

By the Committee on Regulated Industries and Senators Campbell and Crist

315-1925-01

1                                   A bill to be entitled  
2           An act relating to the Department of Business  
3           and Professional Regulation; amending s.  
4           20.165, F.S.; renaming the Division of Florida  
5           Land Sales, Condominiums, and Mobile Homes as  
6           the Division of Condominiums, Timeshare, and  
7           Mobile Homes; including reference to the Board  
8           of Barbering and Cosmetology; revising minimum  
9           requirements for the number of consumer members  
10          on professional licensing boards; amending ss.  
11          326.001, 326.002, 326.003, 326.004, 326.006,  
12          F.S.; transferring the regulation of yacht and  
13          ship brokers and salespersons from the Division  
14          of Florida Land Sales, Condominiums, and Mobile  
15          Homes to the Division of Professions; revising  
16          provisions relating to criminal history checks  
17          and administrative and civil penalties;  
18          requiring that all funds collected pursuant to  
19          such regulation be deposited into the  
20          Professional Regulation Trust Fund; revising  
21          references; amending s. 399.061, F.S.; revising  
22          provisions relating to the inspection of  
23          elevators; amending s. 455.213, F.S.; providing  
24          for the content of licensure and renewal  
25          documents; providing for the electronic  
26          submission of information to the department;  
27          providing that all legal obligations must be  
28          met before the issuance or renewal of a  
29          license; amending s. 455.224, F.S.; authorizing  
30          any division of the department to issue  
31          citations in the enforcement of its regulatory

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

1 subordinates; requiring certain notice;  
2 amending s. 810.12, F.S.; revising provisions  
3 relating to trespass, to conform; amending ss.  
4 472.001, 472.011, 472.015, 472.021, 472.027,  
5 472.031, 472.037, F.S.; revising  
6 cross-references; amending s. 476.034, F.S.;  
7 redefining the term "board"; amending s.  
8 476.054, F.S.; creating the Board of Barbering  
9 and Cosmetology; providing certain  
10 compensation; requiring an oath and providing  
11 for a certificate of appointment; providing for  
12 officers, meetings, and quorum; amending s.  
13 476.064, F.S.; conforming provisions; amending  
14 ss. 476.014, 476.074, 476.154, 476.194,  
15 476.214, 476.234, F.S.; revising references;  
16 amending s. 477.013, F.S.; defining the term  
17 "board"; repealing s. 477.015, F.S., relating  
18 to the Board of Cosmetology; abolishing the  
19 Barbers' Board and the Board of Cosmetology;  
20 providing for appointment of all members of the  
21 Board of Barbering and Cosmetology to staggered  
22 terms; providing savings clauses for rules and  
23 legal actions; amending s. 477.019, F.S.;  
24 revising requirements related to continuing  
25 education providers and courses; eliminating a  
26 requirement for refresher courses and  
27 examinations for failure of cosmetology  
28 licensees to comply with continuing education  
29 requirements; amending s. 477.026, F.S.;  
30 providing authority for registration renewal  
31 and delinquent fees for hair braiders, hair

1           wrappers, and body wrappers; amending s.  
2           481.209, F.S.; revising requirements relating  
3           to education for licensure as an architect;  
4           amending s. 481.223, F.S.; providing for  
5           injunctive relief for certain violations  
6           relating to architecture and interior design;  
7           amending s. 489.107, F.S.; reducing the number  
8           of members on the Construction Industry  
9           Licensing Board; creating s. 489.1133, F.S.;  
10          providing for temporary certificates and  
11          registrations; amending s. 489.115, F.S.;  
12          eliminating references to divisions of the  
13          Construction Industry Licensing Board; amending  
14          s. 489.118, F.S.; revising grandfathering  
15          provisions for certification of registered  
16          contractors to qualify persons holding certain  
17          registered local specialty licenses; repealing  
18          s. 489.507(6), F.S., to delete a duplicate  
19          provision relating to appointment of committees  
20          of the Construction Industry Licensing Board  
21          and the Electrical Contractors' Licensing Board  
22          for the purpose of meeting jointly twice each  
23          year; requiring the Electrical Contractors'  
24          Licensing Board to develop a plan to reduce its  
25          annual operating budget by a specified amount  
26          and submit such plan to the department by a  
27          specified date; amending s. 489.511, F.S.;  
28          revising provisions relating to licensure as an  
29          electrical or alarm system contractor by  
30          endorsement; amending ss. 498.005, 498.019,  
31          498.049, F.S.; reassigning the regulation of

