

1 lieu of licensure; amending s. 468.386, F.S.;
2 revising fee authority and providing for local
3 regulation; amending s. 468.388, F.S.; revising
4 requirements for the conduct of auctions;
5 amending s. 468.389, F.S.; making violations a
6 deceptive and unfair trade practice; providing
7 penalties; amending s. 468.391, F.S.;
8 conforming penalty provisions; repealing ss.
9 468.384, 468.3855, 468.387, 468.392, 468.393,
10 468.394, 468.395, 468.396, 468.397, 468.398,
11 468.399, F.S.; abolishing the Florida Board of
12 Auctioneers; providing for the use of funds;
13 providing for the continuation of legal
14 proceedings; amending ss. 468.401, 468.402,
15 468.403, 468.404, 468.406, 468.407, 468.412,
16 468.413, 468.414, 468.415, F.S.; providing for
17 registration of talent agencies in lieu of
18 licensure; conforming provisions; providing for
19 remedies under the Unfair and Deceptive Trade
20 Practices Act; repealing ss. 468.405 and
21 468.408, F.S.; relating to qualifications of
22 talent agencies and bonding requirements;
23 amending s. 468.609, F.S.; authorizing direct
24 supervision by building direct supervision of
25 code administrators by telecommunications
26 devices in certain localities under specific
27 circumstances; amending s. 468.617, F.S.;
28 requiring the payment of costs for applicants
29 who fail to appear for scheduled examinations;
30 amending s. 469.001, F.S.; transferring the
31 regulation of asbestos abatement from the

1 Department of Business and Professional
2 Regulation to the Department of Environmental
3 Protection; amending s. 255.552, F.S.;
4 transferring the asbestos management program
5 from the Department of Labor and Employment
6 Security to the Department of Environmental
7 Protection; amending ss. 255.553, 255.5535,
8 255.555, 255.556, 255.557, 255.562, 255.563,
9 255.565, F.S.; conforming provisions; saving
10 existing rules and legal proceedings; amending
11 s. 470.002, F.S.; redefining the term
12 "department" to refer to the Department of
13 Banking and Finance and the term "board" to
14 refer to the Board of Funeral and Cemetery
15 Services; repealing s. 470.003, F.S., relating
16 to the Board of Funeral Directors and
17 Embalmers; redesignating s. 455.2226, F.S., as
18 s. 470.0205, F.S., relating to instruction on
19 human immunodeficiency virus and acquired
20 immune deficiency syndrome and amending to
21 conform; amending ss. 470.015, 470.018,
22 470.036, F.S., conforming provisions; saving
23 all related administrative rules; transferring
24 the regulation of funeral directing, embalming,
25 and direct disposition from the Department of
26 Business and Professional Regulation to the
27 Department of Banking and Finance; placing the
28 regulation under the Board of Funeral and
29 Cemetery Services; abolishing the Board of
30 Funeral Directors and Embalmers; amending s.
31 471.025, F.S.; allowing for more than one type

1 of seal to be used by professional engineers;
2 amending s. 476.034, F.S.; redefining the term
3 "board"; amending s. 476.054, F.S.; creating
4 the Board of Barbering and Cosmetology;
5 amending s. 476.064, F.S.; conforming
6 provisions; amending s. 477.013, F.S.; defining
7 the term "board"; repealing s. 477.015, F.S.,
8 relating to the Board of Cosmetology;
9 abolishing the Barbers' Board and the Board of
10 Cosmetology; providing savings clauses for
11 rules and legal actions; amending s. 477.019,
12 F.S.; eliminating a requirement for refresher
13 courses and examinations for failure to comply
14 with continuing education requirements;
15 amending s. 477.026, F.S.; providing authority
16 for registration renewal and delinquent fees;
17 amending s. 489.105, F.S.; redefining the term
18 "contractor"; amending s. 489.107, F.S.;
19 reducing the number of members on the
20 Construction Industry Licensing Board;
21 eliminating reference to divisions of the
22 board; relocating the offices of the board;
23 amending s. 489.113, F.S.; expanding permitted
24 scope of practice of a general, building, or
25 residential contractor regarding the
26 installation or repair of certain roofing
27 materials; creating s. 489.1135, F.S.;
28 providing for temporary certificates; amending
29 s. 489.115, F.S.; eliminating references to
30 divisions of the Construction Industry
31 Licensing Board; amending s. 489.507, F.S.;

1 reducing the number of members on the
2 Electrical Contractors' Licensing Board;
3 abolishing a joint committee; amending s.
4 489.511, F.S.; revising provisions relating to
5 licensure by endorsement; amending ss. 498.005,
6 498.019, 718.103, 718.501, 718.509, 719.103,
7 719.501, 721.05, 721.26, 721.28, 721.301,
8 723.003, 723.006, 723.09, F.S.; reassigning the
9 regulation of land sales from the Division of
10 Florida Land Sales, Condominiums, and Mobile
11 Homes to the Division of Real Estate; requiring
12 all funds collected by the department pursuant
13 to the regulation of land sales to be deposited
14 in the Professional Regulation Trust Fund;
15 renaming the Division of Florida Land Sales,
16 Condominiums, and Mobile Homes as the Division
17 of Condominiums, Timeshare, and Mobile Homes;
18 renaming the Division of Florida Land Sales,
19 Condominiums, and Mobile Homes Trust Fund as
20 the Division of Condominiums, Timeshare, and
21 Mobile Homes Trust Fund; conforming provisions;
22 repealing s. 718.1255, F.S., relating to
23 requirements governing the arbitration of
24 certain condominium and cooperative association
25 disputes; amending ss. 718.112, 718.501,
26 719.106, 719.501, F.S.; conforming provisions;
27 reducing fees paid by condominium and
28 cooperative associations; providing an
29 effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsections (4) and (6) of section 20.165,
2 Florida Statutes, are amended to read:

3 20.165 Department of Business and Professional
4 Regulation.--There is created a Department of Business and
5 Professional Regulation.

6 (4)(a) The following boards are established within the
7 Division of Professions:

8 1. Board of Architecture and Interior Design, created
9 under part I of chapter 481.

10 ~~2. Florida Board of Auctioneers, created under part VI~~
11 ~~of chapter 468.~~

12 2.3. Barbers' Board of Barbering and Cosmetology,
13 created under chapter 476.

14 ~~3.4. Florida Building Code Administrators and~~
15 ~~Inspectors Board, created under part XII of chapter 468.~~

16 ~~4.5. Construction Industry Licensing Board, created~~
17 ~~under part I of chapter 489.~~

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

19 5.7. Electrical Contractors' Licensing Board, created
20 under part II of chapter 489.

21 ~~6.8. Board of Employee Leasing Companies, created~~
22 ~~under part XI of chapter 468.~~

23 ~~9. Board of Funeral Directors and Embalmers, created~~
24 ~~under chapter 470.~~

25 ~~7.10. Board of Landscape Architecture, created under~~
26 ~~part II of chapter 481.~~

27 ~~8.11. Board of Pilot Commissioners, created under~~
28 ~~chapter 310.~~

29 9.12. Board of Professional Engineers, created under
30 chapter 471.

31

1 10.13. Board of Professional Geologists, created under
2 chapter 492.

3 11.14. Board of Professional Surveyors and Mappers,
4 created under chapter 472.

5 12.15. Board of Veterinary Medicine, created under
6 chapter 474.

7 (b) The following board and commission are established
8 within the Division of Real Estate:

9 1. Florida Real Estate Appraisal Board, created under
10 part II of chapter 475.

11 2. Florida Real Estate Commission, created under part
12 I of chapter 475.

13 (c) The following board is established within the
14 Division of Certified Public Accounting:

15 1. Board of Accountancy, created under chapter 473.

16 (6) Each board with ~~five or~~ more than seven members
17 shall have at least two consumer members who are not, and have
18 never been, members or practitioners of the profession
19 regulated by such board or of any closely related profession.
20 Each board with seven or fewer ~~than five~~ members shall have at
21 least one consumer member who is not, and has never been, a
22 member or practitioner of the profession regulated by such
23 board or of any closely related profession.

24 Section 2. Effective July 1, 2001, paragraphs (1) and
25 (m) of subsection (2) of section 110.205, Florida Statutes,
26 are amended to read:

27 110.205 Career service; exemptions.--

28 (2) EXEMPT POSITIONS.--The exempt positions which are
29 not covered by this part include the following, provided that
30 no position, except for positions established for a limited
31

1 period of time pursuant to paragraph (h), shall be exempted if
2 the position reports to a position in the career service:

3 (1) All assistant division director, deputy division
4 director, field office supervisor, and bureau chief positions
5 in any department, and those positions determined by the
6 department to have managerial responsibilities comparable to
7 such positions, which positions include, but are not limited
8 to, positions in the Department of Health, the Department of
9 Children and Family Services, and the Department of
10 Corrections that are assigned primary duties of serving as the
11 superintendent or assistant superintendent, or warden or
12 assistant warden, of an institution; positions in the
13 Department of Corrections that are assigned primary duties of
14 serving as the circuit administrator or deputy circuit
15 administrator; positions in the Department of Transportation
16 that are assigned primary duties of serving as regional toll
17 managers and managers of offices as defined in s.
18 20.23(3)(d)3. and (4)(d); positions in the Department of
19 Environmental Protection that are assigned the duty of an
20 Environmental Administrator or program administrator; those
21 positions described in s. 20.171 as included in the Senior
22 Management Service; and positions in the Department of Health
23 that are assigned the duties of Environmental Administrator,
24 Assistant County Health Department Director, and County Health
25 Department Financial Administrator. Unless otherwise fixed by
26 law, the department shall set the salary and benefits of these
27 positions in accordance with the rules established for the
28 Selected Exempt Service.

29 (m)1.a. In addition to those positions exempted by
30 other paragraphs of this subsection, each department head may
31 designate ~~a maximum of 20~~ policymaking, supervisory, or

1 managerial positions, as defined by the department and
2 approved by the Administration Commission, as being exempt
3 from the Career Service System. Career service employees who
4 occupy a position designated as a position in the Selected
5 Exempt Service under this paragraph shall have the right to
6 remain in the Career Service System by opting to serve in a
7 position not exempted by the employing agency. Unless
8 otherwise fixed by law, the department shall set the salary
9 and benefits of these positions in accordance with the rules
10 of the Selected Exempt Service; provided, however, that if the
11 agency head determines that the general counsel, chief Cabinet
12 aide, public information administrator or comparable position
13 for a Cabinet officer, inspector general, or legislative
14 affairs director has both policymaking and managerial
15 responsibilities and if the department determines that any
16 such position has both policymaking and managerial
17 responsibilities, the salary and benefits for each such
18 position shall be established by the department in accordance
19 with the rules of the Senior Management Service.

20 b. In addition, each department may designate one
21 additional position in the Senior Management Service if that
22 position reports directly to the agency head or to a position
23 in the Senior Management Service and if any additional costs
24 are absorbed from the existing budget of that department.

25 2. If otherwise exempt, employees of the Public
26 Employees Relations Commission, the Commission on Human
27 Relations, and the Unemployment Appeals Commission, upon the
28 certification of their respective commission heads, may be
29 provided for under this paragraph as members of the Senior
30 Management Service, if otherwise qualified. However, the
31 deputy general counsels of the Public Employees Relations

1 Commission shall be compensated as members of the Selected
2 Exempt Service.

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

5 326.002 Definitions.--As used in this chapter ~~ss.~~
6 ~~326.001-326.006~~, the term:

7 (1) "Broker" means a person who, for or in expectation
8 of compensation: sells, offers, or negotiates to sell; buys,
9 offers, or negotiates to buy; solicits or obtains listings of;
10 or negotiates the purchase, sale, or exchange of, yachts for
11 other persons.

12 (2) "Department" ~~"Division"~~ means the ~~Division of~~
13 ~~Florida Land Sales, Condominiums, and Mobile Homes of the~~
14 Department of Business and Professional Regulation.

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

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

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

23 Section 4. Section 326.003, Florida Statutes, is
24 amended to read:

25 326.003 Administration.--The department ~~division~~
26 shall:

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

29 (2) Adopt rules pursuant to ss. 120.536(1) and 120.54
30 necessary to administer this chapter ~~implement ss.~~

31

1 ~~326.001-326.006~~ and to classify brokers and salespersons and
2 regulate their activities.

3 (3) Enforce the provisions of this chapter ~~ss.~~
4 ~~326.001-326.006~~ against any person who operates as a broker or
5 salesperson without a license.

6 Section 5. Section 326.004, Florida Statutes, is
7 amended to read:

8 326.004 Licensing.--

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

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

16 (3) A license is not required for:

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

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

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

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

23 (e) A transaction involving the foreclosure of a
24 security interest in a yacht.

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

29 (5) The department ~~division~~ by rule shall establish
30 fees for application, initial licensing, biennial renewal, and
31 reinstatement of licenses in an amount not to exceed \$500.

1 The fees must be set in an amount that is adequate to
2 proportionately fund the expenses of the department ~~division~~
3 in ss. 326.001-326.006.

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

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

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

10 (c) Post the bond required by the Yacht and Ship
11 Brokers' Act.

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

14 (e) Furnish a full set of fingerprints taken within
15 the 6 months immediately preceding the submission of the
16 application.

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

19 (7)(a) Before any license may be issued to a yacht or
20 ship broker, he or she must deliver to the department ~~division~~
21 a good and sufficient surety bond or irrevocable letter of
22 credit, executed by the broker as principal, in the sum of
23 \$25,000.

24 (b) Surety bonds and irrevocable letters of credit
25 must be in a form to be approved by the department ~~division~~
26 and must be conditioned upon the broker complying with the
27 terms of any written contract made by such broker in
28 connection with the sale or exchange of any yacht or ship and
29 not violating any of the provisions of the Yacht and Ship
30 Brokers' Act in the conduct of the business for which he or
31 she is licensed. The bonds and letters of credit must be

1 delivered to the department ~~division~~ and in favor of any
2 person in a transaction who suffers any loss as a result of
3 any violation of the conditions in ss. 326.001-326.006. When
4 the department ~~division~~ determines that a person has incurred
5 a loss as a result of a violation of the Yacht and Ship
6 Brokers' Act, it shall notify the person in writing of the
7 existence of the bond or letter of credit. The bonds and
8 letters of credit must cover the license period, and a new
9 bond or letter of credit or a proper continuation certificate
10 must be delivered to the department ~~division~~ at the beginning
11 of each license period. However, the aggregate liability of
12 the surety in any one year may not exceed the sum of the bond
13 or, in the case of a letter of credit, the aggregate liability
14 of the issuing bank may not exceed the sum of the credit.

15 (c) Surety bonds must be executed by a surety company
16 authorized to do business in the state as surety, and
17 irrevocable letters of credit must be issued by a bank
18 authorized to do business in the state as a bank.

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

22
23 The security for a broker must remain on deposit for a period
24 of 1 year after he or she ceases to be a broker.

25 (8) A person may not be licensed as a broker unless he
26 or she has been a salesperson for at least 2 consecutive
27 years, and may not be licensed as a broker after October 1,
28 1990, unless he or she has been licensed as a salesperson for
29 at least 2 consecutive years.

30 (9) An applicant for a salesperson's license or its
31 renewal must deposit with the department ~~division~~ a bond or

1 equivalent securities in the sum of \$10,000 subject to the
2 conditions in subsection (7).

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

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

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

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

31

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

3 (b) Each salesperson's license must remain in the
4 possession of the employing broker until canceled or until the
5 salesperson leaves such employment. Immediately upon a
6 salesperson's withdrawal from the employment of a broker, the
7 broker must return the salesperson's license to the department
8 ~~division~~ for cancellation.

