addition to any other penalties or disciplinary actions
4 provided for in this part, the department shall suspend or
5 revoke the license of any athlete agent licensed under this
6 part who violates paragraph (1)(f) or paragraph (1)(o) or s.
7 468.45615.

8 Section 113. Effective July 1, 2001, subsection (4) is
9 added to section 468.45615, Florida Statutes, to read:

10 468.45615 Provision of illegal inducements to athletes
11 prohibited; penalties; license suspension.--

12 (4)(a) An athlete agent, with the intent to induce a
13 student-athlete to enter into an agent contract, may not:

14 1. Give any materially false or misleading information
15 or make a materially false promise or representation;

16 2. Furnish anything of value to a student-athlete
17 before the student-athlete enters into the agent contract; or

18 3. Furnish anything of value to any individual other
19 than the student-athlete or another athlete agent.

20 (b) An athlete agent may not intentionally:

21 1. Initiate contact with a student-athlete unless
22 licensed under this part;

23 2. Refuse or fail to retain or permit inspection of
24 the records required to be retained by s. 468.4565;

25 3. Provide materially false or misleading information
26 in an application for licensure;

27 4. Predate or postdate an agent contract;

28 5. Fail to give notice of the existence of an agent
29 contract as required by s. 468.454(6); or

30 6. Fail to notify a student-athlete before the
31 student-athlete signs or otherwise authenticates an agent

1 contract for a sport that the signing or authentication may
2 make the student-athlete ineligible to participate as a
3 student-athlete in that sport.

4 (c) An athlete agent who violates this subsection
5 commits a felony of the second degree, punishable as provided
6 in s. 775.082, s. 775.083, or s. 775.084.

7 Section 114. Effective July 1, 2001, section 468.4562,
8 Florida Statutes, is amended to read:

9 468.4562 Civil action by institution.--

10 (1) A college or university may sue for damages, as
11 provided by this section, any person who violates this part.
12 A college or university may seek equitable relief to prevent
13 or minimize harm arising from acts or omissions which are or
14 would be a violation of this part.

15 (2) For purposes of this section, a college or
16 university is damaged if, because of activities of the person,
17 the college or university is penalized,~~or is~~ disqualified,~~or~~
18 suspended from participation in intercollegiate athletics by a
19 national association for the promotion and regulation of
20 intercollegiate athletics,~~or~~ by an intercollegiate athletic
21 conference or by reasonable self-imposed disciplinary action
22 taken to mitigate sanctions likely to be imposed by such
23 organization and, because of that penalty, disqualification,
24 ~~or~~ suspension, or action the institution:

25 (a) Loses revenue from media coverage of a sports
26 contest;

27 (b) Loses the right to grant an athletic scholarship;

28 (c) Loses the right to recruit an athlete;

29 (d) Is prohibited from participating in postseason
30 athletic competition;

31 (e) Forfeits an athletic contest; or

1 (f) Otherwise suffers an adverse financial impact.

2 (3) An institution that prevails in a suit brought
3 under this section may recover:

4 (a) Actual damages;

5 (b) Punitive damages;

6 (c) Treble damages;

7 (d) Court costs; and

8 (e) Reasonable attorney's fees.

9 (4) A right of action under this section does not
10 accrue until the educational institution discovers or by the
11 exercise of reasonable diligence would have discovered the
12 violation by the athlete agent or former student-athlete.

13 (5) Any liability of the athlete agent or the former
14 student-athlete under this section is several and not joint.

15 (6) This part does not restrict rights, remedies, or
16 defenses of any person under law or equity.

17 Section 115. Effective July 1, 2001, subsection (1) of
18 section 468.4565, Florida Statutes, is amended to read:

19 468.4565 Business records requirement.--

20 (1) An athlete agent ~~who holds an active license and~~
21 ~~engages in business as an athlete agent~~ shall establish and
22 maintain complete financial and business records. The athlete
23 agent shall save each entry into a financial or business
24 record for at least 5 ~~4~~ years from the date of entry. These
25 records must include, but shall not be limited to:

26 (a) The name and address of each individual
27 represented by the athlete agent;

28 (b) Any agent contract entered into by the athlete
29 agent; and

30
31

1 (c) Any direct costs incurred by the athlete agent in
2 the recruitment or solicitation of a student-athlete to enter
3 into an agent contract.