1 land sales from the Division of Florida Land  
2 Sales, Condominiums, and Mobile Homes to the  
3 Division of Real Estate; requiring all funds  
4 collected by the department pursuant to the  
5 regulation of land sales to be deposited in the  
6 Professional Regulation Trust Fund; amending s.  
7 190.009, F.S.; conforming terminology; amending  
8 ss. 718.103, 718.105, 718.1255, 718.501,  
9 718.502, 718.504, 718.508, 718.509, 718.608,  
10 719.103, 719.1255, 719.501, 719.502, 719.504,  
11 719.508, 719.608, 721.05, 721.07, 721.08,  
12 721.26, 721.28, 721.301, 721.50, 721.82,  
13 721.84, 723.003, 723.006, 723.0065, 723.009,  
14 F.S.; renaming the Division of Florida Land  
15 Sales, Condominiums, and Mobile Homes as the  
16 Division of Condominiums, Timeshare, and Mobile  
17 Homes; renaming the Division of Florida Land  
18 Sales, Condominiums, and Mobile Homes Trust  
19 Fund as the Division of Condominiums,  
20 Timeshare, and Mobile Homes Trust Fund;  
21 conforming provisions; providing and limiting  
22 arbitration of disputes by the division to  
23 those regarding elections and the recall of  
24 board members; deleting reference to voluntary  
25 mediation; providing for the resolution of  
26 certain other complaints at the local level;  
27 providing exemptions; requiring the  
28 continuation of arbitration of cases filed by a  
29 certain date; providing a contingent  
30 appropriation; providing division enforcement  
31 powers and duties; providing for injunction,

1           restitution, and civil penalties; providing  
2           certain immunity; providing for use of certain  
3           documents as evidence; providing for certain  
4           notice; providing for intervention in suits;  
5           locating the executive offices of the division  
6           in Tallahassee; authorizing branch offices;  
7           providing for adoption and use of a seal;  
8           providing applicability to specified chapters  
9           of the Florida Statutes; amending s. 721.82,  
10          F.S.; redefining the term "registered agent";  
11          amending s. 721.84, F.S.; providing for  
12          appointment of a successor registered agent;  
13          amending ss. 73.073, 192.037, 213.053, 215.20,  
14          380.0651, 455.116, 475.455, 509.512, 559.935,  
15          F.S.; conforming terminology; amending s.  
16          489.537, F.S.; providing that a municipality or  
17          county may require the presence of a licensed  
18          electrical journeyman on certain construction  
19          sites; requiring the Department of Business and  
20          Professional Regulation to adopt rules  
21          implementing a required statewide registration  
22          designation for electrical journeyman for  
23          industrial and commercial job sites; amending  
24          s. 468.452, F.S.; revising definitions;  
25          amending s. 468.453, F.S.; revising licensure  
26          requirements; providing for service of process  
27          on nonresident agents; providing for temporary  
28          licenses; deleting a bond requirement; amending  
29          s. 468.454, F.S.; revising contract  
30          requirements; providing for cancellation of  
31          contracts; amending s. 468.456, F.S.; providing

1 for increased administrative fines; amending s.  
2 468.45615, F.S.; providing additional criminal  
3 penalties for certain acts; amending s.  
4 468.4562, F.S.; revising provisions relating to  
5 civil remedies available to colleges and  
6 universities for violations of athlete agent  
7 regulations; amending s. 468.4565, F.S.;  
8 revising business record requirements;  
9 repealing s. 468.4563, F.S., relating to  
10 authority to require continuing education by  
11 athlete agents; repealing s. 468.4564, relating  
12 to license display requirements; providing  
13 effective dates.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Paragraph (d) of subsection (2), paragraph  
18 (a) of subsection (4), and subsection (6) of section 20.165,  
19 Florida Statutes, are amended to read:

20 20.165 Department of Business and Professional  
21 Regulation.--There is created a Department of Business and  
22 Professional Regulation.

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

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

27 (4)(a) The following boards are established within the  
28 Division of Professions:

29 1. Board of Architecture and Interior Design, created  
30 under part I of chapter 481.