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

15 Section 6. Section 326.006, Florida Statutes, is
16 amended to read:

17 326.006 Powers and duties of department ~~division~~.--

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

20 (2) The department ~~may~~ ~~division~~ ~~has~~ ~~the~~ ~~power~~ ~~to~~
21 enforce and ensure compliance with the provisions of this
22 chapter and rules adopted under this chapter relating to the
23 sale and ownership of yachts and ships. In performing its
24 duties, the department ~~division~~ has the following powers and
25 duties:

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

1 (b) The department ~~division~~ may require or permit any
2 person to file a statement in writing, under oath or
3 otherwise, as the department ~~division~~ determines, as to the
4 facts and circumstances concerning a matter to be
5 investigated.

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

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

31

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

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

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

16 4. The department ~~division~~ may impose a civil penalty
17 against a broker or salesperson or any of his or her assignees
18 or agents, or against an unlicensed person or any of his or
19 her assignees or agents, for any violation of this chapter or
20 a rule adopted under this chapter. A penalty may be imposed
21 for each day of continuing violation, but in no event may the
22 penalty for any offense exceed \$10,000. All amounts collected
23 must be deposited with the Treasurer to the credit of the
24 Professional Regulation Division of Florida Land Sales,
25 ~~Condominiums, and Mobile Homes~~ Trust Fund. If a broker,
26 salesperson, or unlicensed person working for a broker, fails
27 to pay the civil penalty, the department ~~division~~ shall
28 thereupon issue an order suspending the broker's license until
29 such time as the civil penalty is paid or may pursue
30 enforcement of the penalty in a court of competent
31 jurisdiction. The order imposing the civil penalty or the

1 order of suspension may not become effective until 20 days
2 after the date of such order. Any action commenced by the
3 department ~~division~~ must be brought in the county in which the
4 department ~~division~~ has its executive offices or in the county
5 where the violation occurred.

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

8 1. Makes a substantial and intentional
9 misrepresentation, with respect to a transaction involving a
10 yacht, upon which any person has relied.

11 2. Makes a false warranty, with respect to a
12 transaction involving a yacht, of a character likely to
13 influence, persuade, or induce any person with whom business
14 is transacted.

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

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

21 5. Commingles the money or other property of his or
22 her principal with his or her own.

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

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

27 8. Violates any law governing the transactions
28 involving a yacht, including any provision relating to the
29 collection or payment of sales or use taxes.

30 9. Engages in acts that are evidence of a lack of good
31 moral character.

1 10. Is convicted of a felony.
2 (f) The department ~~division~~ may suspend or revoke the
3 license of a broker or salesperson who has:
4 1. Procured a license for himself or herself or
5 another by fraud, misrepresentation, falsification, or deceit.
6 2. Been found guilty of a felony or a crime of moral
7 turpitude.
8 3. Had a license or registration revoked, suspended,
9 or sanctioned in another state.
10 (3) All fees must be deposited in the Professional
11 Regulation ~~Division of Florida Land Sales, Condominiums, and~~
12 ~~Mobile Homes~~ Trust Fund as provided by law.
13 Section 7. The regulation of yacht and ship brokers
14 and salespersons is reassigned from the Division of Florida
15 Land Sales, Condominiums, and Mobile Homes to the Division of
16 Professions. All funds collected by the department pursuant to
17 the regulation of yacht and ship brokers and salespersons and
18 all funds in the account created within the Florida Land
19 Sales, Condominiums, and Mobile Homes Trust Fund for such
20 regulation shall be deposited in an account created within the
21 Professional Regulation Trust Fund for the same purpose.
22 Section 8. Effective July 1, 2001, subsection (1) of
23 section 455.213, Florida Statutes, is amended, and subsections
24 (11) and (12) are added to that section, to read:
25 455.213 General licensing provisions.--
26 (1) Any person desiring to be licensed shall apply to
27 the department in writing. The application for licensure shall
28 be made on a form prepared and furnished by the department and
29 include the applicant's social security number. All initial
30 licensure and licensure renewal forms must be adopted by
31 departmental rule. The application shall be supplemented as

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

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

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

30 Section 9. Section 468.381, Florida Statutes, is
31 amended to read:

1 468.381 Purpose.--The Legislature finds that
2 unqualified auctioneers and apprentices and unreliable auction
3 businesses present a significant threat to the public. It is
4 the intent of the Legislature to protect the public by
5 creating requirements and prohibitions relating to auctions
6 and remedies for violations ~~a board to regulate auctioneers,~~
7 ~~apprentices, and auction businesses~~ and by requiring a license
8 to operate.

9 Section 10. Section 468.382, Florida Statutes, is
10 amended to read:

11 468.382 Definitions.--As used in this act, the term:

12 (1) "Auction business" means a sole proprietorship,
13 partnership, or corporation which in the regular course of
14 business arranges, manages, sponsors, advertises, promotes, or
15 carries out auctions, employs auctioneers to conduct auctions
16 in its facilities, or uses or allows the use of its facilities
17 for auctions.

18 (2) "Auctioneer" means any person ~~licensed pursuant to~~
19 ~~this part~~ who conducts auctions in this state ~~holds a valid~~
20 ~~Florida auctioneer license.~~

21 ~~(3) "Apprentice" means any person who is being trained~~
22 ~~as an auctioneer by a licensed auctioneer.~~

23 ~~(4) "Board" means the Florida Board of Auctioneers.~~

24 (3)~~(5)~~ "Department" means the Department of Business
25 and Professional Regulation.

26 (4)~~(6)~~ "Livestock" means any animal included in the
27 definition of "livestock" by s. 585.01 or s. 588.13.

28 (5)~~(7)~~ "Agricultural product" means the natural
29 products from a farm, nursery, grove, orchard, vineyard,
30 garden, or apiary, including livestock, tobacco, and

31

1 vegetables and includes those agricultural products as defined
2 in chapter 618.

3 ~~(6)~~⁽⁸⁾ "Absolute auction" means an auction that
4 requires no minimum opening bid that limits the sale other
5 than to the highest bidder.

6 Section 11. Section 468.385, Florida Statutes, is
7 amended to read:

8 468.385 Registration Licenses required~~r~~
9 ~~qualifications; examination; bond.--~~

10 (1) The department shall register ~~license~~ any
11 applicant who complies with this part ~~the board certifies is~~
12 ~~qualified to practice auctioneering.~~

13 (2) No person shall auction or offer to auction any
14 property in this state unless he or she is registered with
15 ~~licensed~~ by the department or is exempt ~~from licensure~~ under
16 this part ~~act~~.

17 (3) No person shall be registered ~~licensed~~ as an
18 auctioneer or apprentice if he or she:

19 (a) Is under 18 years of age; or

20 (b) Has committed any act or offense in this state or
21 any other jurisdiction which would constitute a basis for
22 criminal or disciplinary action under this part ~~s. 468.389~~.

23 ~~(4) Any person seeking a license as an auctioneer must~~
24 ~~pass a written examination approved by the board which tests~~
25 ~~his or her general knowledge of the laws of this state~~
26 ~~relating to provisions of the Uniform Commercial Code that are~~
27 ~~relevant to auctions, the laws of agency, and the provisions~~
28 ~~of this act.~~

29 ~~(5) Each apprentice application and license shall name~~
30 ~~a licensed auctioneer who has agreed to serve as the~~
31 ~~supervisor of the apprentice. No apprentice may conduct, or~~

1 ~~contract to conduct, an auction without the express approval~~
2 ~~of his or her supervisor. The supervisor shall regularly~~
3 ~~review the apprentice's records, which are required by the~~
4 ~~board to be maintained, to determine if such records are~~
5 ~~accurate and current.~~

6 ~~(6) No person shall be licensed as an auctioneer~~
7 ~~unless he or she:~~

8 ~~(a) Has held an apprentice license and has served as~~
9 ~~an apprentice for 1 year or more, or has completed a course of~~
10 ~~study, consisting of not less than 80 classroom hours of~~
11 ~~instruction, that meets standards adopted by the board;~~

12 ~~(b) Has passed the required examination; and~~

13 ~~(c) Is approved by the board.~~

14 ~~(4)(7)(a) Any auction that is subject to the~~
15 ~~provisions of this part must be conducted by an auctioneer who~~
16 ~~has an active registration license or an apprentice who has an~~
17 ~~active apprentice auctioneer license and who has received~~
18 ~~prior written sponsor consent.~~

19 ~~(b) No business shall auction or offer to auction any~~
20 ~~property in this state unless it is registered licensed as an~~
21 ~~auction business with the department by the board or is exempt~~
22 ~~from registration licensure under this part act. Each~~
23 ~~application for registration must licensure shall include the~~
24 ~~names of the owner and the business, the business mailing~~
25 ~~address and location, and any other information which the~~
26 ~~department requires board may require. The owner of an auction~~
27 ~~business shall report to the department board within 30 days~~
28 ~~of any change in this required information within 30 days~~
29 ~~after the change occurs.~~

30
31

1 ~~(5)(8)~~ A registration license issued by the department
2 to an auctioneer, apprentice, or auction business is not
3 transferable.

4 Section 12. Section 468.3851, Florida Statutes, is
5 amended to read:

6 468.3851 Renewal of license.--

7 (1) The department shall renew a registration license
8 upon receipt of the renewal application and fee.

9 (2) The department shall adopt rules establishing a
10 procedure for the biennial renewal of registration licenses.

11 Section 13. Section 468.3852, Florida Statutes, is
12 amended to read:

13 468.3852 Reactivation of registration license;
14 fee.--The department board shall prescribe by rule a fee not
15 to exceed \$250 for the reactivation of an inactive
16 registration license. The fee shall be in addition to the
17 current biennial renewal fee.

18 Section 14. Section 468.386, Florida Statutes, is
19 amended to read:

20 468.386 Fees; local licensing requirements.--

21 (1) The department board by rule may establish
22 application, registration examination, ~~licensure~~, renewal, and
23 other reasonable and necessary fees, based upon the
24 department's estimate of the costs ~~to the board~~ in
25 administering this part act.

26 (2) An auctioneer shall obtain a local occupational
27 license, if required, in the jurisdiction in which his or her
28 permanent business or branch office is located. ~~A However, no~~
29 local government or local agency may regulate ~~charge any other~~
30 ~~fee for~~ the practice of auctioneering or require any
31

1 auctioneer's license or registration in addition to the
2 registration license required by this part.

3 Section 15. Subsections (3), (4), (5), (9), (10), and
4 (11) of section 468.388, Florida Statutes, are amended to
5 read:

6 468.388 Conduct of an auction.--

7 (3) Each auctioneer or auction business shall maintain
8 a record book of all sales. ~~The record book shall be open to~~
9 ~~inspection by the board at reasonable times.~~

10 (4) Each auction must be conducted by an auctioneer
11 who has an active registration license ~~or by an apprentice who~~
12 ~~has an active apprentice auctioneer license and who has~~
13 ~~received prior written sponsor consent.~~ Each auction must be
14 conducted under the auspices of a registered licensed auction
15 business. Any auctioneer ~~or apprentice auctioneer~~ conducting
16 an auction, and any auction business under whose auspices such
17 auction is held, shall be responsible for determining whether
18 ~~that~~ any auctioneer, ~~apprentice,~~ or auction business with whom
19 they are associated in conducting such auction has an active
20 Florida registration auctioneer, apprentice, or auction
21 ~~business license.~~

22 (5) The principal auctioneer shall prominently display
23 at the auction site the registration licenses of the principal
24 auctioneer, the auction business, and any other ~~licensed~~
25 ~~auctioneers or apprentices~~ who are actively participating in
26 the auction. If such a display is not practicable, then an
27 oral announcement at the beginning of the auction or a
28 prominent written announcement that these registrations
29 ~~licenses~~ are available for inspection at the auction site must
30 be made.

31

1 (9) The auction business under which the auction is
2 conducted is responsible for all other aspects of the auction
3 as required by law ~~board rule~~. The auction business may
4 delegate in whole, or in part, different aspects of the
5 auction only to the extent that such delegation is permitted
6 by law and that such delegation will not impede the principal
7 auctioneer's ability to ensure the proper conduct of his or
8 her independent responsibility for the auction. The auction
9 business under whose auspices the auction is conducted is
10 responsible for ensuring compliance as required by law ~~board~~
11 ~~rule~~.

12 (10)(a) When settlement is not made immediately after
13 an auction, all sale proceeds received for another person must
14 be deposited in an escrow or trust account in an insured bank
15 or savings and loan association located in this state within 2
16 working days after the auction. A maximum of \$100 may be kept
17 in the escrow account for administrative purposes.

18 (b) Each auction business shall maintain, for not less
19 than 2 years, a separate ledger showing the funds held for
20 another person deposited and disbursed by the auction business
21 for each auction. The escrow or trust account must be
22 reconciled monthly with the bank statement. A signed and dated
23 record shall be maintained for a 2-year period ~~and be~~
24 ~~available for inspection by the department or at the request~~
25 ~~of the board~~.

26 (c) Any interest which accrues to sale proceeds on
27 deposit shall be the property of the seller for whom the funds
28 were received unless the parties have agreed otherwise by
29 written agreement executed prior to the auction.

30 (d) Unless otherwise provided by written agreement
31 executed prior to the auction, funds received by a licensee

1 from the seller or his or her agent for expenses, including
2 advertising, must be expended for the purposes advanced or
3 refunded to the seller at the time of final settlement. Any
4 funds so received shall be maintained in an escrow or trust
5 account in an insured bank or savings and loan association
6 located in this state. However, this does not prohibit
7 advanced payment of a flat fee.

8 (11)(a) All advertising by an auctioneer or auction
9 business shall include the name and Florida registration
10 ~~license~~ number of such auctioneer and auction business. The
11 term "advertising" shall not include articles of clothing,
12 directional signs, or other promotional novelty items.

13 (b) No ~~licensed~~ auctioneer, ~~apprentice~~, or auction
14 business may disseminate or cause to be disseminated any
15 advertisement or advertising which is false, deceptive,
16 misleading, or untruthful. Any advertisement or advertising
17 shall be deemed to be false, deceptive, misleading, or
18 untruthful if it:

19 1. Contains misrepresentations of facts.
20 2. Is misleading or deceptive because, in its content
21 or in the context in which it is presented, it makes only a
22 partial disclosure of relevant facts.

23 3. Creates false or unjustified expectations of the
24 services to be performed.

25 4. Contains any representation or claim which the
26 advertiser ~~advertising licensee~~ fails to perform.

27 5. Fails to include the name and registration license
28 number of the principal auctioneer and the auction business.

29 ~~6. Fails to include the name and license number of the~~
30 ~~sponsor if an apprentice is acting as the principal~~
31 ~~auctioneer.~~

1 6.7. Advertises an auction as absolute without
2 specifying any and all items to be sold with reserve or with
3 minimum bids.

4 7.8. Fails to include the percentage amount of any
5 buyer's premium or surcharge which is a condition to sale.

6 (c) The provisions of this subsection apply to media
7 exposure of any nature, regardless of whether it is in the
8 form of paid advertising.

9 (d) The auction business shall be responsible for the
10 content of all advertising disseminated in preparation for an
11 auction.

12 Section 16. Section 468.389, Florida Statutes, is
13 amended to read:

14 468.389 Prohibited acts; penalties.--

15 (1) The following acts are prohibited ~~shall be grounds~~
16 ~~for the disciplinary activities provided in subsections (2)~~
17 ~~and (3):~~

18 (a) A violation of any law relating to trade or
19 commerce of this state or of the state in which an auction is
20 conducted.