4 Section 116. Effective July 1, 2001, sections 468.4563
5 and 468.4564, Florida Statutes, are repealed.

6 Section 117. Section 702.09, Florida Statutes, is
7 amended to read:

8 702.09 Definitions.--For the purposes of ss. 702.07
9 and 702.08 the words "decree of foreclosure" shall include a
10 judgment or order rendered or passed in the foreclosure
11 proceedings in which the decree of foreclosure shall be
12 rescinded, vacated, and set aside; the word "mortgage" shall
13 mean any written instrument securing the payment of money or
14 advances and shall include liens to secure payment of
15 assessments arising under chapters 718, 719, and 720; the word
16 "debt" shall include promissory notes, bonds, and all other
17 written obligations given for the payment of money; the words
18 "foreclosure proceedings" shall embrace every action in the
19 circuit or county courts of this state wherein it is sought to
20 foreclose a mortgage and sell the property covered by the
21 same; and the word "property" shall mean and include both real
22 and personal property.

23 Section 118. Paragraph (h) of subsection (4) and
24 subsection (5) of section 718.104, Florida Statutes, are
25 amended to read:

26 718.104 Creation of condominiums; contents of
27 declaration.--Every condominium created in this state shall be
28 created pursuant to this chapter.

29 (4) The declaration must contain or provide for the
30 following matters:

31

1 (h) If a developer reserves the right, in a
 2 declaration recorded on or after July 1, 2000, to create a
 3 multicondominium, the declaration must state, or provide a
 4 specific formula for determining, the fractional or percentage
 5 shares of liability for the common expenses of the association
 6 and of ownership of the common surplus of the association to
 7 be allocated to the units in each condominium to be operated
 8 by the association. If a the declaration recorded on or after
 9 July 1, 2000, for a condominium operated by a multicondominium
 10 association, as originally recorded, fails to so provide, the
 11 share of liability for the common expenses of the association
 12 and of ownership of the common surplus of the association
 13 allocated to each unit in each condominium operated by the
 14 association shall be a fraction of the whole, the numerator of
 15 which is the number "one" and the denominator of which is the
 16 total number of units in all condominiums operated by the
 17 association.

18 (5) The declaration as originally recorded, or as
 19 amended pursuant to the procedures provided therein, may
 20 include covenants and restrictions concerning the use,
 21 occupancy, and transfer of the units permitted by law with
 22 reference to real property. With the exception of amendments
 23 that materially modify unit appurtenances as provided in s.
 24 718.110(4), amendments may be applied to owners of units
 25 existing as of the effective date of the amendment. This
 26 section is intended to clarify existing law and applies to
 27 associations existing on the effective date of this act.
 28 However, the rule against perpetuities shall not defeat a
 29 right given any person or entity by the declaration for the
 30 purpose of allowing unit owners to retain reasonable control
 31 over the use, occupancy, and transfer of units.

1 Section 119. Paragraph (b) of subsection (2) of
2 section 718.106, Florida Statutes, is amended to read:

3 718.106 Condominium parcels; appurtenances; possession
4 and enjoyment.--

5 (2) There shall pass with a unit, as appurtenances
6 thereto:

7 (b) The exclusive right to use such portion of the
8 common elements as may be provided by the declaration,
9 including the right to transfer such right to other units or
10 unit owners to the extent authorized by the declaration as
11 originally recorded, or amendments to the declaration adopted
12 pursuant to the provisions contained therein under s.
13 718.110(2). Amendments to declarations of condominium
14 providing for the transfer of use rights with respect to
15 limited common elements are not amendments which materially
16 modify unit appurtenances as described in s. 718.110(4).
17 However, in order to be effective, the transfer of use rights
18 with respect to limited common elements must be effectuated in
19 conformity with the procedures set forth in the declaration as
20 originally recorded or as amended. Further, such transfers
21 must be evidenced by a written instrument which must be
22 executed with the formalities of a deed and recorded in the
23 land records of the county in which the condominium is located
24 in order to be effective. Such instrument of transfer must
25 also specify the legal description of the unit which is
26 transferring use rights, as well as the legal description of
27 the unit obtaining the transfer of such rights. This section
28 is intended to clarify existing law and applies to
29 associations existing on the effective date of this act.