31

- 1           2. Florida Board of Auctioneers, created under part VI  
2 of chapter 468.
- 3           3. ~~Barbers'~~Board of Barbering and Cosmetology,  
4 created under chapter 476.
- 5           4. Florida Building Code Administrators and Inspectors  
6 Board, created under part XII of chapter 468.
- 7           5. Construction Industry Licensing Board, created  
8 under part I of chapter 489.
- 9           ~~6. Board of Cosmetology, created under chapter 477.~~
- 10          6.7. Electrical Contractors' Licensing Board, created  
11 under part II of chapter 489.
- 12          7.8. Board of Employee Leasing Companies, created  
13 under part XI of chapter 468.
- 14          8.9. Board of Funeral Directors and Embalmers, created  
15 under chapter 470.
- 16          9.10. Board of Landscape Architecture, created under  
17 part II of chapter 481.
- 18          10.11. Board of Pilot Commissioners, created under  
19 chapter 310.
- 20          11.12. Board of Professional Engineers, created under  
21 chapter 471.
- 22          12.13. Board of Professional Geologists, created under  
23 chapter 492.
- 24          13.14. Board of Professional Surveyors and Mappers,  
25 created under chapter 472.
- 26          14.15. Board of Veterinary Medicine, created under  
27 chapter 474.
- 28          (6) Each board with ~~five or~~ more than seven members  
29 shall have at least two consumer members who are not, and have  
30 never been, members or practitioners of the profession  
31 regulated by such board or of any closely related profession.



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

5 Section 2. Section 326.001, Florida Statutes, is  
6 amended to read:

7 326.001 Short title.--This chapter Sections  
8 ~~326.001-326.006~~ may be cited as the "Yacht and Ship Brokers'  
9 Act."

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

12 326.002 Definitions.--As used in this chapter ss.  
13 ~~326.001-326.006~~, the term:

14 (1) "Broker" means a person who, for or in expectation  
15 of compensation: sells, offers, or negotiates to sell; buys,  
16 offers, or negotiates to buy; solicits or obtains listings of;  
17 or negotiates the purchase, sale, or exchange of, yachts for  
18 other persons.

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

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

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

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

30 Section 4. Section 326.003, Florida Statutes, is  
31 amended to read:

1           326.003 Administration.--The department division  
2 shall:  
3           (1) Administer ~~ss. 326.001-326.006~~ and collect fees  
4 sufficient to administer this chapter ~~ss. 326.001-326.006~~.  
5           (2) Adopt rules pursuant to ss. 120.536(1) and 120.54  
6 necessary to administer this chapter ~~implement ss.~~  
7 ~~326.001-326.006~~ and to classify brokers and salespersons and  
8 regulate their activities.  
9           (3) Enforce the provisions of this chapter ~~ss.~~  
10 ~~326.001-326.006~~ against any person who operates as a broker or  
11 salesperson without a license.  
12           Section 5. Section 326.004, Florida Statutes, is  
13 amended to read:  
14           326.004 Licensing.--  
15           (1) A person may not act as a broker or salesperson  
16 unless licensed under the Yacht and Ship Brokers' Act. The  
17 department division shall adopt rules establishing a procedure  
18 for the biennial renewal of licenses.  
19           (2) A broker may not engage in business as a broker  
20 under a fictitious name unless his or her license is issued in  
21 such name.  
22           (3) A license is not required for:  
23           (a) A person who sells his or her own yacht.  
24           (b) An attorney at law for services rendered in his or  
25 her professional capacity.  
26           (c) A receiver, trustee, or other person acting under  
27 a court order.  
28           (d) A transaction involving the sale of a new yacht.  
29           (e) A transaction involving the foreclosure of a  
30 security interest in a yacht.  
31

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

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

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

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

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

17           (c) Post the bond required by the Yacht and Ship  
18 Brokers' Act.

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

21           (e) Furnish a full set of fingerprints taken within  
22 the 6 months immediately preceding the submission of the  
23 application.

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

26           (7)(a) Before any license may be issued to a yacht or  
27 ship broker, he or she must deliver to the department ~~division~~  
28 a good and sufficient surety bond or irrevocable letter of  
29 credit, executed by the broker as principal, in the sum of  
30 \$25,000.