21 (b) Misrepresentation of property for sale at auction
22 or making false promises concerning the use, value, or
23 condition of such property by an auctioneer or auction
24 business or by anyone acting as an agent of or with the
25 consent of the auctioneer or auction business.

26 (c) Failure to account for or to pay or return, within
27 a reasonable time not to exceed 30 days, money or property
28 belonging to another which has come into the control of an
29 auctioneer or auction business through an auction.

30 (d) False, deceptive, misleading, or untruthful
31 advertising.

1 (e) Any conduct in connection with a sales transaction
2 which demonstrates bad faith or dishonesty.

3 (f) Using or permitting the use of false bidders,
4 cappers, or shills.

5 (g) Making any material false statement on a
6 registration license application.

7 (h) Commingling money or property of another person
8 with his or her own. Every auctioneer and auction business
9 shall maintain a separate trust or escrow account in an
10 insured bank or savings and loan association located in this
11 state in which shall be deposited all proceeds received for
12 another person through an auction sale.

13 (i) Refusal or neglect of any auctioneer or other
14 receiver of public moneys to pay the moneys so received into
15 the State Treasury at the times and under the regulations
16 prescribed by law.

17 (j) Violating a statute or administrative rule
18 regulating practice under this part or a lawful disciplinary
19 order of the board or the department.

20 (k) Having a license to practice a comparable
21 profession revoked, suspended, or otherwise acted against by
22 another state, territory, or country.

23 (1) Being convicted or found guilty, regardless of
24 adjudication, of a crime in any jurisdiction which directly
25 relates to the practice or the ability to practice the
26 profession of auctioneering.

27 (2) A violation of this part is a deceptive and unfair
28 trade practice, pursuant to part II of chapter 501.~~When the~~
29 ~~board finds any person guilty of any of the prohibited acts~~
30 ~~set forth in subsection (1), it may enter an order imposing~~
31 ~~one or more of the following penalties:~~

1 ~~(a) Refusal to certify to the department an~~
2 ~~application for licensure.~~

3 ~~(b) Revocation or suspension of a license.~~

4 ~~(c) Imposition of an administrative fine not to exceed~~
5 ~~\$1,000 for each count or separate offense.~~

6 ~~(d) Issuance of a reprimand.~~

7 ~~(e) Placement of the auctioneer on probation for a~~
8 ~~period of time and subject to conditions as the board may~~
9 ~~specify, including requiring the auctioneer to successfully~~
10 ~~complete the licensure examination.~~

11 ~~(f) Requirement that the person in violation make~~
12 ~~restitution to each consumer affected by that violation. Proof~~
13 ~~of such restitution shall be a signed and notarized release~~
14 ~~executed by the consumer or the consumer's estate.~~

15 (3) The court may, in addition to any other penalty,
16 suspend or revoke the registration of a registrant who is
17 found guilty of violating this part.

18 ~~(3)(a) Failure to pay a fine within a reasonable time,~~
19 ~~as prescribed by board rule, may be grounds for disciplinary~~
20 ~~action.~~

21 ~~(b) The department may file for an injunction or bring~~
22 ~~any other appropriate civil action against anyone who violates~~
23 ~~this part.~~

24 Section 17. Section 468.391, Florida Statutes, is
25 amended to read:

26 468.391 Penalty.--Any auctioneer, ~~apprentice,~~ or
27 auction business or any owner or manager thereof, or, in the
28 case of corporate ownership, any substantial stockholder of
29 the corporation owning the auction business, who operates
30 without an active registration license or violates any
31 provision of the prohibited acts listed under s. 468.389

1 commits a felony of the third degree, punishable as provided
2 in s. 775.082 or s. 775.083.

3 Section 18. Sections 468.384, 468.3855, 468.387,
4 468.392, 468.393, 468.394, 468.395, 468.396, 468.397, 468.398,
5 and 468.399, Florida Statutes, are repealed.

6 Section 19. The Florida Board of Auctioneers and the
7 Auctioneer Recovery Fund are abolished. Any funds and balances
8 remaining in the Professional Regulation Trust Fund after the
9 effective date of this act shall be used to administer part VI
10 of chapter 468, Florida Statutes, and to pay valid claims on
11 the Auctioneer Recovery Fund received by the Department of
12 Business and Professional Regulation before July 1, 2002.

13 Section 20. The Department of Business and
14 Professional Regulation shall be substituted for the Florida
15 Board of Auctioneers in any legal proceeding where the board
16 is a party. The department shall prosecute any related
17 administrative cases that are in existence on the effective
18 date of this act.

19 Section 21. Subsections (10) and (11) of section
20 468.401, Florida Statutes, are amended to read:

21 468.401 Regulation of talent agencies;
22 definitions.--As used in this part or any rule adopted
23 pursuant hereto:

24 (10) "Registration"~~License~~ means a registration
25 ~~license~~ issued by the Department of Business and Professional
26 Regulation to carry on the business of a talent agency under
27 this part.

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

31

1 Section 22. Section 468.402, Florida Statutes, is
2 amended to read:

3 468.402 Operation of a talent agency;~~Duties of the~~
4 ~~department; authority to issue and revoke license;~~ adoption of
5 rules.--

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

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

11 (b) Violated any provision of this part, chapter 455,
12 any lawful disciplinary order of the department, or any rule
13 of the department.

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

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

28 (e) Knowingly committed or been a party to any
29 material fraud, misrepresentation, concealment, conspiracy,
30 collusion, trick, scheme, or device whereby any other person
31 lawfully relying upon the work, representation, or conduct of

1 the talent agency acts or has acted to his or her injury or
2 damage.

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

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

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

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

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

28 (k) Advertised goods or services in a manner that was
29 fraudulent, false, deceptive, or misleading in form or
30 content.

31

1 (l) Advertised, operated, or attempted to operate
2 under a name other than the name appearing on the registration
3 license.

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

6 (n) Operated with a revoked, suspended, inactive, or
7 delinquent registration license.

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

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

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

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

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

26 (t) Exercised undue influence on the artist in such a
27 manner as to exploit the artist for financial gain of the
28 registrant licensee or a third party, which includes, but is
29 not limited to, the promoting or selling of services to the
30 artist.

31

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

4 (2)~~(3)~~ The department may ~~has~~ authority to adopt rules
5 pursuant to ss. 120.536(1) and 120.54 necessary to administer
6 ~~implement the provisions of this part.~~

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

10 (4)~~(5)~~ Upon a finding of a violation of any one or
11 more of the grounds enumerated in subsection (1) or any other
12 section of this part, the department may ~~take the following~~
13 ~~actions:~~

14 (a) Deny an application for registration licensure as
15 a talent agency.

16 ~~(b) Permanently revoke or suspend the license of a~~
17 ~~talent agency.~~

18 ~~(c) Impose an administrative fine, not to exceed~~
19 ~~\$5,000, for each count or separate offense.~~

20 ~~(d) Require restitution.~~

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

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

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

28 (5)~~(7)~~ The department may deny a registration license
29 if any owner or operator listed on the application has been
30 associated with a talent agency whose registration license has
31 been revoked or otherwise disciplined.

1 Section 23. Section 468.403, Florida Statutes, is
2 amended to read:

3 468.403 Registration License requirements.--

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

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

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

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

1 ~~2 years. The department shall conduct an examination of~~
2 ~~fingerprint records and police records.~~

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

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

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

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

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

18 (4)~~(6)~~ If the applicant is other than a corporation,
19 the application shall also include the names and addresses of
20 all persons, except bona fide employees on stated salaries,
21 financially interested, either as partners, associates, or
22 profit sharers, in the operation of the talent agency in
23 question, together with the amount of their respective
24 interest.

25 (5)~~(7)~~ If the applicant is a corporation, the
26 application shall include the corporate name and the names,
27 residential addresses, and telephone numbers of all persons
28 actively participating in the business of the corporation and
29 shall include the names of all persons exercising managing
30 responsibility in the applicant's or registrant's ~~licensee's~~
31 office.

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

7 (6)(9) If any information in the application supplied
8 to the department by the applicant or registrant licensee
9 changes in any manner whatsoever, the applicant or registrant
10 licensee shall submit such changes to the department within 30
11 days after the date of such change or after the date such
12 change is known or should have been known to the applicant or
13 registrant licensee.

14 Section 24. Section 468.404, Florida Statutes, is
15 amended to read:

16 468.404 Registration License; fees; renewals.--

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

27 (2) If one or more individuals on the basis of whose
28 qualifications a talent agency registration license has been
29 obtained cease to be connected with the agency for any reason,
30 the agency business may be carried on for a temporary period,
31 not to exceed 90 days, under such terms and conditions as the

1 department provides by rule for the orderly closing of the
2 business or the replacement and qualifying of a new owner or
3 operator. The registrant's licensee's good standing under this
4 part shall be contingent upon the department's approval of any
5 such new owner or operator.

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

16 (4) No registration license issued under this part
17 shall be assignable.

18 Section 25. Section 468.406, Florida Statutes, is
19 amended to read:

20 468.406 Fees to be charged by talent agencies; rates;
21 display.--

22 (1) Each talent agency applicant for a license shall
23 maintain and provide to its artists or potential clients file
24 ~~with the application~~ an itemized schedule of maximum fees,
25 charges, and commissions which it intends to charge and
26 collect for its services. This schedule may thereafter be
27 raised only by notifying its artists filing with the
28 ~~department an amended or supplemental schedule~~ at least 30
29 days before the change is to become effective. The schedule
30 shall be posted in a conspicuous place in each place of
31 business of the agency and shall be printed in not less than a

1 30-point boldfaced type, except that an agency that uses
2 written contracts containing maximum fee schedules need not
3 post such schedules.

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

10 Section 26. Section 468.407, Florida Statutes, is
11 amended to read:

12 468.407 Registration License; content; posting.--

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

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

26 (3) If a registrant licensee desires to cancel his or
27 her registration license, he or she must notify the department
28 and forthwith return to the department the registration
29 license so canceled. No registration license fee may be
30 refunded upon cancellation of the registration license.

31

1 Section 27. Section 468.412, Florida Statutes, is
2 amended to read:

3 468.412 Talent agency regulations.--

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

8 (2) Each talent agency shall keep records in which
9 shall be entered:

10 (a) The name and address of each artist employing such
11 talent agency;

12 (b) The amount of fees received from each such artist;
13 and

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

21 ~~(d) Other information which the department may require~~
22 ~~from time to time.~~

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

30 (3)(4) Each talent agency shall post in a conspicuous
31 place in the office of such talent agency a printed copy of

1 | this part ~~and of the rules adopted under this part.~~ Such
2 | ~~copies shall also contain the name and address of the officer~~
3 | ~~charged with enforcing this part.~~ The department shall
4 | furnish to talent agencies printed copies of any statute ~~or~~
5 | ~~rule~~ required to be posted under this subsection.

6 | (4)~~(5)~~ No talent agency may knowingly issue a contract
7 | for employment containing any term or condition which, if
8 | complied with, would be in violation of law, or attempt to
9 | fill an order for help to be employed in violation of law.

10 | (5)~~(6)~~ No talent agency may publish or cause to be
11 | published any false, fraudulent, or misleading information,
12 | representation, notice, or advertisement. All advertisements
13 | of a talent agency by means of card, circulars, or signs, and
14 | in newspapers and other publications, and all letterheads,
15 | receipts, and blanks shall be printed and contain the
16 | registered ~~licensed~~ name, department registration ~~license~~
17 | number, and address of the talent agency and the words "talent
18 | agency." No talent agency may give any false information or
19 | make any false promises or representations concerning an
20 | engagement or employment to any applicant who applies for an
21 | engagement or employment.

22 | (6)~~(7)~~ No talent agency may send or cause to be sent
23 | any person as an employee to any house of ill fame, to any
24 | house or place of amusement for immoral purposes, to any place
25 | resorted to for the purposes of prostitution, to any place for
26 | the modeling or photographing of a minor in the nude in the
27 | absence of written permission from the minor's parents or
28 | legal guardians, the character of which places the talent
29 | agency could have ascertained upon reasonable inquiry.

30 | (7)~~(8)~~ No talent agency may divide fees with anyone,
31 | including, but not limited to, an agent or other employee of

1 an employer, a buyer, a casting director, a producer, a
2 director, or any venue that uses entertainment.

3 (8)~~(9)~~ If a talent agency collects from an artist a
4 fee or expenses for obtaining employment for the artist, and
5 the artist fails to procure such employment, or the artist
6 fails to be paid for such employment if procured, such talent
7 agency shall, upon demand therefor, repay to the artist the
8 fee and expenses so collected. Unless repayment thereof is
9 made within 48 hours after demand therefor, the talent agency
10 shall pay to the artist an additional sum equal to the amount
11 of the fee.

12 (9)~~(10)~~ Each talent agency must maintain a permanent
13 office and must maintain regular operating hours at that
14 office.

15 Section 28. Section 468.413, Florida Statutes, is
16 amended to read:

17 468.413 Legal requirements; penalties.--

18 (1) Each of the following acts constitutes a felony of
19 the third degree, punishable as provided in s. 775.082, s.
20 775.083, or s. 775.084:

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

24 (b) Obtaining or attempting to register ~~obtain a~~
25 ~~license~~ by means of fraud, misrepresentation, or concealment.

26 (2) Each of the following acts constitutes a
27 misdemeanor of the second degree, punishable as provided in s.
28 775.082 or s. 775.083:

29 (a) Relocating a business as a talent agency, or
30 operating under any name other than that designated on the
31 registration ~~license, unless written notification is given to~~

1 ~~the department and to the surety or sureties on the original~~
2 ~~bond, and unless the registration license is returned to the~~
3 department for the recording thereon of such changes.

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

6 (c) Failing to show on a registration license
7 application whether or not the agency or any owner of the
8 agency is financially interested in any other business of like
9 nature and, if so, failing to specify such interest or
10 interests.

11 (d) Failing to maintain the records required by s.
12 468.409 or knowingly making false entries in such records.

13 (e) Requiring as a condition to registering or
14 obtaining employment or placement for any applicant that the
15 applicant subscribe to, purchase, or attend any publication,
16 postcard service, advertisement, resume service, photography
17 service, school, acting school, workshop, or acting workshop.

18 (f) Failing to give each applicant a copy of a
19 contract which lists the services to be provided and the fees
20 to be charged, which states that the talent agency is
21 registered with ~~regulated by~~ the department, ~~and which lists~~
22 ~~the address and telephone number of the department.~~

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

25 (h) Knowingly sending or causing to be sent any artist
26 to a prospective employer or place of business, the character
27 or operation of which employer or place of business the talent
28 agency knows to be in violation of the laws of the United
29 States or of this state.

30 (3) The court may, in addition to other punishment
31 provided for in subsection (1) or subsection (2), suspend or

1 revoke the registration license of any person licensee under
2 this part who has been found guilty of any violation of
3 subsection (1) or misdemeanor listed in subsection (2).

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

16 (5) A violation of this part is a deceptive and unfair
17 trade practice.

18 Section 29. Section 468.414, Florida Statutes, is
19 amended to read:

20 468.414 Collection and deposit of moneys;
21 appropriation.--Proceeds from the ~~finer, fees, and penalties~~
22 imposed pursuant to this part shall be deposited in the
23 Professional Regulation Trust Fund, created by s. 215.37.