30 Section 120. Subsection (4) of section 718.110,
31 Florida Statutes, is amended to read:

1 718.110 Amendment of declaration; correction of error
 2 or omission in declaration by circuit court.--
 3 (4) Unless otherwise provided in the declaration as
 4 originally recorded, no amendment may change the configuration
 5 or size of any unit in any material fashion, materially alter
 6 or modify the appurtenances to the unit, or change the
 7 proportion or percentage by which the unit owner shares the
 8 common expenses of the condominium and owns the common surplus
 9 of the condominium unless the record owner of the unit and all
 10 record owners of liens on the unit join in the execution of
 11 the amendment and unless all the record owners of all other
 12 units in the same condominium approve the amendment. The
 13 acquisition of property by the association, and material
 14 alterations or substantial additions to such property or the
 15 common elements by the association in accordance with s.
 16 718.111(7) or s. 718.113, amendments providing for the
 17 transfer of use rights in limited common elements pursuant to
 18 s. 718.106(2)(b), and amendments restricting or modifying the
 19 right to lease condominium units shall not be deemed to
 20 constitute a material alteration or modification of the
 21 appurtenances to the units. With the exception of amendments
 22 that materially modify unit appurtenances as provided in this
 23 section, amendments may be applied to owners of units existing
 24 as of the effective date of the amendment. This section is
 25 intended to clarify existing law and applies to associations
 26 existing on the effective date of this act.A declaration
 27 recorded after April 1, 1992, may not require the approval of
 28 less than a majority of total voting interests of the
 29 condominium for amendments under this subsection, unless
 30 otherwise required by a governmental entity.
 31

1 Section 121. Subsection (4), paragraph (a) of
2 subsection (7), and subsection (13) of section 718.111,
3 Florida Statutes, are amended to read:

4 718.111 The association.--

5 (4) ASSESSMENTS; MANAGEMENT OF COMMON ELEMENTS.--The
6 association has the power to make and collect assessments and
7 to lease, maintain, repair, and replace the common elements or
8 association property; however, the association may not charge
9 a use fee against a unit owner for the use of common elements
10 or association property unless otherwise provided for in the
11 declaration of condominium or by a majority vote of the
12 association or unless the charges relate to ~~expenses incurred~~
13 ~~by~~ an owner having exclusive use of the common elements or
14 association property.

15 (7) TITLE TO PROPERTY.--

16 (a) The association has the power to acquire title to
17 property or otherwise hold, convey, lease, and mortgage
18 association property for the use and benefit of its members.
19 The power to acquire personal property shall be exercised by
20 the board of administration. Except as otherwise permitted in
21 subsections (8) and (9) and in s. 718.114, no association may
22 acquire, convey, ~~lease~~, or mortgage association real property
23 except in the manner provided in the declaration, and if the
24 declaration does not specify the procedure, then approval of
25 75 percent of the total voting interests shall be required.

26 (13) FINANCIAL REPORTING.--Within 90 days after the
27 end of the fiscal year, or annually on a date provided in the
28 bylaws, the association shall prepare and complete, or
29 contract for the preparation and completion of ~~cause to be~~
30 ~~prepared and completed by a third party~~, a financial report
31 for the preceding fiscal year. Within 21 days after the final