31

1           (b) Surety bonds and irrevocable letters of credit  
2 must be in a form to be approved by the department ~~division~~  
3 and must be conditioned upon the broker complying with the  
4 terms of any written contract made by such broker in  
5 connection with the sale or exchange of any yacht or ship and  
6 not violating any of the provisions of the Yacht and Ship  
7 Brokers' Act in the conduct of the business for which he or  
8 she is licensed. The bonds and letters of credit must be  
9 delivered to the department ~~division~~ and in favor of any  
10 person in a transaction who suffers any loss as a result of  
11 any violation of the conditions in this chapter ~~ss.~~  
12 ~~326.001-326.006~~. When the department ~~division~~ determines that  
13 a person has incurred a loss as a result of a violation of the  
14 Yacht and Ship Brokers' Act, it shall notify the person in  
15 writing of the existence of the bond or letter of credit. The  
16 bonds and letters of credit must cover the license period, and  
17 a new bond or letter of credit or a proper continuation  
18 certificate must be delivered to the department ~~division~~ at  
19 the beginning of each license period. However, the aggregate  
20 liability of the surety in any one year may not exceed the sum  
21 of the bond or, in the case of a letter of credit, the  
22 aggregate liability of the issuing bank may not exceed the sum  
23 of the credit.

24           (c) Surety bonds must be executed by a surety company  
25 authorized to do business in the state as surety, and  
26 irrevocable letters of credit must be issued by a bank  
27 authorized to do business in the state as a bank.

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

31

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

3 (8) A person may not be licensed as a broker unless he  
4 or she has been a salesperson for at least 2 consecutive  
5 years, and may not be licensed as a broker after October 1,  
6 1990, unless he or she has been licensed as a salesperson for  
7 at least 2 consecutive years.

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

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

22 (11) Any person injured by the fraud, deceit, or  
23 willful negligence of any broker or salesperson or by the  
24 failure of any broker or salesperson to comply with the Yacht  
25 and Ship Brokers' Act or other law may file an action for  
26 damages upon the respective bonds against the principals and  
27 the surety.

28 (12) If a surety notifies the department ~~division~~ that  
29 it is no longer the surety for a licensee, the department  
30 ~~division~~ shall notify the licensee of such withdrawal by  
31 certified mail, return receipt requested, addressed to the

1 licensee's principal office. Upon the termination of such  
2 surety the licensee's license is automatically suspended until  
3 he or she files a new bond with the department ~~division~~.

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

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

11 (b) Each salesperson's license must remain in the  
12 possession of the employing broker until canceled or until the  
13 salesperson leaves such employment. Immediately upon a  
14 salesperson's withdrawal from the employment of a broker, the  
15 broker must return the salesperson's license to the department  
16 ~~division~~ for cancellation.

17 (15) The department ~~division~~ shall provide by rule for  
18 the issuance of a temporary 90-day license to an applicant  
19 while the Florida Department of Law Enforcement and the  
20 Federal Bureau of Investigation ~~conducts~~ a national  
21 criminal history analysis of the applicant by means of  
22 fingerprint identification.

23 Section 6. Section 326.006, Florida Statutes, is  
24 amended to read:

25 326.006 Powers and duties of department ~~division~~.--

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

28 (2) The department ~~may division~~ ~~has the power to~~  
29 enforce and ensure compliance with the provisions of this  
30 chapter and rules adopted under this chapter relating to the  
31 sale and ownership of yachts and ships. In performing its

1 duties, the department ~~division~~ has the following powers and  
2 duties:

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

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

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

31

1           (d) Notwithstanding any remedies available to a yacht  
2 or ship purchaser, if the department ~~division~~ has reasonable  
3 cause to believe that a violation of any provision of this  
4 chapter or rule adopted under this chapter has occurred, the  
5 department ~~division~~ may institute enforcement proceedings in  
6 its own name against any broker or salesperson or any of his  
7 or her assignees or agents, or against any unlicensed person  
8 or any of his or her assignees or agents, as follows:

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

14           2. The department ~~division~~ may issue an order  
15 requiring the broker or salesperson or any of his or her  
16 assignees or agents, or requiring any unlicensed person or any  
17 of his or her assignees or agents, to cease and desist from  
18 the unlawful practice and take such affirmative action as in  
19 the judgment of the department ~~division~~ will carry out the  
20 purposes of this chapter.