24 Section 30. Section 468.415, Florida Statutes, is
25 amended to read:

26 468.415 Sexual misconduct in the operation of a talent
27 agency.--The talent agent-artist relationship is founded on
28 mutual trust. Sexual misconduct in the operation of a talent
29 agency means violation of the talent agent-artist relationship
30 through which the talent agent uses the relationship to induce
31 or attempt to induce the artist to engage or attempt to engage

1 in sexual activity. Sexual misconduct is prohibited in the
2 operation of a talent agency. If any agent, owner, or operator
3 of a registered ~~licensed~~ talent agency is found to have
4 committed sexual misconduct in the operation of a talent
5 agency, the agency registration ~~license~~ shall be permanently
6 revoked. Such agent, owner, or operator shall be permanently
7 disqualified from present and future registration ~~licensure~~ as
8 owner or operator of a Florida talent agency.

9 Section 31. Sections 468.405 and 468.408, Florida
10 Statutes, are repealed.

11 Section 32. Subsection (7) of section 468.609, Florida
12 Statutes, is amended to read:

13 468.609 Administration of this part; standards for
14 certification; additional categories of certification.--

15 (7)(a) The board may provide for the issuance of
16 provisional certificates valid for such period, not less than
17 3 years nor more than 5 years, as specified by board rule, to
18 any newly employed or promoted building code inspector or
19 plans examiner who meets the eligibility requirements
20 described in subsection (2) and any newly employed or promoted
21 building code administrator who meets the eligibility
22 requirements described in subsection (3).

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

26 (c) The board may provide for appropriate levels of
27 provisional certificates and may issue these certificates with
28 such special conditions or requirements relating to the place
29 of employment of the person holding the certificate, the
30 supervision of such person on a consulting or advisory basis,
31

1 or other matters as the board may deem necessary to protect
2 the public safety and health.

3 (d)1. A newly employed or hired person may perform the
4 duties of a plans examiner or building code inspector for 90
5 days if a provisional certificate application has been
6 submitted, provided such person is under the direct
7 supervision of a certified building code administrator who
8 holds a standard certification and who has found such person
9 qualified for a provisional certificate. ~~However,~~

10 2. Direct supervision and the determination of
11 qualifications under this paragraph may be provided by a
12 building code administrator who holds a limited or provisional
13 certificate in any county with a population of less than
14 75,000 and in any municipality located within such a county.

15 3. Direct supervision under this paragraph may be
16 provided in any county with a population of less than 75,000
17 and in any municipality within such county by
18 telecommunication devices if the supervision is appropriate
19 for the facts surrounding the performance of the duties being
20 supervised.

21 Section 33. Subsection (4) of section 468.627, Florida
22 Statutes, is amended to read:

23 468.627 Application; examination; renewal; fees.--

24 (4) Employees of local government agencies having
25 responsibility for building code inspection, building
26 construction regulation, and enforcement of building,
27 plumbing, mechanical, electrical, gas, fire prevention,
28 energy, accessibility, and other construction codes shall pay
29 no application fees or examination fees. However, the fee
30 charged by the examination contract vendor to the department
31 for scheduling an examination of an employee of a local

1 government shall be recovered from any employee who does not
2 report for the scheduled examination. The department shall
3 have the final approval for excusing applicants from a
4 scheduled examination and may waive recovery of the fee in
5 case of hardship.

6 Section 34. Subsection (10) of section 469.001,
7 Florida Statutes, is amended to read:

8 469.001 Definitions.--As used in this chapter:

9 (10) "Department" means the Department of
10 Environmental Protection ~~Business and Professional Regulation.~~

11 Section 35. Section 255.552, Florida Statutes, is
12 amended to read:

13 255.552 Asbestos management program.--The Department
14 of Environmental Protection ~~Secretary of Labor and Employment~~
15 ~~Security~~ shall establish an asbestos management program and
16 select an asbestos program administrator. The asbestos
17 program administrator shall maintain centralized records in
18 Tallahassee of all public building surveys, operation and
19 maintenance plans, and abatement projects. The asbestos
20 program administrator shall select regional asbestos program
21 managers who shall review and approve and comment on all
22 public building survey reports, operation and maintenance
23 plans, and abatement specifications for public buildings. The
24 regional asbestos program managers shall oversee all abatement
25 work performed in public buildings and shall review and
26 approve and comment on all postabatement inspection reports.
27 Additionally, the regional asbestos program managers shall
28 oversee training of maintenance and custodial workers and
29 building supervisors in all public buildings in which an
30 operation and maintenance plan is administered. Training
31 shall be on the safe cleaning and handling of

1 asbestos-containing materials. Instructional material for such
2 training shall be developed by the Department of Environmental
3 Protection Labor and Employment Security. This section does
4 not apply to those structures identified in s. 255.5535.

5 Section 36. Section 255.553, Florida Statutes, is
6 amended to read:

7 255.553 Survey required.--Each state agency shall
8 survey or cause to be surveyed for the presence of
9 asbestos-containing materials each public building for which
10 it is responsible. The survey shall be conducted by an
11 asbestos consultant licensed under chapter 469 and shall be
12 conducted in accordance with AHERA initial inspection
13 procedures; Environmental Protection Agency guidelines;
14 National Emission Standards for Hazardous Air Pollutants;
15 Occupational Safety and Health Administration regulations; and
16 any subsequent recommendations made by the Asbestos Oversight
17 Program Team established under s. 255.565. The survey shall:

18 (1) Determine all materials which may contain
19 asbestos;

20 (2) Identify the location and quantify the types of
21 asbestos-containing materials;

22 (3) Assess the hazard of the existing
23 asbestos-containing materials as they relate to any situation
24 where a person may come into contact with asbestos;

25 (4) Prioritize the areas which need immediate asbestos
26 abatement action according to the hazard assessment; and

27 (5) Estimate the cost of recommended abatement
28 alternatives.

29
30 The asbestos program administrator shall review the asbestos
31 surveys and consult with the affected agency to determine on a

1 priority basis the need for instituting abatement procedures,
2 and the asbestos program administrator shall institute
3 abatement procedures on a priority basis as directed by the
4 secretary of the Department of Environmental Protection ~~Labor~~
5 ~~and Employment Security~~.

6 Section 37. Section 255.5535, Florida Statutes, is
7 amended to read:

8 255.5535 Exemptions from asbestos survey
9 requirements.--Notwithstanding the requirements of s. 255.553,
10 a state agency is not required to perform an asbestos survey:

11 (1) For prefabricated or small structures that do not
12 have floors or utilities, such as storage sheds and wood
13 barns; however, this exemption shall only apply if a person
14 who has successfully completed an asbestos training course in
15 inspecting buildings for asbestos as described in s.

16 469.005(2)(a) ~~s. 455.305(1)(b)~~, inspects the structure and
17 determines that no asbestos is present and that it meets the
18 requirements of this subsection; or

19 (2) When property is acquired through the exercise of
20 eminent domain authority or by purchase or donation, if:

21 (a)1. The structure will remain unoccupied after being
22 vacated by the current occupant; and

23 2. The structure is conveyed together with the
24 underlying land, or the structure is conveyed and relocated
25 with no demolition nor renovation activities taking place as
26 part of the relocation of that structure; or

27 (b) The structure is acquired for a transportation
28 facility and is demolished in accordance with Environmental
29 Protection Agency guidelines, National Emissions Standards for
30 Hazardous Air Pollutants, and Occupational Safety and Health
31 Administration regulations and is removed from the property.

1 Prior to any demolition, an asbestos survey must be performed
2 in accordance with survey guidelines adopted by the Department
3 of Environmental Protection ~~Labor and Employment Security~~.

4 Section 38. Section 255.555, Florida Statutes, is
5 amended to read:

6 255.555 Records.--Each state agency which finds that
7 it has asbestos-containing materials in any public building
8 for which it is responsible shall prepare and maintain a
9 record containing a report summarizing the survey, including
10 the hazard assessment, drawings and photographs of the sample
11 area, and estimates of the quantities of hazardous materials.
12 The agency shall, within 30 days of receipt of said survey,
13 submit a copy of the survey to the regional asbestos program
14 manager and a summary to the Department of Environmental
15 Protection ~~Management Services~~.

16 Section 39. Section 255.556, Florida Statutes, is
17 amended to read:

18 255.556 Asbestos assessment.--When the survey
19 indicates the presence of friable asbestos-containing
20 materials in a public building, the survey shall also include
21 an assessment of the level of airborne asbestos fibers. This
22 assessment shall include a visual assessment followed by an
23 analysis of air samples which shall be conducted in accordance
24 with rules of the Department of Environmental Protection ~~Labor~~
25 ~~and Employment Security~~; Environmental Protection Agency
26 guidelines; National Emission Standards for Hazardous Air
27 Pollutants; Occupational Safety and Health Administration
28 regulations; and any subsequent recommendations made by the
29 Asbestos Oversight Program Team established under s. 255.565.
30 If the overall assessment indicates the presence of asbestos
31 greater than 0.01 asbestos structures per cubic centimeter

1 during periods of normal activity, response action shall be
2 taken.

3 Section 40. Section 255.557, Florida Statutes, is
4 amended to read:

5 255.557 Operation and maintenance plans.--

6 (1) Each state agency shall initiate operation and
7 maintenance plans, which shall be developed pursuant to a
8 contract between the agency and the asbestos consultant,
9 within 30 days of the identification of asbestos-containing
10 materials by the survey required by s. 255.553. Each
11 operation and maintenance plan shall be submitted to the
12 appropriate regional asbestos program manager within 7 days of
13 completion. Each operation and maintenance plan shall be
14 approved by the Department of Environmental Protection ~~Labor~~
15 ~~and Employment Security~~ and shall remain in effect until all
16 asbestos-containing material has been removed. The operation
17 and maintenance plan shall be administered by an agency
18 employee designated as the building asbestos contact person.
19 The asbestos contact person shall:

20 (a) Provide written notice to all building occupants
21 and employees that there are friable asbestos-containing
22 materials in the building. Such notice shall include a
23 statement of the nature of the potential hazard and a warning
24 against disturbing or damaging the asbestos-containing
25 materials. The written notice shall identify the building
26 asbestos contact person as the individual to be contacted for
27 additional information or in the event of an emergency.

28 (b) Oversee and direct the required initial and
29 periodic cleanup procedures for each public building.

30 (c) Oversee and coordinate the periodic inspection and
31 air monitoring procedures.

1 (2) The regional asbestos program managers shall
2 approve and oversee implementation of all operation and
3 maintenance plans, with the exception of those required by s.
4 255.5535(2)(b).

5 Section 41. Section 255.562, Florida Statutes, is
6 amended to read:

7 255.562 Project completion.--

8 (1) Upon completion of an abatement project, but prior
9 to the dismantling of containment barriers, the asbestos
10 contractor shall advise the consultant and the appropriate
11 regional asbestos program manager that the project is complete
12 except for the dismantling of containment barriers. Upon
13 notification of project completion, the consultant shall
14 conduct a visual inspection of the work area for evidence of
15 incomplete abatement and for dust and debris prior to
16 authorizing testing for airborne asbestos.

17 (2) The abatement contract may be declared complete if
18 the final clearance air sampling indicates the presence of
19 0.01 or less asbestos structures per cubic centimeter in
20 accordance with monitoring requirements prescribed by rules of
21 the Department of Environmental Protection ~~Labor and~~
22 ~~Employment Security~~.

23 Section 42. Section 255.563, Florida Statutes, is
24 amended to read:

25 255.563 Rules; Department of Environmental Protection
26 ~~Labor and Employment Security~~.--The Department of
27 Environmental Protection ~~Labor and Employment Security~~ shall
28 adopt all rules relating to asbestos in public buildings
29 reasonably necessary to implement the provisions of ss.
30 255.551-255.565. In developing the rules, the department
31 shall consider the criteria established in the Asbestos

1 Identification and Remediation Plan dated January 1, 1987, and
2 issued pursuant to chapter 86-135, Laws of Florida;
3 Environmental Protection Agency guidelines; AHERA; National
4 Emission Standards for Hazardous Air Pollutants; Occupational
5 Safety and Health Administration regulations; and any
6 subsequent recommendations made by the Asbestos Oversight
7 Program Team established under s. 255.565.

8 Section 43. Section 255.565, Florida Statutes, is
9 amended to read:

10 255.565 Asbestos Oversight Program Team.--There is
11 created an Asbestos Oversight Program Team, which shall
12 consist of the Asbestos Program Coordinator ~~appointed by the~~
13 ~~Secretary of Labor and Employment Security~~, one member
14 appointed by the Secretary of Health, one member appointed by
15 the Secretary of Environmental Protection, one member
16 appointed by the Secretary of Business and Professional
17 Regulation, one member appointed by the Secretary of
18 Transportation, one member appointed by the Chancellor of the
19 State University System, one member appointed by the
20 Department of Education, and one member appointed by the
21 secretary of the Department of Management Services. The
22 Asbestos Oversight Program Team is responsible for asbestos
23 policy development; regulatory review; asbestos training
24 course approval, except as provided for under chapter 469; and
25 coordination with regional asbestos project managers and
26 building contact persons on policy and procedures.

27 Section 44. The regulation of asbestos abatement
28 pursuant to chapter 469, Florida Statutes, is transferred by a
29 type two transfer, as defined in section 20.06(2), Florida
30 Statutes, from the Department of Business and Professional
31 Regulation to the Department of Environmental Protection. All

1 rules adopted pursuant to the regulation administered under
2 chapter 469, Florida Statutes, shall remain in effect until
3 amended by the Department of Environmental Regulation. Any
4 administration and judicial actions and proceedings shall
5 continue unabated by this act and the Department of
6 Environmental Protection shall be substituted for the
7 Department of Business and Professional Regulation as the
8 party of interest.

9 Section 45. The asbestos management program as
10 administered pursuant to sections 255.551-255.565, Florida
11 Statutes, is transferred by a type two transfer, as defined in
12 section 20.06(2), Florida Statutes, from the Department of
13 Labor and Employment Security to the Department of
14 Environmental Protection. All rules adopted pursuant to the
15 program administered under sections 255.551-255.565, Florida
16 Statutes, shall remain in effect until amended by the
17 Department of Environmental Protection. Any administrative and
18 judicial actions and proceedings shall continue unabated by
19 this act and the Department of Environmental Protection shall
20 be substituted for the Department of Business and Professional
21 Regulation as the party of interest.

22 Section 46. Subsections (1) and (2) of section
23 470.002, Florida Statutes, are amended to read:

24 470.002 Definitions.--As used in this chapter:

25 (1) "Department" means the Department of Banking and
26 Finance ~~Business and Professional Regulation.~~

27 (2) "Board" means the Board of Funeral and Cemetery
28 Services ~~Directors and Embalmers.~~

29 Section 47. Section 470.003, Florida Statutes, is
30 repealed.

31

1 Section 48. Section 455.2226, Florida Statutes, is
2 transferred, renumbered as section 470.0205, Florida Statutes,
3 and amended to read:

4 470.0205 ~~455.2226~~ Funeral directors and embalmers;
5 instruction on human immunodeficiency virus and acquired
6 immune deficiency syndrome.--

7 (1) The board of ~~Funeral Directors and Embalmers~~ shall
8 require each person licensed or certified under this chapter
9 ~~470~~ to complete a continuing educational course, approved by
10 the board, on human immunodeficiency virus and acquired immune
11 deficiency syndrome as part of biennial relicensure or
12 recertification. The course shall consist of education on the
13 modes of transmission, infection control procedures, clinical
14 management, and prevention of human immunodeficiency virus and
15 acquired immune deficiency syndrome. Such course shall include
16 information on current Florida law on acquired immune
17 deficiency syndrome and its impact on testing, confidentiality
18 of test results, and treatment of patients.