1 financial report is completed by the association or received
2 ~~by the association~~ from the third party, but in no event later
3 than 120 days after the end of the fiscal year, or such other
4 date as is provided in the bylaws,the association shall mail
5 to each unit owner at the address last furnished to the
6 association by the unit owner, or hand deliver to each unit
7 owner, a copy of the financial report or a notice that a copy
8 of the financial report will be mailed or hand delivered to
9 the unit owner, without charge, upon receipt of a written
10 request from the unit owner. The division shall adopt rules
11 setting forth uniform accounting principles and standards to
12 be used by all associations and shall adopt rules addressing
13 financial reporting requirements for multicondominium
14 associations. In adopting such rules, the division shall
15 consider the number of members and annual revenues of an
16 association. Financial reports shall be prepared as follows:
17 (a) An association that meets the criteria of this
18 paragraph shall prepare or cause to be prepared a complete set
19 of financial statements in accordance with generally accepted
20 accounting principles. The financial statements shall be
21 based upon the association's total annual revenues, as
22 follows:
23 1. An association with total annual revenues of
24 \$100,000 or more, but less than \$200,000, shall prepare
25 compiled financial statements.
26 2. An association with total annual revenues of at
27 least \$200,000, but less than \$400,000, shall prepare reviewed
28 financial statements.
29 3. An association with total annual revenues of
30 \$400,000 or more shall prepare audited financial statements.
31

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

4 2. An association which operates less than 50 units,
5 regardless of the association's annual revenues, shall prepare
6 a report of cash receipts and expenditures in lieu of
7 financial statements required by paragraph (a).

8 3. A report of cash receipts and disbursements must
9 disclose the amount of receipts by accounts and receipt
10 classifications and the amount of expenses by accounts and
11 expense classifications, including, but not limited to, the
12 following, as applicable: costs for security, professional and
13 management fees and expenses, taxes, costs for recreation
14 facilities, expenses for refuse collection and utility
15 services, expenses for lawn care, costs for building
16 maintenance and repair, insurance costs, administration and
17 salary expenses, and reserves accumulated and expended for
18 capital expenditures, deferred maintenance, and any other
19 category for which the association maintains reserves.

20 (c) An association may prepare or cause to be
21 prepared, without a meeting of or approval by the unit owners:

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

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

28 3. Audited financial statements if the association is
29 required to prepare reviewed financial statements.
30
31

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

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

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

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

12
13 Such meeting and approval must occur prior to the end of the
14 fiscal year and is effective only for the fiscal year in which
15 the vote is taken. With respect to an association to which the
16 developer has not turned over control of the association, all
17 unit owners, including the developer, may vote on issues
18 related to the preparation of financial reports for the first
19 2 fiscal years of the association's operation, beginning with
20 the fiscal year in which the declaration is recorded.

21 Thereafter, all unit owners except the developer may vote on
22 such issues until control is turned over to the association by
23 the developer.

24 Section 122. Subsection (3) of section 718.112,
25 Florida Statutes, is amended to read:

26 718.112 Bylaws.--

27 (3) OPTIONAL PROVISIONS.--The bylaws as originally
28 recorded, or as amended pursuant to the procedure provided
29 therein, may provide for the following:

30
31

1 (a) A method of adopting and amending administrative
2 rules and regulations governing the details of the operation
3 and use of the common elements.

4 (b) Restrictions on and requirements for the use,
5 maintenance, and appearance of the units and the use of the
6 common elements.

7 (c) Other provisions which are not inconsistent with
8 this chapter or with the declaration, as may be desired. This
9 subsection is intended to clarify existing law and applies to
10 associations existing on the effective date of this act.

11 Section 123. Subsection (2) of section 718.113,
12 Florida Statutes, is amended to read:

13 718.113 Maintenance; limitation upon improvement;
14 display of flag; hurricane shutters.--

15 (2)(a) Except as otherwise provided in this section,
16 there shall be no material alteration or substantial additions
17 to the common elements or to real property which is
18 association property, except in a manner provided in the
19 declaration as originally recorded or as amended pursuant to
20 the procedures provided therein. If the declaration as
21 originally recorded or amended does not specify the procedure
22 for approval of material alterations or substantial additions,
23 75 percent of the total voting interests of the association
24 must approve the alterations or additions. This paragraph is
25 intended to clarify existing law and applies to associations
26 existing on the effective date of this act.