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

24           4. The department ~~division~~ may impose a civil penalty  
25 against a broker or salesperson or any of his or her assignees  
26 or agents, or against an unlicensed person or any of his or  
27 her assignees or agents, for any violation of this chapter or  
28 a rule adopted under this chapter. A penalty may be imposed  
29 for each day of continuing violation, but in no event may the  
30 penalty for any offense exceed \$10,000. All amounts collected  
31 must be deposited with the Treasurer to the credit of the



1 ~~Professional Regulation Division of Florida Land Sales,~~  
2 ~~Condominiums, and Mobile Homes~~ Trust Fund. If a broker,  
3 salesperson, or unlicensed person working for a broker, fails  
4 to pay the civil penalty, the department ~~division~~ shall  
5 thereupon issue an order suspending the broker's license until  
6 such time as the civil penalty is paid or may pursue  
7 enforcement of the penalty in a court of competent  
8 jurisdiction. The order imposing the civil penalty or the  
9 order of suspension may not become effective until 20 days  
10 after the date of such order. Any action commenced by the  
11 department ~~division~~ must be brought in the county in which the  
12 department ~~division~~ has its executive offices or in the county  
13 where the violation occurred.

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

16 1. Makes a substantial and intentional  
17 misrepresentation, with respect to a transaction involving a  
18 yacht, upon which any person has relied.

19 2. Makes a false warranty, with respect to a  
20 transaction involving a yacht, of a character likely to  
21 influence, persuade, or induce any person with whom business  
22 is transacted.

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

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

29 5. Commingles the money or other property of his or  
30 her principal with his or her own.

31

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

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

5           8. Violates any law governing the transactions  
6 involving a yacht, including any provision relating to the  
7 collection or payment of sales or use taxes.

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

10           10. Is convicted of a felony.

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

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

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

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

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

22           Section 7. The regulation of yacht and ship brokers  
23 and salespersons is reassigned within the Department of  
24 Business and Professional Regulation from the Division of  
25 Florida Land Sales, Condominiums, and Mobile Homes to the  
26 Division of Professions. All funds collected by the department  
27 pursuant to the regulation of yacht and ship brokers and  
28 salespersons and all funds in the account created within the  
29 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund  
30 for such regulation shall be deposited in an account created  
31

1 within the Professional Regulation Trust Fund for the same  
2 purpose.

3 Section 8. Section 399.061, Florida Statutes, is  
4 amended to read:

5 399.061 Inspections; correction of deficiencies.--

6 (1)(a) All elevators or other conveyances subject to  
7 this chapter must be annually inspected by a certified  
8 elevator inspector through a third-party inspection service,  
9 or by a municipality or county under contract with the  
10 division pursuant to s. 399.13. If the elevator or other  
11 conveyance is by a third-party inspection service certified as  
12 a qualified elevator inspector or maintained pursuant to a  
13 service maintenance contract continuously in force, it shall  
14 be inspected at least once every two years by a certified  
15 elevator inspector not employed by or otherwise associated  
16 with the maintenance company; however, if the elevator is not  
17 an escalator or a dumbwaiter and the elevator serves only two  
18 adjacent floors and is covered by a service maintenance  
19 contract, no inspection shall be required so long as the  
20 service contract remains in effect. A statement verifying the  
21 existence, performance, and cancellation of each service  
22 maintenance contract must be filed annually with the division  
23 as prescribed by rule. All elevators covered by a service  
24 maintenance contract shall be inspected by a  
25 certificate of competency holder at least once every 2 years;  
26 however, if the elevator is not an escalator or a dumbwaiter  
27 and the elevator serves only two adjacent floors and is  
28 covered by a service maintenance contract, no inspection shall  
29 be required so long as the service contract remains in effect.

30  
31

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

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

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

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

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

23 455.213 General licensing provisions.--

24 (1) Any person desiring to be licensed shall apply to  
25 the department in writing. The application for licensure shall  
26 be made on a form prepared and furnished by the department and  
27 include the applicant's social security number.

28 Notwithstanding any other provision of law, the department is  
29 responsible for the printed or electronic content of all  
30 initial licensure and licensure renewal documents. Such  
31 documents must require information including as appropriate

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

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

29 (12) The department may not issue or renew a license  
30 to any person who has not complied with all provisions of a  
31 final order of a board or the department until that person

1 complies with all terms and conditions of the final order. The  
2 department may not issue or renew a license to any person who  
3 has not complied with all legal obligations under this chapter  
4 or the relevant practice act, including, but not limited to,  
5 the obligation to pay all fees and assessments that are owed  
6 and to complete all continuing education requirements. This  
7 subsection applies to all divisions within the department.