19 (2) Each such licensee or certificateholder shall
20 submit confirmation of having completed said course, on a form
21 as provided by the board, when submitting fees for each
22 biennial renewal.

23 (3) The board shall have the authority to approve
24 additional equivalent courses that may be used to satisfy the
25 requirements in subsection (1). Each licensing board that
26 requires a licensee to complete an educational course pursuant
27 to this section may count the hours required for completion of
28 the course included in the total continuing educational
29 requirements as required by law.

30 (4) Any person holding two or more licenses subject to
31 the provisions of this section shall be permitted to show

1 proof of having taken one board-approved course on human
2 immunodeficiency virus and acquired immune deficiency
3 syndrome, for purposes of relicensure or recertification for
4 additional licenses.

5 (5) Failure to comply with the above requirements
6 shall constitute grounds for disciplinary action under this
7 ~~each respective licensing chapter and s. 455.227(1)(e)~~. In
8 addition to discipline by the board, the licensee shall be
9 required to complete said course.

10 (6) The board shall require as a condition of granting
11 a license under the chapters specified in subsection (1) that
12 an applicant making initial application for licensure complete
13 an educational course acceptable to the board on human
14 immunodeficiency virus and acquired immune deficiency
15 syndrome. An applicant who has not taken a course at the time
16 of licensure shall, upon an affidavit showing good cause, be
17 allowed 6 months to complete this requirement.

18 (7) The board may ~~shall have the authority to~~ adopt
19 rules to carry out the provisions of this section.

20 (8) The board shall report to the Legislature by March
21 1 of each year as to the implementation and compliance with
22 the requirements of this section.

23 Section 49. Section 470.015, Florida Statutes, is
24 amended to read:

25 470.015 Renewal of funeral director and embalmer
26 licenses.--

27 (1) The department shall renew a funeral director or
28 embalmer license upon receipt of the renewal application and
29 fee set by the board not to exceed \$250. The board may
30 prescribe by rule continuing education requirements of up to
31 12 classroom hours and may by rule establish criteria for

1 accepting alternative nonclassroom continuing education on an
2 hour-for-hour basis, in addition to a board-approved course on
3 communicable diseases that includes the course on human
4 immunodeficiency virus and acquired immune deficiency syndrome
5 required by s. 470.0205 ~~s. 455.2226~~, for the renewal of a
6 funeral director or embalmer license. The board may provide
7 for the waiver of continuing education requirements in
8 circumstances that would justify the waiver, such as hardship,
9 disability, or illness. The continuing education requirement
10 is not required after July 1, 1996, for a licensee who is over
11 the age of 75 years if the licensee does not qualify as the
12 sole person in charge of an establishment or facility.

13 (2) The department shall adopt rules establishing a
14 procedure for the biennial renewal of licenses.

15 (3) The board shall adopt rules to establish
16 requirements for the advertising of continuing education
17 courses.

18 Section 50. Section 470.018, Florida Statutes, is
19 amended to read:

20 470.018 Renewal of registration of direct disposer.--

21 (1) The department shall renew a registration upon
22 receipt of the renewal application and fee set by the
23 department not to exceed \$250.

24 (2) The department shall adopt rules establishing a
25 procedure for the biennial renewal of registrations. The
26 board shall prescribe by rule continuing education
27 requirements of up to 3 classroom hours and may by rule
28 establish criteria for accepting alternative nonclassroom
29 continuing education on an hour-for-hour basis, in addition to
30 a board-approved course on communicable diseases that includes
31 the course on human immunodeficiency virus and acquired immune

1 deficiency syndrome required by s. 470.0205 ~~s. 455.2226~~, for
2 the renewal of a registration.

3 Section 51. Paragraphs (a) and (h) of subsection (1)
4 of section 470.036, Florida Statutes, are amended to read:

5 470.036 Disciplinary proceedings.--

6 (1) The following acts constitute grounds for which
7 the disciplinary actions in subsection (2) may be taken:

8 (a) Violation of any provision of ~~s. 455.227(1)~~ or s.
9 470.031.

10 (h) A violation or repeated violation of this chapter
11 ~~or of chapter 455~~ and any rules adopted ~~promulgated~~ pursuant
12 thereto.

13 Section 52. The regulation of funeral directing,
14 embalming, and direct disposition under chapter 470, Florida
15 Statutes, is transferred by a type two transfer, as defined in
16 section 20.06(2), Florida Statutes, from the Department of
17 Business and Professional Regulation to the Department of
18 Banking and Finance.

19 Section 53. The Board of Funeral Directors and
20 Embalmers, created by section 470.003, Florida Statutes, is
21 abolished.

22 Section 54. Rules adopted pursuant to the regulation
23 administered under chapter 470, Florida Statutes, shall remain
24 in effect until amended by the Board of Funeral and Cemetery
25 Services and the Department of Banking and Finance.

26 Section 55. Subsection (1) of section 471.025, Florida
27 Statutes, is amended to read:

28 471.025 Seals.--

29 (1) The board shall prescribe, by rule, the forms a
30 form of seals ~~seal~~ to be used by registrants holding valid
31 certificates of registration. Each registrant shall obtain at

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

15 Section 56. Subsection (4) of section 476.034, Florida
16 Statutes, is amended to read:

17 476.034 Definitions.--As used in this act:

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

20 Section 57. Section 476.054, Florida Statutes, is
21 amended to read:

22 476.054 ~~Barbers~~Board of Barbering and Cosmetology--

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

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

1 ~~must two members of the board shall~~ be a resident citizens of
2 the state who ~~is are~~ not presently a licensed barber or
3 cosmetologist barbers. No person ~~may shall~~ be appointed to the
4 board who is ~~in any way~~ connected with the manufacture,
5 rental, or wholesale distribution of barber or cosmetology
6 equipment and supplies.

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

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

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

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

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

26 (8) The board shall hold such meetings during the year
27 as necessary, one of which shall be the annual meeting. The
28 chair may call other meetings. A quorum shall consist of not
29 fewer than four members.

30 ~~(9)(6)~~ Each board member shall be held accountable to
31 the Governor for the proper performance of all duties and

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

9 Section 58. Section 476.064, Florida Statutes, is
10 amended to read:

11 476.064 Organization; headquarters; personnel;
12 meetings.--

13 ~~(1) The board shall annually elect a chair and a vice~~
14 ~~chair from its number.~~The board shall maintain its
15 headquarters in Tallahassee.

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

24 ~~(3) The board shall hold an annual meeting and such~~
25 ~~other meetings during the year as it may determine to be~~
26 ~~necessary. The chair of the board may call other meetings at~~
27 ~~her or his discretion. A quorum of the board shall consist of~~
28 ~~not less than four members.~~

29 ~~(3)(4)~~ The board has authority to adopt rules pursuant
30 to ss. 120.536(1) and 120.54 necessary to administer ~~implement~~
31 ~~the provisions of this chapter.~~

1 Section 59. 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 60. Section 477.015, Florida Statutes, is
7 repealed.

8 Section 61. 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 62. The Board of Barbering and Cosmetology is
16 created by this act. Appointments to this board are new and
17 shall be made by the Governor for initial terms of 4 years or
18 less so that no more than two terms expire in any one year.
19 The board shall assume responsibilities for the regulation of
20 barbering pursuant to chapter 476, Florida Statutes, and the
21 regulation of cosmetology pursuant to chapter 477, Florida
22 Statutes.

23 Section 63. The Board of Barbering and Cosmetology
24 shall be replaced as the party of interest for any legal
25 actions naming the Barbers' Board or the Board of Cosmetology
26 as a party.

27 Section 64. Subsection (7) of section 477.019, Florida
28 Statutes, is amended to read:

29 477.019 Cosmetologists; qualifications; licensure;
30 supervised practice; license renewal; endorsement; continuing
31 education.--

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

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

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

26 Section 65. Subsection (1) of section 477.026, Florida
27 Statutes, is amended to read:

28 477.026 Fees; disposition.--

29 (1) The board shall set fees according to the
30 following schedule:

31

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

3 (b) For cosmetologists, fees for endorsement
4 application, examination, and reexamination shall not exceed
5 \$50.

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

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

11 (e) For specialists, fees for initial registration,
12 registration renewal, and delinquent renewal shall not exceed
13 \$50.

14 (f) For hair braiders, hair wrappers, and body
15 wrappers, fees for initial registration, registration renewal,
16 and delinquent renewal may ~~shall~~ not exceed \$25.

17 Section 66. Subsection (3) of section 489.105, Florida
18 Statutes, is amended to read:

19 489.105 Definitions.--As used in this part:

20 (3) "Contractor" means the person who is qualified
21 for, and shall only be responsible for, the project contracted
22 for and means, except as exempted in this part, the person
23 who, for compensation, undertakes to, submits a bid to, or
24 does himself or herself or by others construct, repair, alter,
25 remodel, add to, demolish, subtract from, or improve any
26 building or structure, including related improvements to real
27 estate, for others or for resale to others; and whose job
28 scope is substantially similar to the job scope described in
29 one of the subsequent paragraphs of this subsection. For the
30 purposes of regulation under this part, "demolish" applies
31 only to demolition of steel tanks over 50 feet in height;

1 towers over 50 feet in height; other structures over 50 feet
2 in height, other than buildings or residences over three
3 stories tall; and buildings or residences over three stories
4 tall. Categories of contractors are defined as follows
5 ~~subdivided into two divisions, Division I, consisting of those~~
6 ~~contractors defined in paragraphs (a)-(c), and Division II,~~
7 ~~consisting of those contractors defined in paragraphs (d)-(q):~~

8 (a) "General contractor" means a contractor whose
9 services are unlimited as to the type of work which he or she
10 may do, who may contract for any activity requiring licensure
11 under this part, and who may perform any work requiring
12 licensure under this part, except as otherwise expressly
13 provided in s. 489.113.

14 (b) "Building contractor" means a contractor whose
15 services are limited to construction of commercial buildings
16 and single-dwelling or multiple-dwelling residential
17 buildings, which commercial or residential buildings do not
18 exceed three stories in height, and accessory use structures
19 in connection therewith or a contractor whose services are
20 limited to remodeling, repair, or improvement of any size
21 building if the services do not affect the structural members
22 of the building.

23 (c) "Residential contractor" means a contractor whose
24 services are limited to construction, remodeling, repair, or
25 improvement of one-family, two-family, or three-family
26 residences not exceeding two habitable stories above no more
27 than one uninhabitable story and accessory use structures in
28 connection therewith.

29 (d) "Sheet metal contractor" means a contractor whose
30 services are unlimited in the sheet metal trade and who has
31 the experience, knowledge, and skill necessary for the

1 manufacture, fabrication, assembling, handling, erection,
2 installation, dismantling, conditioning, adjustment,
3 insulation, alteration, repair, servicing, or design, when not
4 prohibited by law, of ferrous or nonferrous metal work of U.S.
5 No. 10 gauge or its equivalent or lighter gauge and of other
6 materials, including, but not limited to, fiberglass, used in
7 lieu thereof and of air-handling systems, including the
8 setting of air-handling equipment and reinforcement of same,
9 the balancing of air-handling systems, and any duct cleaning
10 and equipment sanitizing which requires at least a partial
11 disassembling of the system.

12 (e) "Roofing contractor" means a contractor whose
13 services are unlimited in the roofing trade and who has the
14 experience, knowledge, and skill to install, maintain, repair,
15 alter, extend, or design, when not prohibited by law, and use
16 materials and items used in the installation, maintenance,
17 extension, and alteration of all kinds of roofing,
18 waterproofing, and coating, except when coating is not
19 represented to protect, repair, waterproof, stop leaks, or
20 extend the life of the roof.

21 (f) "Class A air-conditioning contractor" means a
22 contractor whose services are unlimited in the execution of
23 contracts requiring the experience, knowledge, and skill to
24 install, maintain, repair, fabricate, alter, extend, or
25 design, when not prohibited by law, central air-conditioning,
26 refrigeration, heating, and ventilating systems, including
27 duct work in connection with a complete system only to the
28 extent such duct work is performed by the contractor as is
29 necessary to make complete an air-distribution system, boiler
30 and unfired pressure vessel systems, and all appurtenances,
31 apparatus, or equipment used in connection therewith, and any

1 duct cleaning and equipment sanitizing which requires at least
2 a partial disassembling of the system; to install, maintain,
3 repair, fabricate, alter, extend, or design, when not
4 prohibited by law, piping, insulation of pipes, vessels and
5 ducts, pressure and process piping, and pneumatic control
6 piping; to replace, disconnect, or reconnect power wiring on
7 the load side of the dedicated existing electrical disconnect
8 switch; to install, disconnect, and reconnect low voltage
9 heating, ventilating, and air-conditioning control wiring; and
10 to install a condensate drain from an air-conditioning unit to
11 an existing safe waste or other approved disposal other than a
12 direct connection to a sanitary system. The scope of work for
13 such contractor shall also include any excavation work
14 incidental thereto, but shall not include any work such as
15 liquefied petroleum or natural gas fuel lines within
16 buildings, potable water lines or connections thereto,
17 sanitary sewer lines, swimming pool piping and filters, or
18 electrical power wiring.

19 (g) "Class B air-conditioning contractor" means a
20 contractor whose services are limited to 25 tons of cooling
21 and 500,000 Btu of heating in any one system in the execution
22 of contracts requiring the experience, knowledge, and skill to
23 install, maintain, repair, fabricate, alter, extend, or
24 design, when not prohibited by law, central air-conditioning,
25 refrigeration, heating, and ventilating systems, including
26 duct work in connection with a complete system only to the
27 extent such duct work is performed by the contractor as is
28 necessary to make complete an air-distribution system being
29 installed under this classification, and any duct cleaning and
30 equipment sanitizing which requires at least a partial
31 disassembling of the system; to install, maintain, repair,

1 fabricate, alter, extend, or design, when not prohibited by
2 law, piping and insulation of pipes, vessels, and ducts; to
3 replace, disconnect, or reconnect power wiring on the load
4 side of the dedicated existing electrical disconnect switch;
5 to install, disconnect, and reconnect low voltage heating,
6 ventilating, and air-conditioning control wiring; and to
7 install a condensate drain from an air-conditioning unit to an
8 existing safe waste or other approved disposal other than a
9 direct connection to a sanitary system. The scope of work for
10 such contractor shall also include any excavation work
11 incidental thereto, but shall not include any work such as
12 liquefied petroleum or natural gas fuel lines within
13 buildings, potable water lines or connections thereto,
14 sanitary sewer lines, swimming pool piping and filters, or
15 electrical power wiring.

16 (h) "Class C air-conditioning contractor" means a
17 contractor whose business is limited to the servicing of
18 air-conditioning, heating, or refrigeration systems, including
19 any duct cleaning and equipment sanitizing which requires at
20 least a partial disassembling of the system, and whose
21 certification or registration, issued pursuant to this part,
22 was valid on October 1, 1988. No person not previously
23 registered or certified as a Class C air-conditioning
24 contractor as of October 1, 1988, shall be so registered or
25 certified after October 1, 1988. However, the board shall
26 continue to license and regulate those Class C
27 air-conditioning contractors who held Class C licenses prior
28 to October 1, 1988.