27 (b) There shall not be any material alteration of, or
28 substantial addition to, the common elements of any
29 condominium operated by a multicondominium association unless
30 approved in the manner provided in the declaration of the
31 affected condominium or condominiums as originally recorded,

1 or as amended pursuant to the procedures provided therein. If
2 a declaration as originally recorded or amended does not
3 specify a procedure for approving such an alteration or
4 addition, the approval of 75 percent of the total voting
5 interests of each affected condominium is required. This
6 subsection does not prohibit a provision in any declaration,
7 articles of incorporation, or bylaws as originally recorded or
8 amended requiring the approval of unit owners in any
9 condominium operated by the same association or requiring
10 board approval before a material alteration or substantial
11 addition to the common elements is permitted. This paragraph
12 is intended to clarify existing law and applies to
13 associations existing on the effective date of this act.

14 (c) There shall not be any material alteration or
15 substantial addition made to association real property
16 operated by a multicondominium association, except as provided
17 in the declaration, articles of incorporation, or bylaws as
18 said documents are originally recorded or amended pursuant to
19 the procedures provided therein. If the declaration, articles
20 of incorporation, or bylaws do not specify the procedure for
21 approving an alteration or addition to association real
22 property, the approval of 75 percent of the total voting
23 interests of the association is required. This paragraph is
24 intended to clarify existing law and applies to associations
25 existing on the effective date of this act.

26 Section 124. Paragraphs (b) and (c) of subsection (1)
27 of section 718.115, Florida Statutes, are amended to read:

28 718.115 Common expenses and common surplus.--

29 (1)

30 (b) The common expenses of a condominium within a
31 multicondominium are the common expenses directly attributable

1 to the operation of that condominium. The common expenses of a
2 multicondominium association do not include the common
3 expenses directly attributable to the operation of any
4 specific condominium or condominiums within the
5 multicondominium. This paragraph is intended to clarify
6 existing law and applies to associations existing on the
7 effective date of this act.

8 (c) The common expenses of a multicondominium
9 association may include categories of expenses related to the
10 property or common elements within a specific condominium in
11 the multicondominium if such property or common elements are
12 areas in which all members of the multicondominium association
13 have use rights or from which all members receive tangible
14 economic benefits. Such common expenses of the association
15 shall be identified in the declaration or bylaws of each
16 condominium within the multicondominium association. This
17 paragraph is intended to clarify existing law and applies to
18 associations existing on the effective date of this act.

19 Section 125. Subsections (1) and (4) of section
20 718.405, Florida Statutes, are amended to read:

21 718.405 Multicondominiums; multicondominium
22 associations.--

23 (1) An association may operate more than one
24 condominium. For multicondominiums created on or after July 1,
25 2000,if the declaration for each condominium ~~to be~~ operated
26 by that association shall provide ~~provides~~ for participation
27 in a multicondominium, in conformity with this section, and
28 disclose ~~discloses~~ or describe ~~describes~~:

29 (a) The manner or formula by which the assets,
30 liabilities, common surplus, and common expenses of the
31 association will be apportioned among the units within the

1 condominiums operated by the association, in accordance with
2 s. 718.104(4)(g) or (h), as applicable.

3 (b) Whether unit owners in any other condominium, or
4 any other persons, will or may have the right to use
5 recreational areas or any other facilities or amenities that
6 are common elements of the condominium, and, if so, the
7 specific formula by which the other users will share the
8 common expenses related to those facilities or amenities.

9 (c) Recreational and other commonly used facilities or
10 amenities which the developer has committed to provide that
11 will be owned, leased by, or dedicated by a recorded plat to
12 the association but which are not included within any
13 condominium operated by the association. The developer may
14 reserve the right to add additional facilities or amenities if
15 the declaration and prospectus for each condominium to be
16 operated by the association contains the following statement
17 in conspicuous type and in substantially the following form:
18 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT
19 CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

20 (d) The voting rights of the unit owners in the
21 election of directors and in other multicondominium
22 association affairs when a vote of the owners is taken,
23 including, but not limited to, a statement as to whether each
24 unit owner will have a right to personally cast his or her own
25 vote in all matters voted upon.