8 Section 10. Section 455.224, Florida Statutes, is  
9 amended to read:

10 455.224 Authority to issue citations.--

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

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

31

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

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

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

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

23           (7) Notwithstanding s. 455.017, any division within  
24 the department may establish a citation program pursuant to  
25 the provisions of this section in the enforcement of its  
26 regulatory provisions. Any citation issued by a division  
27 pursuant to this section must clearly state that the subject  
28 may choose, in lieu of accepting the citation, to follow the  
29 existing procedures established by law. If the subject does  
30 not dispute the matter in the citation with the division  
31 within 30 days after the citation is served, the citation

1 becomes a final order and constitutes discipline. The penalty  
2 shall be a fine or other conditions as established by rule of  
3 the appropriate division.

4 Section 11. Subsections (10) and (11) of section  
5 468.401, Florida Statutes, are amended to read:

6 468.401 Regulation of talent agencies;  
7 definitions.--As used in this part or any rule adopted  
8 pursuant hereto:

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

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

16 Section 12. Section 468.402, Florida Statutes, is  
17 amended to read:

18 468.402 Operation of a talent agency ~~Duties of the~~  
19 ~~department; authority to issue and revoke license;~~ adoption of  
20 rules.--

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

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

26 (b) Violated any provision of this part, chapter 455,  
27 any lawful disciplinary order of the department, or any rule  
28 of the department.

29 (c) Been found guilty of, or entered a plea of nolo  
30 contendere to, regardless of adjudication, a crime involving

31



1 moral turpitude or dishonest dealings under the laws of this  
2 state or any other state or government.

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

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

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

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

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

1           (i) Had a license or registration to operate a talent  
2 agency revoked, suspended, or otherwise acted against,  
3 including, but not limited to, having been denied a license or  
4 registration for good cause by the licensing authority of  
5 another state, territory, or country.

6           (j) Willfully made or filed a report or record that  
7 the registrant licensee knew to be false, failed to file a  
8 report or record required by state or federal law, impeded or  
9 obstructed such filing, or induced another person to impede or  
10 obstruct such filing. Such reports or records shall include  
11 only those that are signed in the registrant's licensee's  
12 capacity as a registered licensed talent agency.

13           (k) Advertised goods or services in a manner that was  
14 fraudulent, false, deceptive, or misleading in form or  
15 content.

16           (l) Advertised, operated, or attempted to operate  
17 under a name other than the name appearing on the registration  
18 license.

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

21           (n) Operated with a revoked, suspended, inactive, or  
22 delinquent registration license.

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

26           (p) Failed to perform any statutory or legal  
27 obligation placed on a licensed talent agency.

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

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

5           (s) Solicited business, either personally or through  
6 an agent or through any other person, through the use of fraud  
7 or deception or by other means; through the use of misleading  
8 statements; or through the exercise of intimidation or undue  
9 influence.

10           (t) Exercised undue influence on the artist in such a  
11 manner as to exploit the artist for financial gain of the  
12 registrant licensee or a third party, which includes, but is  
13 not limited to, the promoting or selling of services to the  
14 artist.

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

18           (2)~~(3)~~ The department may ~~has authority to~~ adopt rules  
19 pursuant to ss. 120.536(1) and 120.54 necessary to administer  
20 ~~implement the provisions of~~ this part.

21           (3)~~(4)~~ A revoked or suspended registration license  
22 must be returned to the department within 7 days after the  
23 time for appeal has elapsed.

24           (4)~~(5)~~ Upon a finding of a violation of any one or  
25 more of the grounds enumerated in subsection (1) or any other  
26 section of this part, the department may ~~take the following~~  
27 ~~actions:~~

28           (a) Deny an application for registration licensure as  
29 a talent agency.

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

1           ~~(c) Impose an administrative fine, not to exceed~~  
2 ~~\$5,000, for each count or separate offense.~~

3           ~~(d) Require restitution.~~

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

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

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

11           ~~(5)(7)~~ The department may deny a registration license  
12 if any owner or operator listed on the application has been  
13 associated with a talent agency whose registration license has  
14 been revoked or otherwise disciplined.

15           Section 13. Section 468.403, Florida Statutes, is  
16 amended to read:

17           468.403 Registration License requirements.--

18           (1) A person may not own, operate, solicit business,  
19 or otherwise engage in or carry on the occupation of a talent  
20 agency in this state unless such person first registers with  
21 ~~procures a license for the talent agency from the department.~~  
22 However, a registration license is not required for a person  
23 who acts as an agent for herself or himself, a family member,  
24 or exclusively for one artist.