29 (i) "Mechanical contractor" means a contractor whose
30 services are unlimited in the execution of contracts requiring
31 the experience, knowledge, and skill to install, maintain,

1 repair, fabricate, alter, extend, or design, when not
2 prohibited by law, central air-conditioning, refrigeration,
3 heating, and ventilating systems, including duct work in
4 connection with a complete system only to the extent such duct
5 work is performed by the contractor as is necessary to make
6 complete an air-distribution system, boiler and unfired
7 pressure vessel systems, lift station equipment and piping,
8 and all appurtenances, apparatus, or equipment used in
9 connection therewith, and any duct cleaning and equipment
10 sanitizing which requires at least a partial disassembling of
11 the system; to install, maintain, repair, fabricate, alter,
12 extend, or design, when not prohibited by law, piping,
13 insulation of pipes, vessels and ducts, pressure and process
14 piping, pneumatic control piping, gasoline tanks and pump
15 installations and piping for same, standpipes, air piping,
16 vacuum line piping, oxygen lines, nitrous oxide piping, ink
17 and chemical lines, fuel transmission lines, and natural gas
18 fuel lines within buildings; to replace, disconnect, or
19 reconnect power wiring on the load side of the dedicated
20 existing electrical disconnect switch; to install, disconnect,
21 and reconnect low voltage heating, ventilating, and
22 air-conditioning control wiring; and to install a condensate
23 drain from an air-conditioning unit to an existing safe waste
24 or other approved disposal other than a direct connection to a
25 sanitary system. The scope of work for such contractor shall
26 also include any excavation work incidental thereto, but shall
27 not include any work such as liquefied petroleum gas fuel
28 lines within buildings, potable water lines or connections
29 thereto, sanitary sewer lines, swimming pool piping and
30 filters, or electrical power wiring.

31

1 (j) "Commercial pool/spa contractor" means a
2 contractor whose scope of work involves, but is not limited
3 to, the construction, repair, and servicing of any swimming
4 pool, or hot tub or spa, whether public, private, or
5 otherwise, regardless of use. The scope of work includes the
6 installation, repair, or replacement of existing equipment,
7 any cleaning or equipment sanitizing which requires at least a
8 partial disassembling, excluding filter changes, and the
9 installation of new pool/spa equipment, interior finishes, the
10 installation of package pool heaters, the installation of all
11 perimeter piping and filter piping, and the construction of
12 equipment rooms or housing for pool/spa equipment, and also
13 includes the scope of work of a swimming pool/spa servicing
14 contractor. The scope of such work does not include direct
15 connections to a sanitary sewer system or to potable water
16 lines. The installation, construction, modification, or
17 replacement of equipment permanently attached to and
18 associated with the pool or spa for the purpose of water
19 treatment or cleaning of the pool or spa requires licensure;
20 however, the usage of such equipment for the purposes of water
21 treatment or cleaning shall not require licensure unless the
22 usage involves construction, modification, or replacement of
23 such equipment. Water treatment that does not require such
24 equipment does not require a license. In addition, a license
25 shall not be required for the cleaning of the pool or spa in
26 any way that does not affect the structural integrity of the
27 pool or spa or its associated equipment.

28 (k) "Residential pool/spa contractor" means a
29 contractor whose scope of work involves, but is not limited
30 to, the construction, repair, and servicing of any residential
31 swimming pool, or hot tub or spa, regardless of use. The scope

1 of work includes the installation, repair, or replacement of
2 existing equipment, any cleaning or equipment sanitizing which
3 requires at least a partial disassembling, excluding filter
4 changes, and the installation of new pool/spa equipment,
5 interior finishes, the installation of package pool heaters,
6 the installation of all perimeter piping and filter piping,
7 and the construction of equipment rooms or housing for
8 pool/spa equipment, and also includes the scope of work of a
9 swimming pool/spa servicing contractor. The scope of such work
10 does not include direct connections to a sanitary sewer system
11 or to potable water lines. The installation, construction,
12 modification, or replacement of equipment permanently attached
13 to and associated with the pool or spa for the purpose of
14 water treatment or cleaning of the pool or spa requires
15 licensure; however, the usage of such equipment for the
16 purposes of water treatment or cleaning shall not require
17 licensure unless the usage involves construction,
18 modification, or replacement of such equipment. Water
19 treatment that does not require such equipment does not
20 require a license. In addition, a license shall not be
21 required for the cleaning of the pool or spa in any way that
22 does not affect the structural integrity of the pool or spa or
23 its associated equipment.

24 (1) "Swimming pool/spa servicing contractor" means a
25 contractor whose scope of work involves, but is not limited
26 to, the repair and servicing of any swimming pool, or hot tub
27 or spa, whether public or private, or otherwise, regardless of
28 use. The scope of work includes the repair or replacement of
29 existing equipment, any cleaning or equipment sanitizing which
30 requires at least a partial disassembling, excluding filter
31 changes, and the installation of new pool/spa equipment,

1 interior refinishing, the reinstallation or addition of pool
2 heaters, the repair or replacement of all perimeter piping and
3 filter piping, the repair of equipment rooms or housing for
4 pool/spa equipment, and the substantial or complete draining
5 of a swimming pool, or hot tub or spa, for the purpose of any
6 repair or renovation. The scope of such work does not include
7 direct connections to a sanitary sewer system or to potable
8 water lines. The installation, construction, modification,
9 substantial or complete disassembly, or replacement of
10 equipment permanently attached to and associated with the pool
11 or spa for the purpose of water treatment or cleaning of the
12 pool or spa requires licensure; however, the usage of such
13 equipment for the purposes of water treatment or cleaning
14 shall not require licensure unless the usage involves
15 construction, modification, substantial or complete
16 disassembly, or replacement of such equipment. Water treatment
17 that does not require such equipment does not require a
18 license. In addition, a license shall not be required for the
19 cleaning of the pool or spa in any way that does not affect
20 the structural integrity of the pool or spa or its associated
21 equipment.

22 (m) "Plumbing contractor" means a contractor whose
23 contracting business consists of the execution of contracts
24 requiring the experience, financial means, knowledge, and
25 skill to install, maintain, repair, alter, extend, or, when
26 not prohibited by law, design plumbing. A plumbing contractor
27 may install, maintain, repair, alter, extend, or, when not
28 prohibited by law, design the following without obtaining any
29 additional local regulatory license, certificate, or
30 registration: sanitary drainage or storm drainage facilities;
31 venting systems; public or private water supply systems;

1 septic tanks; drainage and supply wells; swimming pool piping;
2 irrigation systems; or solar heating water systems and all
3 appurtenances, apparatus, or equipment used in connection
4 therewith, including boilers and pressure process piping and
5 including the installation of water, natural gas (excluding
6 liquid petroleum gases), and storm and sanitary sewer lines;
7 and water and sewer plants and substations. The scope of work
8 of the plumbing contractor also includes the design, when not
9 prohibited by law, and installation, maintenance, repair,
10 alteration, or extension of air-piping, vacuum line piping,
11 oxygen line piping, nitrous oxide piping, and all related
12 medical gas systems; fire line standpipes and fire sprinklers
13 to the extent authorized by law; ink and chemical lines; fuel
14 oil and gasoline piping and tank and pump installation, except
15 bulk storage plants; and pneumatic control piping systems, all
16 in such a manner as to comply with all plans, specifications,
17 codes, laws, and regulations applicable. The scope of work of
18 the plumbing contractor shall apply to private property and
19 public property, shall include any excavation work incidental
20 thereto, and shall include the work of the specialty plumbing
21 contractor. Such contractor shall subcontract, with a
22 qualified contractor in the field concerned, all other work
23 incidental to the work but which is specified herein as being
24 the work of a trade other than that of a plumbing contractor.
25 Nothing in this definition shall be construed to limit the
26 scope of work of any specialty contractor certified pursuant
27 to s. 489.113(6). Nothing in this definition shall be
28 construed to require certification or registration under this
29 part of any authorized employee of a public natural gas
30 utility or of a private natural gas utility regulated by the
31 Public Service Commission when disconnecting and reconnecting

1 water lines in the servicing or replacement of an existing
2 water heater.

3 (n) "Underground utility and excavation contractor"
4 means a contractor whose services are limited to the
5 construction, installation, and repair, on public or private
6 property, whether accomplished through open excavations or
7 through other means, including, but not limited to,
8 directional drilling, auger boring, jacking and boring,
9 trenchless technologies, wet and dry taps, grouting, and slip
10 lining, of main sanitary sewer collection systems, main water
11 distribution systems, storm sewer collection systems, and the
12 continuation of utility lines from the main systems to a point
13 of termination up to and including the meter location for the
14 individual occupancy, sewer collection systems at property
15 line on residential or single-occupancy commercial properties,
16 or on multioccupancy properties at manhole or wye lateral
17 extended to an invert elevation as engineered to accommodate
18 future building sewers, water distribution systems, or storm
19 sewer collection systems at storm sewer structures. However,
20 an underground utility and excavation contractor may install
21 empty underground conduits in rights-of-way, easements,
22 platted rights-of-way in new site development, and sleeves for
23 parking lot crossings no smaller than 2 inches in diameter,
24 provided that each conduit system installed is designed by a
25 licensed professional engineer or an authorized employee of a
26 municipality, county, or public utility and that the
27 installation of any such conduit does not include installation
28 of any conductor wiring or connection to an energized
29 electrical system. An underground utility and excavation
30 contractor shall not install any piping that is an integral
31 part of a fire protection system as defined in s. 633.021

1 beginning at the point where the piping is used exclusively
2 for such system.

3 (o) "Solar contractor" means a contractor whose
4 services consist of the installation, alteration, repair,
5 maintenance, relocation, or replacement of solar panels for
6 potable solar water heating systems, swimming pool solar
7 heating systems, and photovoltaic systems and any
8 appurtenances, apparatus, or equipment used in connection
9 therewith, whether public, private, or otherwise, regardless
10 of use. A contractor, certified or registered pursuant to the
11 provisions of this chapter, is not required to become a
12 certified or registered solar contractor or to contract with a
13 solar contractor in order to provide any services enumerated
14 in this paragraph that are within the scope of the services
15 such contractors may render under this part.

16 (p) "Pollutant storage systems contractor" means a
17 contractor whose services are limited to, and who has the
18 experience, knowledge, and skill to install, maintain, repair,
19 alter, extend, or design, when not prohibited by law, and use
20 materials and items used in the installation, maintenance,
21 extension, and alteration of, pollutant storage tanks. Any
22 person installing a pollutant storage tank shall perform such
23 installation in accordance with the standards adopted pursuant
24 to s. 376.303.

25 (q) "Specialty contractor" means a contractor whose
26 scope of work and responsibility is limited to a particular
27 phase of construction and whose scope is limited to a subset
28 of the activities described in the categories established in
29 one of the paragraphs of this subsection.

30 Section 67. Effective July 1, 2001, section 489.107,
31 Florida Statutes, is amended to read:

1 489.107 Construction Industry Licensing Board.--

2 (1) To carry out the provisions of this part, there is
3 created within the department the Construction Industry
4 Licensing Board. Members shall be appointed by the Governor,
5 subject to confirmation by the Senate. Members shall be
6 appointed for 4-year terms. A vacancy on the board shall be
7 filled for the unexpired portion of the term in the same
8 manner as the original appointment. No member shall serve more
9 than two consecutive 4-year terms or more than 11 years on the
10 board.

11 (2) The board shall consist of 13 ~~18~~ members, of whom:

12 (a) Three ~~Four~~ are primarily engaged in business as
13 general contractors;

14 (b) Two ~~Three~~ are primarily engaged in business as
15 building contractors or residential contractors, however, at
16 least one building contractor and one residential contractor
17 shall be appointed;

18 (c) One is primarily engaged in business as a roofing
19 contractor;

20 ~~(d) One is primarily engaged in business as a sheet~~
21 ~~metal contractor;~~

22 (d)~~(e)~~ One is primarily engaged in business as an
23 air-conditioning contractor;

24 (e)~~(f)~~ One is primarily engaged in business as a
25 mechanical contractor;

26 (f)~~(g)~~ One is primarily engaged in business as a pool
27 contractor;

28 (g)~~(h)~~ One is primarily engaged in business as a
29 plumbing contractor;

30 (h)~~(i)~~ One is primarily engaged in business as an
31 underground utility and excavation contractor;

1 (i) One is a~~(j) Two are~~ consumer member ~~members~~ who
2 is are not, and has have never been, a member or practitioner
3 ~~members or practitioners~~ of a profession regulated by the
4 board or a member ~~members~~ of any closely related profession;
5 and

6 (j)(k) One is a ~~Two are~~ building official ~~officials~~ of
7 a municipality or county.

8 (3) To be eligible to serve, each contractor member
9 must have been certified by the board to operate as a
10 contractor in the category with respect to which the member is
11 appointed, be actively engaged in the construction business,
12 and have been so engaged for a period of not less than 5
13 consecutive years before the date of appointment. Each
14 appointee must be a citizen and resident of the state.

15 (4) Seven members of the board constitute a quorum.
16 ~~The board shall be divided into two divisions, Division I and~~
17 ~~Division II.~~

18 ~~(a) Division I is comprised of the general contractor,~~
19 ~~building contractor, and residential contractor members of the~~
20 ~~board; one of the members appointed pursuant to paragraph~~
21 ~~(2)(j); and one of the members appointed pursuant to paragraph~~
22 ~~(2)(k). Division I has jurisdiction over the regulation of~~
23 ~~general contractors, building contractors, and residential~~
24 ~~contractors.~~

25 ~~(b) Division II is comprised of the roofing~~
26 ~~contractor, sheet metal contractor, air conditioning~~
27 ~~contractor, mechanical contractor, pool contractor, plumbing~~
28 ~~contractor, and underground utility and excavation contractor~~
29 ~~members of the board; one of the members appointed pursuant to~~
30 ~~paragraph (2)(j); and one of the members appointed pursuant to~~
31

1 ~~paragraph (2)(k). Division II has jurisdiction over the~~
2 ~~regulation of contractors defined in s. 489.105(3)(d)-(p).~~

3 ~~(c) Jurisdiction for the regulation of specialty~~
4 ~~contractors defined in s. 489.105(3)(q) shall lie with the~~
5 ~~division having jurisdiction over the scope of work of the~~
6 ~~specialty contractor as defined by board rule.~~

7 ~~(5) Five members of Division I constitute a quorum,~~
8 ~~and five members of Division II constitute a quorum. The~~
9 ~~combined divisions shall meet together at such times as the~~
10 ~~board deems necessary, but neither division, nor any committee~~
11 ~~thereof, shall take action on any matter under the~~
12 ~~jurisdiction of the other division. However, if either~~
13 ~~division is unable to obtain a quorum for the purpose of~~
14 ~~conducting disciplinary proceedings, it may request members of~~
15 ~~the other division, who are otherwise qualified to serve on~~
16 ~~the division unable to obtain a quorum, to join in its~~
17 ~~deliberations. Such additional members shall vote and count~~
18 ~~toward a quorum only during those disciplinary proceedings.~~

19 ~~(5)(6)~~ The Construction Industry Licensing Board and
20 the Electrical Contractors' Licensing Board shall each appoint
21 a committee to meet jointly at least twice a year.

22 (6) After July 1, 2001, notwithstanding the provisions
23 of s. 20.165(7), the office of the board shall be located in
24 Leon County, and appropriated funds may not be used to
25 continue the lease of office space for this program in Duval
26 County. Any full-time equivalent positions that become vacant
27 prior to that date may be immediately moved to Leon County.
28 The department shall develop a transition plan that will
29 assist in the relocation or placement of all employees
30 affected by the relocation of the board office. The plan must
31 ensure a smooth and orderly transition of regulatory services

1 to the public and of operations of the board office. A report
2 on this transition plan which provides, at a minimum,
3 sufficient information on the status of each affected employee
4 must be submitted to the President of the Senate, the Speaker
5 of the House of Representatives, and the Governor.