26 (4) This section does not prevent or restrict the
27 formation of a multicondominium by the merger or consolidation
28 of two or more condominium associations. Mergers or
29 consolidations of associations shall be accomplished in
30 accordance with this chapter, the declarations of the
31 condominiums being merged or consolidated, and chapter 617.

1 Section 718.110(4) does not apply to amendments to
2 declarations necessary to effect a merger or consolidation.
3 This section is intended to clarify existing law and applies
4 to associations existing on the effective date of this act.

5 Section 126. Subsection (2) of section 718.503,
6 Florida Statutes, is amended to read:

7 718.503 Developer disclosure prior to sale;
8 nondeveloper unit owner disclosure prior to sale;
9 voidability.--

10 (2) NONDEVELOPER DISCLOSURE.--

11 (a) Each unit owner who is not a developer as defined
12 by this chapter shall comply with the provisions of this
13 subsection prior to the sale of his or her unit. Each
14 prospective purchaser who has entered into a contract for the
15 purchase of a condominium unit is entitled, at the seller's
16 expense, to a current copy of the declaration of condominium,
17 articles of incorporation of the association, bylaws, and
18 rules of the association, ~~as well as a copy of the question~~
19 ~~and answer sheet provided for by s. 718.504~~ and a copy of the
20 financial information required by s. 718.111.

21 (b) If a person licensed under part I of chapter 475
22 provides to or otherwise obtains for a prospective purchaser
23 the documents described in this subsection, the person is not
24 liable for any error or inaccuracy contained in the documents.

25 (c) Each contract entered into after July 1, 1992, for
26 the resale of a residential unit shall contain in conspicuous
27 type either:

28 1. A clause which states: THE BUYER HEREBY
29 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF
30 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF
31 THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, AND A COPY

1 OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION ~~AND THE~~
2 ~~QUESTION AND ANSWER SHEET~~ MORE THAN 3 DAYS, EXCLUDING
3 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF
4 THIS CONTRACT; or

5 2. A clause which states: THIS AGREEMENT IS VOIDABLE
6 BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION
7 TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND
8 LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT
9 BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE
10 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS,
11 ~~AND~~ RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT
12 YEAR-END FINANCIAL INFORMATION ~~AND QUESTION AND ANSWER SHEET~~
13 IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE
14 VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND
15 THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS,
16 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE
17 BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION,
18 BYLAWS, AND RULES, ~~AND QUESTION AND ANSWER SHEET~~ IF REQUESTED
19 IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL
20 TERMINATE AT CLOSING.

21
22 A contract that does not conform to the requirements of this
23 paragraph is voidable at the option of the purchaser prior to
24 closing.

25 Section 127. Subsection (15) of section 718.504,
26 Florida Statutes, is 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 (15) If a the condominium created on or after July 1,
5 2000, is or may become part of a multicondominium, the
6 following information must be provided:

7 (a) A statement in conspicuous type in substantially
8 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
9 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
10 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately
11 following this statement, the location in the prospectus or
12 offering circular and its exhibits where the multicondominium
13 aspects of the offering are described must be stated.

14 (b) A summary of the provisions in the declaration,
15 articles of incorporation, and bylaws which establish and
16 provide for the operation of the multicondominium, including a
17 statement as to whether unit owners in the condominium will
18 have the right to use recreational or other facilities located
19 or planned to be located in other condominiums operated by the
20 same association, and the manner of sharing the common
21 expenses related to such facilities.

22 (c) A statement of the minimum and maximum number of
23 condominiums, and the minimum and maximum number of units in
24 each of those condominiums, which will or may be operated by
25 the association, and the latest date by which the exact number
26 will be finally determined.

27 (d) A statement as to whether any of the condominiums
28 in the multicondominium may include units intended to be used
29 for nonresidential purposes and the purpose or purposes
30 permitted for such use.

31

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

4 Section 128. Except as otherwise expressly provided in
5 this act, this act shall take effect October 1, 2001.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31