6 Section 68. Paragraphs (b) and (g) of subsection (3)
7 of section 489.113, Florida Statutes, are amended to read:

8 489.113 Qualifications for practice; restrictions.--

9 (3) A contractor shall subcontract all electrical,
10 mechanical, plumbing, roofing, sheet metal, swimming pool, and
11 air-conditioning work, unless such contractor holds a state
12 certificate or registration in the respective trade category,
13 however:

14 (b) A general, building, or residential contractor is
15 ~~shall not be~~ required to subcontract the installation, or
16 repair ~~made under warranty,~~ of wood shingles, wood shakes, or
17 asphalt or fiberglass shingle roofing materials ~~on a new~~
18 ~~building of his or her own construction.~~

19 ~~(g) No general, building, or residential contractor~~
20 ~~certified after 1973 shall act as, hold himself or herself out~~
21 ~~to be, or advertise himself or herself to be a roofing~~
22 ~~contractor unless he or she is certified or registered as a~~
23 ~~roofing contractor.~~

24 Section 69. Section 489.1135, Florida Statutes, is
25 created to read:

26 489.1135 Temporary certificates.--The board may issue
27 a temporary certificate to an applicant, pending final
28 approval of the application and the granting of a permanent
29 certificate. If the applicant does not meet all of the
30 certification requirements, the temporary certificate shall
31 immediately become void.

1 Section 70. Paragraph (b) of subsection (4) of section
2 489.115, Florida Statutes, is amended to read:

3 489.115 Certification and registration; endorsement;
4 reciprocity; renewals; continuing education.--

5 (4)

6 (b)1. Each certificateholder or registrant shall
7 provide proof, in a form established by rule of the board,
8 that the certificateholder or registrant has completed at
9 least 14 classroom hours of at least 50 minutes each of
10 continuing education courses during each biennium since the
11 issuance or renewal of the certificate or registration. The
12 board shall establish by rule that a portion of the required
13 14 hours must deal with the subject of workers' compensation,
14 business practices, and workplace safety. The board shall by
15 rule establish criteria for the approval of continuing
16 education courses and providers, including requirements
17 relating to the content of courses and standards for approval
18 of providers, and may by rule establish criteria for accepting
19 alternative nonclassroom continuing education on an
20 hour-for-hour basis. The board shall prescribe by rule the
21 continuing education, if any, which is required during the
22 first biennium of initial licensure. A person who has been
23 licensed for less than an entire biennium must not be required
24 to complete the full 14 hours of continuing education.

25 2. In addition, the board may approve specialized
26 continuing education courses on compliance with the wind
27 resistance provisions for one and two family dwellings
28 contained in the State Minimum Building Codes and any
29 alternate methodologies for providing such wind resistance
30 which have been approved for use by the Florida Building
31 Commission. Contractors defined in paragraphs (a)-(c) Division

1 ~~I certificateholders or registrants~~ who demonstrate
2 proficiency upon completion of such specialized courses may
3 certify plans and specifications for one and two family
4 dwellings to be in compliance with the code or alternate
5 methodologies, as appropriate, except for dwellings located in
6 floodways or coastal hazard areas as defined in ss. 60.3D and
7 E of the National Flood Insurance Program.

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

20 Section 71. Subsections (1) and (6) of section
21 489.507, Florida Statutes, are amended to read:

22 489.507 Electrical Contractors' Licensing Board.--

23 (1) There is created in the department the Electrical
24 Contractors' Licensing Board. The board shall consist of seven
25 ~~11~~ members, five ~~7~~ of whom must ~~shall~~ be certified electrical
26 contractors, one ~~2~~ of whom must ~~shall~~ be a consumer member
27 ~~members~~ who is ~~are~~ not, and has ~~have~~ never been an electrical
28 contractor ~~contractors~~ or member ~~members~~ of any closely
29 related profession or occupation, and one ~~2~~ of whom must ~~shall~~
30 be a certified alarm system contractor ~~contractors~~ I. Members
31 shall be appointed for 4-year terms.

1 ~~(6) The Electrical Contractors' Licensing Board and~~
2 ~~the Construction Industry Licensing Board shall each appoint a~~
3 ~~committee to meet jointly at least twice a year.~~

4 Section 72. Subsection (6) of section 489.511, Florida
5 Statutes, is amended to read:

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

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

12 ~~(a)~~ meets the requirements for certification ~~as set~~
13 ~~forth~~ in this section; has passed a national, regional, state,
14 or United States territorial licensing examination that is
15 substantially equivalent to the examination required by this
16 part; and has satisfied the requirements set forth in s.
17 489.521. ~~+~~ ~~or~~

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

24 Section 73. Subsection (5) of section 498.005, Florida
25 Statutes, is amended to read:

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

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

31

1 Section 74. Section 498.019, Florida Statutes, is
2 amended to read:

3 498.019 Professional Regulation Division of Florida
4 ~~Land Sales, Condominiums, and Mobile Homes Trust Fund.--~~

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

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

1 Section 75. Subsection (17) of section 718.103,
2 Florida Statutes, is amended to read:

3 718.103 Definitions.--As used in this chapter, the
4 term:

5 (17) "Division" means the Division of ~~Florida Land~~
6 ~~Sales, Condominiums, Timeshare, and Mobile Homes~~ of the
7 Department of Business and Professional Regulation.

8 Section 76. Section 718.501, Florida Statutes, is
9 amended to read:

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

12 (1) The Division of ~~Florida Land Sales, Condominiums,~~
13 ~~Timeshares, 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 promulgated
18 pursuant hereto relating to the development, construction,
19 sale, lease, ownership, operation, and management of
20 residential condominium units. In performing its duties, the
21 division has the following powers and duties:

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 Section 77. Section 718.509, Florida Statutes, is
24 amended to read:

25 718.509 Division of ~~Florida Land Sales, Condominiums,~~
26 Timeshare, and Mobile Homes Trust Fund.--

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

31

1 (2) All funds collected by the division and any amount
2 paid for a fee or penalty under this chapter shall be
3 deposited in the State Treasury to the credit of the Division
4 of ~~Florida Land Sales, Condominiums, Timeshare, and Mobile~~
5 ~~Homes Trust Fund created by s. 498.019.~~ The division shall
6 maintain separate revenue accounts in the trust fund for each
7 business regulated by the division, and shall provide for the
8 proportionate allocation among the accounts of expenses
9 incurred in the performance of its duties for each of these
10 businesses. As part of its normal budgetary process, the
11 division shall prepare an annual report of revenue and
12 allocated expenses related to the operation of each of these
13 businesses, which may be used to determine fees charged by the
14 division. The provisions of s. 215.20 apply to the trust fund.

15 Section 78. Subsection (17) of section 719.103,
16 Florida Statutes, is amended to read:

17 719.103 Definitions.--As used in this chapter:

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

21 Section 79. Section 719.501, Florida Statutes, is
22 amended to read:

23 719.501 Powers and duties of Division of ~~Florida Land~~
24 ~~Sales, Condominiums, Timeshare, and Mobile Homes.~~--

25 (1) The Division of ~~Florida Land Sales, Condominiums,~~
26 Timeshare, and Mobile Homes of the Department of Business and
27 Professional Regulation, referred to as the "division" in this
28 part, ~~in addition to other powers and duties prescribed by~~
29 ~~chapter 498,~~ has the power to enforce and ensure compliance
30 with the provisions of this chapter and rules adopted
31 promulgated pursuant hereto relating to the development,

1 construction, sale, lease, ownership, operation, and
2 management of residential cooperative units. In performing its
3 duties, the division shall have the following powers and
4 duties:

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

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

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

29 (d) Notwithstanding any remedies available to unit
30 owners and associations, if the division has reasonable cause
31 to believe that a violation of any provision of this chapter

1 or rule promulgated pursuant hereto has occurred, the division
2 may institute enforcement proceedings in its own name against
3 a developer, association, officer, or member of the board, or
4 its assignees or agents, as follows:

5 1. The division may permit a person whose conduct or
6 actions may be under investigation to waive formal proceedings
7 and enter into a consent proceeding whereby orders, rules, or
8 letters of censure or warning, whether formal or informal, may
9 be entered against the person.

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

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

21 4. The division may impose a civil penalty against a
22 developer or association, or its assignees or agents, for any
23 violation of this chapter or a rule promulgated pursuant
24 hereto. The division may impose a civil penalty individually
25 against any officer or board member who willfully and
26 knowingly violates a provision of this chapter, a rule adopted
27 pursuant to this chapter, or a final order of the division.
28 The term "willfully and knowingly" means that the division
29 informed the officer or board member that his or her action or
30 intended action violates this chapter, a rule adopted under
31 this chapter, or a final order of the division, and that the

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

1 stipulation, agreed settlement, or consent order. All amounts
2 collected shall be deposited with the Treasurer to the credit
3 of the Division of ~~Florida Land Sales~~, Condominiums,
4 Timeshare, and Mobile Homes Trust Fund. If a developer fails
5 to pay the civil penalty, the division shall thereupon issue
6 an order directing that such developer cease and desist from
7 further operation until such time as the civil penalty is paid
8 or may pursue enforcement of the penalty in a court of
9 competent jurisdiction. If an association fails to pay the
10 civil penalty, the division shall thereupon pursue enforcement
11 in a court of competent jurisdiction, and the order imposing
12 the civil penalty or the cease and desist order shall not
13 become effective until 20 days after the date of such order.
14 Any action commenced by the division shall be brought in the
15 county in which the division has its executive offices or in
16 the county where the violation occurred.

17 (e) The division is authorized to prepare and
18 disseminate a prospectus and other information to assist
19 prospective owners, purchasers, lessees, and developers of
20 residential cooperatives in assessing the rights, privileges,
21 and duties pertaining thereto.

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

25 (g) The division shall establish procedures for
26 providing notice to an association when the division is
27 considering the issuance of a declaratory statement with
28 respect to the cooperative documents governing such
29 cooperative community.

30 (h) The division shall furnish each association which
31 pays the fees required by paragraph (2)(a) a copy of this act,

1 subsequent changes to this act on an annual basis, an amended
2 version of this act as it becomes available from the Secretary
3 of State's office on a biennial basis, and the rules
4 promulgated pursuant thereto on an annual basis.

5 (i) The division shall annually provide each
6 association with a summary of declaratory statements and
7 formal legal opinions relating to the operations of
8 cooperatives which were rendered by the division during the
9 previous year.

10 (j) The division shall adopt uniform accounting
11 principles, policies, and standards to be used by all
12 associations in the preparation and presentation of all
13 financial statements required by this chapter. The principles,
14 policies, and standards shall take into consideration the size
15 of the association and the total revenue collected by the
16 association.

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

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

21 (m) When a complaint is made to the division, the
22 division shall conduct its inquiry with reasonable dispatch
23 and with due regard to the interests of the affected parties.
24 Within 30 days after receipt of a complaint, the division
25 shall acknowledge the complaint in writing and notify the
26 complainant whether the complaint is within the jurisdiction
27 of the division and whether additional information is needed
28 by the division from the complainant. The division shall
29 conduct its investigation and shall, within 90 days after
30 receipt of the original complaint or timely requested
31 additional information, take action upon the complaint.

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

13 | (n) The division shall develop a program to certify
14 | both volunteer and paid mediators to provide mediation of
15 | cooperative disputes. The division shall provide, upon
16 | request, a list of such mediators to any association, unit
17 | owner, or other participant in arbitration proceedings under
18 | s. 718.1255 requesting a copy of the list. The division shall
19 | include on the list of voluntary mediators only persons who
20 | have received at least 20 hours of training in mediation
21 | techniques or have mediated at least 20 disputes. In order to
22 | become initially certified by the division, paid mediators
23 | must be certified by the Supreme Court to mediate court cases
24 | in either county or circuit courts. However, the division may
25 | adopt, by rule, additional factors for the certification of
26 | paid mediators, which factors must be related to experience,
27 | education, or background. Any person initially certified as a
28 | paid mediator by the division must, in order to continue to be
29 | certified, comply with the factors or requirements imposed by
30 | rules adopted by the division.

31 |

1 (2)(a) Each cooperative association shall pay to the
2 division, on or before January 1 of each year, an annual fee
3 in the amount of \$4 for each residential unit in cooperatives
4 operated by the association. If the fee is not paid by March
5 1, then the association shall be assessed a penalty of 10
6 percent of the amount due, and the association shall not have
7 the standing to maintain or defend any action in the courts of
8 this state until the amount due is paid.

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

12 Section 80. Subsection (10) of section 721.05, Florida
13 Statutes, is amended to read:

14 721.05 Definitions.--As used in this chapter, the
15 term:

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

19 Section 81. Paragraph (e) of subsection (5) of section
20 721.26, Florida Statutes, is amended to read:

21 721.26 Regulation by division.--The division has the
22 power to enforce and ensure compliance with the provisions of
23 this chapter, except for parts III and IV, using the powers
24 provided in this chapter, as well as the powers prescribed in
25 chapters 498, 718, and 719. In performing its duties, the
26 division shall have the following powers and duties:

27 (5) Notwithstanding any remedies available to
28 purchasers, if the division has reasonable cause to believe
29 that a violation of this chapter, or of any division rule or
30 order promulgated or issued pursuant to this chapter, has
31 occurred, the division may institute enforcement proceedings

1 in its own name against any regulated party, as such term is
2 defined in this subsection:

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

11 2.a. If a regulated party fails to pay a penalty, the
12 division shall thereupon issue an order directing that such
13 regulated party cease and desist from further operation until
14 such time as the penalty is paid; or the division may pursue
15 enforcement of the penalty in a court of competent
16 jurisdiction.

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

20 Section 82. Section 721.28, Florida Statutes, is
21 amended to read:

22 721.28 Division of ~~Florida Land Sales,~~ Condominiums,
23 Timeshare, and Mobile Homes Trust Fund.--All funds collected
24 by the division and any amounts paid as fees or penalties
25 under this chapter shall be deposited in the State Treasury to
26 the credit of the Division of ~~Florida Land Sales,~~
27 Condominiums, Timeshare, and Mobile Homes Trust Fund created
28 by s. 498.019.

29 Section 83. Paragraph (c) of subsection (1) of section
30 721.301, Florida Statutes, is amended to read:

31

1 721.301 Florida Timesharing, Vacation Club, and
2 Hospitality Program.--

3 (1)

4 (c) The director may designate funds from the Division
5 of ~~Florida Land Sales, Condominiums, Timeshare,~~ and Mobile
6 Homes Trust Fund, not to exceed \$50,000 annually, to support
7 the projects and proposals undertaken pursuant to paragraph
8 (b). All state trust funds to be expended pursuant to this
9 section must be matched equally with private moneys and shall
10 comprise no more than half of the total moneys expended
11 annually.

12 Section 84. Subsection (1) of section 723.003, Florida
13 Statutes, is amended to read:

14 723.003 Definitions.--As used in this chapter, the
15 following words and terms have the following meanings unless
16 clearly indicated otherwise:

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

20 Section 85. Paragraph (e) of subsection (5) of section
21 723.006, Florida Statutes, is amended to read:

22 723.006 Powers and duties of division.--In performing
23 its duties, the division has the following powers and duties:

24 (5) Notwithstanding any remedies available to mobile
25 home owners, mobile home park owners, and homeowners'
26 associations, if the division has reasonable cause to believe
27 that a violation of any provision of this chapter or any rule
28 promulgated pursuant hereto has occurred, the division may
29 institute enforcement proceedings in its own name against a
30 developer, mobile home park owner, or homeowners' association,
31 or its assignee or agent, as follows:

1 (e)1. The division may impose a civil penalty against
2 a mobile home park owner or homeowners' association, or its
3 assignee or agent, for any violation of this chapter, a
4 properly promulgated park rule or regulation, or a rule or
5 regulation promulgated pursuant hereto. A penalty may be
6 imposed on the basis of each separate violation and, if the
7 violation is a continuing one, for each day of continuing
8 violation, but in no event may the penalty for each separate
9 violation or for each day of continuing violation exceed
10 \$5,000. All amounts collected shall be deposited with the
11 Treasurer to the credit of the Division of ~~Florida Land Sales,~~
12 Condominiums, Timeshare, and Mobile Homes Trust Fund.

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

26 Section 86. Section 723.009, Florida Statutes, is
27 amended to read:

28 723.009 Division of ~~Florida Land Sales,~~ Condominiums,
29 Timeshare, and Mobile Homes Trust Fund.--All proceeds from the
30 fees, penalties, and fines imposed pursuant to this chapter
31 shall be deposited into the Division of Florida Land Sales,

1 Condominiums, and Mobile Homes Trust Fund created by s.
2 498.019. Moneys in this fund, as appropriated by the
3 Legislature pursuant to chapter 216, may be used to defray the
4 expenses incurred by the division in administering the
5 provisions of this chapter.

6 Section 87. The regulation of land sales pursuant to
7 chapter 498, Florida Statutes, shall remain under the
8 Department of Business and Professional Regulation but is
9 reassigned from the Division of Florida Land Sales,
10 Condominiums, and Mobile Homes to the Division of Real Estate.
11 All funds collected by the department pursuant to this
12 regulation and all funds in the account created within the
13 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund
14 for the purpose of this regulation shall be deposited in an
15 account created within the Professional Regulation Trust Fund
16 for this same purpose.

17 Section 88. Section 718.1255, Florida Statutes, is
18 repealed.

19 Section 89. Paragraphs (j), (k), (l), and (m) of
20 subsection (2) of section 718.112, Florida Statutes, are
21 amended to read:

22 718.112 Bylaws.--

23 (2) REQUIRED PROVISIONS.--The bylaws shall provide for
24 the following and, if they do not do so, shall be deemed to
25 include the following:

26 (j) Recall of board members.--Subject to the
27 provisions of s. 718.301, any member of the board of
28 administration may be recalled and removed from office with or
29 without cause by the vote or agreement in writing by a
30 majority of all the voting interests. A special meeting of the
31 unit owners to recall a member or members of the board of

1 administration may be called by 10 percent of the voting
2 interests giving notice of the meeting as required for a
3 meeting of unit owners, and the notice shall state the purpose
4 of the meeting.

5 1. If the recall is approved by a majority of all
6 voting interests by a vote at a meeting, the recall will be
7 effective as provided herein. The board shall duly notice and
8 hold a board meeting within 5 full business days of the
9 adjournment of the unit owner meeting to recall one or more
10 board members. At the meeting, the board shall either certify
11 the recall, in which case such member or members shall be
12 recalled effective immediately and shall turn over to the
13 board within 5 full business days any and all records and
14 property of the association in their possession, or shall
15 proceed as set forth elsewhere in the by-laws ~~in subparagraph~~
16 ~~3~~.

17 2. If the proposed recall is by an agreement in
18 writing by a majority of all voting interests, the agreement
19 in writing or a copy thereof shall be served on the
20 association by certified mail or by personal service in the
21 manner authorized by chapter 48 and the Florida Rules of Civil
22 Procedure. The board of administration shall duly notice and
23 hold a meeting of the board within 5 full business days after
24 receipt of the agreement in writing. At the meeting, the board
25 shall either certify the written agreement to recall a member
26 or members of the board, in which case such member or members
27 shall be recalled effective immediately and shall turn over to
28 the board within 5 full business days any and all records and
29 property of the association in their possession, or proceed as
30 described elsewhere in the bylaws ~~in subparagraph 3~~.

31

1 3. Bylaws must contain provisions for settlement of
2 recalls not settled by written agreement certified by the
3 board.~~If the board determines not to certify the written~~
4 ~~agreement to recall a member or members of the board, or does~~
5 ~~not certify the recall by a vote at a meeting, the board~~
6 ~~shall, within 5 full business days after the meeting, file~~
7 ~~with the division a petition for arbitration pursuant to the~~
8 ~~procedures in s. 718.1255. For the purposes of this section,~~
9 ~~the unit owners who voted at the meeting or who executed the~~
10 ~~agreement in writing shall constitute one party under the~~
11 ~~petition for arbitration. If the arbitrator certifies the~~
12 ~~recall as to any member or members of the board, the recall~~
13 ~~will be effective upon mailing of the final order of~~
14 ~~arbitration to the association. If the association fails to~~
15 ~~comply with the order of the arbitrator, the division may take~~
16 ~~action pursuant to s. 718.501. Any member or members so~~
17 ~~recalled shall deliver to the board any and all records of the~~
18 ~~association in their possession within 5 full business days of~~
19 ~~the effective date of the recall.~~

20 4. If the board fails to duly notice and hold a board
21 meeting within 5 full business days of service of an agreement
22 in writing or within 5 full business days of the adjournment
23 of the unit owner recall meeting, the recall shall be deemed
24 effective and the board members so recalled shall immediately
25 turn over to the board any and all records and property of the
26 association.

27 5. If a vacancy occurs on the board as a result of a
28 recall and less than a majority of the board members are
29 removed, the vacancy may be filled by the affirmative vote of
30 a majority of the remaining directors, notwithstanding any
31 provision to the contrary contained in this subsection. If

1 vacancies occur on the board as a result of a recall and a
2 majority or more of the board members are removed, the
3 vacancies shall be filled in accordance with procedural rules
4 to be adopted by the division, which rules need not be
5 consistent with this subsection. The rules must provide
6 procedures governing the conduct of the recall election as
7 well as the operation of the association during the period
8 after a recall but prior to the recall election.

9 ~~(k) Arbitration.--There shall be a provision for~~
10 ~~mandatory nonbinding arbitration as provided for in s.~~
11 ~~718.1255.~~

12 (k)~~(l)~~ Certificate of compliance.--There shall be a
13 provision that a certificate of compliance from a licensed
14 electrical contractor or electrician may be accepted by the
15 association's board as evidence of compliance of the
16 condominium units to the applicable fire and life safety code.

17 (l)~~(m)~~ Common elements; limited power to convey.--

18 1. With respect to condominiums created on or after
19 October 1, 1994, the bylaws shall include a provision granting
20 the association a limited power to convey a portion of the
21 common elements to a condemning authority for the purpose of
22 providing utility easements, right-of-way expansion, or other
23 public purposes, whether negotiated or as a result of eminent
24 domain proceedings.

25 2. In any case where the bylaws are silent as to the
26 association's power to convey common elements as described in
27 subparagraph 1., the bylaws shall be deemed to include the
28 provision described in subparagraph 1.

29 Section 90. Paragraph (1) of subsection (1) and
30 paragraph (a) of subsection (2) of section 718.501, Florida
31 Statutes, are amended to read:

1 718.501 Powers and duties of Division of Florida Land
2 Sales, Condominiums, and Mobile Homes.--

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

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

1 (2)(a) ~~Effective January 1, 1992,~~ Each condominium
2 association that ~~which~~ operates more than two units shall pay
3 to the division on or before January 1 an annual fee in the
4 amount of \$3.60~~\$4~~ for each residential unit in condominiums
5 operated by the association. If the fee is not paid by March
6 1, then the association shall be assessed a penalty of 10
7 percent of the amount due, and the association will not have
8 standing to maintain or defend any action in the courts of
9 this state until the amount due, plus any penalty, is paid.

10 Section 91. Paragraphs (f) and (l) of subsection (1)
11 of section 719.106, Florida Statutes, are amended to read:

12 719.106 Bylaws; cooperative ownership.--

13 (1) MANDATORY PROVISIONS.--The bylaws or other
14 cooperative documents shall provide for the following, and if
15 they do not, they shall be deemed to include the following:

16 (f) Recall of board members.--Subject to the
17 provisions of s. 719.301, any member of the board of
18 administration may be recalled and removed from office with or
19 without cause by the vote or agreement in writing by a
20 majority of all the voting interests. A special meeting of the
21 voting interests to recall any member of the board of
22 administration may be called by 10 percent of the unit owners
23 giving notice of the meeting as required for a meeting of unit
24 owners, and the notice shall state the purpose of the meeting.

25 1. If the recall is approved by a majority of all
26 voting interests by a vote at a meeting, the recall shall be
27 effective as provided herein. The board shall duly notice and
28 hold a board meeting within 5 full business days of the
29 adjournment of the unit owner meeting to recall one or more
30 board members. At the meeting, the board shall either certify
31 the recall, in which case such member or members shall be

1 recalled effective immediately and shall turn over to the
2 board within 5 full business days any and all records and
3 property of the association in their possession, or shall
4 proceed as set forth elsewhere in the bylaws ~~in subparagraph~~
5 ~~3~~.

6 2. If the proposed recall is by an agreement in
7 writing by a majority of all voting interests, the agreement
8 in writing or a copy thereof shall be served on the
9 association by certified mail or by personal service in the
10 manner authorized by chapter 48 and the Florida Rules of Civil
11 Procedure. The board of administration shall duly notice and
12 hold a meeting of the board within 5 full business days after
13 receipt of the agreement in writing. At the meeting, the board
14 shall either certify the written agreement to recall members
15 of the board, in which case such members shall be recalled
16 effective immediately and shall turn over to the board, within
17 5 full business days, any and all records and property of the
18 association in their possession, or proceed as described
19 elsewhere in the bylaws ~~in subparagraph 3~~.

20 3. Bylaws must contain provisions for settlement of
21 recalls not settled by written agreement certified by the
22 board.~~If the board determines not to certify the written~~
23 ~~agreement to recall members of the board, or does not certify~~
24 ~~the recall by a vote at a meeting, the board shall, within 5~~
25 ~~full business days after the board meeting, file with the~~
26 ~~division a petition for binding arbitration pursuant to the~~
27 ~~procedures of s. 719.1255. For purposes of this paragraph, the~~
28 ~~unit owners who voted at the meeting or who executed the~~
29 ~~agreement in writing shall constitute one party under the~~
30 ~~petition for arbitration. If the arbitrator certifies the~~
31 ~~recall as to any member of the board, the recall shall be~~

1 ~~effective upon mailing of the final order of arbitration to~~
2 ~~the association. If the association fails to comply with the~~
3 ~~order of the arbitrator, the division may take action pursuant~~
4 ~~to s. 719.501. Any member so recalled shall deliver to the~~
5 ~~board any and all records and property of the association in~~
6 ~~the member's possession within 5 full business days of the~~
7 ~~effective date of the recall.~~

8 4. If the board fails to duly notice and hold a board
9 meeting within 5 full business days of service of an agreement
10 in writing or within 5 full business days of the adjournment
11 of the unit owner recall meeting, the recall shall be deemed
12 effective and the board members so recalled shall immediately
13 turn over to the board any and all records and property of the
14 association.

15 5. If a vacancy occurs on the board as a result of a
16 recall and less than a majority of the board members are
17 removed, the vacancy may be filled by the affirmative vote of
18 a majority of the remaining directors, notwithstanding any
19 provision to the contrary contained in this chapter. If
20 vacancies occur on the board as a result of a recall and a
21 majority or more of the board members are removed, the
22 vacancies shall be filled in accordance with procedural rules
23 to be adopted by the division, which rules need not be
24 consistent with this chapter. The rules must provide
25 procedures governing the conduct of the recall election as
26 well as the operation of the association during the period
27 after a recall but prior to the recall election.

28 ~~(1) Arbitration.--There shall be a provision for~~
29 ~~mandatory nonbinding arbitration of internal disputes arising~~
30 ~~from the operation of the cooperative in accordance with s.~~
31 ~~719.1255.~~

1 Section 92. Paragraph (n) of subsection (1) and
2 paragraph (a) of subsection (2) of section 719.501, Florida
3 Statutes, are amended to read:

4 719.501 Powers and duties of Division of Florida Land
5 Sales, Condominiums, and Mobile Homes.--

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

16 (n) The division may ~~shall~~ develop a program to
17 certify both volunteer and paid mediators to provide mediation
18 of cooperative disputes. The division shall provide, upon
19 request, a list of such mediators to any association or, unit
20 owner, ~~or other participant in arbitration proceedings under~~
21 ~~s. 718.1255~~ requesting a copy of the list. The division shall
22 include on the list of voluntary mediators only persons who
23 have received at least 20 hours of training in mediation
24 techniques or have mediated at least 20 disputes. In order to
25 become initially certified by the division, paid mediators
26 must be certified by the Supreme Court to mediate court cases
27 in either county or circuit courts. However, the division may
28 adopt, by rule, additional factors for the certification of
29 paid mediators, which factors must be related to experience,
30 education, or background. Any person initially certified as a
31 paid mediator by the division must, in order to continue to be

1 certified, comply with the factors or requirements imposed by
2 rules adopted by the division.

3 (2)(a) Each cooperative association shall pay to the
4 division, on or before January 1 of each year, an annual fee
5 in the amount of \$3.60~~\$4~~ for each residential unit in
6 cooperatives operated by the association. If the fee is not
7 paid by March 1, then the association shall be assessed a
8 penalty of 10 percent of the amount due, and the association
9 shall not have the standing to maintain or defend any action
10 in the courts of this state until the amount due is paid.

11 Section 93. Except as otherwise provided in this act,
12 this act shall take effect October 1, 2001.

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SENATE SUMMARY

Revises provisions relating to the Department of Business and Professional Regulation. Provides exemptions from specified state employees required to be in the career service system. Transfers the regulation of yacht and ship brokers and salesmen from the Division of Land Sales, Condominiums, and Mobile Homes to the Division of Professions and transfers powers to the department. Provides for applications for licenses to be prepared by the department and for the electronic submission of information.

Abolishes the Board of Auctioneers and provides for auctioneers to register with the department rather than being licensed. Revises auctioneer-regulation provisions and penalties. Eliminates licensing requirements for talent agencies and provides instead for registration with the department.

Provides for direct supervision by telecommunication devices of building code administrators in certain counties and revises certain examination-fee penalties.

Revises provisions relating to asbestos abatement and management. Transfers duties relating to the regulation of asbestos abatement from the department to the Department of Environmental Protection and transfers the asbestos management program from the Department of Labor and Employment Security to the Department of Environmental Protection.

Abolishes the Board of Funeral Directors and Embalmers and transfers the regulation of funeral directing, embalming, and direct disposition from the department to the Board of Funeral and Cemetery Services created in the Department of Banking and Finance.

Permits engineers to use more than one type of seal. Abolishes the Board of Cosmetology and the Barber's Board within the department and transfers the regulation of both occupations to the Board of Barbering and Cosmetology, which is newly created in the department. Provides additional registration fees.

Revises construction industry regulation provisions. Eliminates certain divisions of contractors. Revises the composition of the Construction Industry Licensing Board, and relocates the board offices from Duval County to Leon County. Authorizes certain contractors to install roofing materials. Provides for the issuance of temporary certificates. Revises the composition of the Electrical Contractors' Licensing Board and revises certain provisions governing licensure by endorsement.

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Reassigns the regulation of land sales to the Division of Real Estate from the Division of Florida Land Sales, Condominiums, and Mobile Homes. Renames the latter as the Division of Condominiums, Timeshare, and Mobile Homes, and transfers funds among trust funds to conform to such changes.

Revises provisions relating to the arbitration of certain condominium and cooperative association disputes. Requires association bylaws to provide for the settlement of certain recalls. Reducing fees paid by associations.