25           (2) Each application for a registration license must  
26 be accompanied by an application fee set by the department not  
27 to exceed \$300, ~~plus the actual cost for fingerprint analysis~~  
28 ~~for each owner application, to cover the costs of~~  
29 ~~investigating the applicant.~~ Each application for a change of  
30 operator must be accompanied by an application fee of \$150.  
31 These fees are not refundable.

1           ~~(3)(a) Each owner of a talent agency if other than a~~  
2 ~~corporation and each operator of a talent agency shall submit~~  
3 ~~to the department with the application for licensure of the~~  
4 ~~agency a full set of fingerprints and a photograph of herself~~  
5 ~~or himself taken within the preceding 2 years. The department~~  
6 ~~shall conduct an examination of fingerprint records and police~~  
7 ~~records.~~

8           ~~(b) Each owner of a talent agency that is a~~  
9 ~~corporation shall submit to the department, with the~~  
10 ~~application for licensure of the agency, a full set of~~  
11 ~~fingerprints of the principal officer signing the application~~  
12 ~~form and the bond form, and a full set of fingerprints of each~~  
13 ~~operator, and a photograph of each taken within the preceding~~  
14 ~~2 years. The department shall conduct an examination of~~  
15 ~~fingerprint records and police records.~~

16           (3)(4) Each application must include:

17           (a) The name and address of the owner of the talent  
18 agency.

19           ~~(b) Proof of at least 1 year of direct experience or~~  
20 ~~similar experience of the operator of such agency in the~~  
21 ~~talent agency business or as a subagent, casting director,~~  
22 ~~producer, director, advertising agency, talent coordinator, or~~  
23 ~~musical booking agent.~~

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

26           ~~(5) The department shall investigate the owner of an~~  
27 ~~applicant talent agency only to determine her or his ability~~  
28 ~~to comply with this part and shall investigate the operator of~~  
29 ~~an applicant talent agency to determine her or his employment~~  
30 ~~experience and qualifications.~~

31

1           ~~(4)(6)~~ If the applicant is other than a corporation,  
2 the application shall also include the names and addresses of  
3 all persons, except bona fide employees on stated salaries,  
4 financially interested, either as partners, associates, or  
5 profit sharers, in the operation of the talent agency in  
6 question, together with the amount of their respective  
7 interest.

8           ~~(5)(7)~~ If the applicant is a corporation, the  
9 application shall include the corporate name and the names,  
10 residential addresses, and telephone numbers of all persons  
11 actively participating in the business of the corporation and  
12 shall include the names of all persons exercising managing  
13 responsibility in the applicant's or registrant's licensee's  
14 office.

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

21           ~~(6)(9)~~ If any information in the application supplied  
22 to the department by the applicant or registrant licensee  
23 changes in any manner whatsoever, the applicant or registrant  
24 licensee shall submit such changes to the department within 30  
25 days after the date of such change or after the date such  
26 change is known or should have been known to the applicant or  
27 registrant licensee.

28           Section 14. Section 468.404, Florida Statutes, is  
29 amended to read:

30           468.404 Registration License; fees; renewals.--

31

1           (1) The department by rule shall establish biennial  
2 fees for initial registration ~~licensing~~, renewal of  
3 registration ~~license~~, and reinstatement of registration  
4 ~~license~~, none of which fees shall exceed \$400. The department  
5 may by rule establish a delinquency fee of no more than \$50.  
6 The fees shall be adequate to proportionately fund the  
7 expenses of the department which are allocated to the  
8 registering ~~regulation~~ of talent agencies and shall be based  
9 on the department's estimate of the revenue required to  
10 administer this part.

11           (2) If one or more individuals on the basis of whose  
12 qualifications a talent agency registration ~~license~~ has been  
13 obtained cease to be connected with the agency for any reason,  
14 the agency business may be carried on for a temporary period,  
15 not to exceed 90 days, under such terms and conditions as the  
16 department provides by rule for the orderly closing of the  
17 business or the replacement and qualifying of a new owner or  
18 operator. The registrant's ~~licensee's~~ good standing under this  
19 part shall be contingent upon the department's approval of any  
20 such new owner or operator.

21           (3) No registration ~~license~~ shall be valid to protect  
22 any business transacted under any name other than that  
23 designated on ~~in~~ the registration ~~license~~, unless consent is  
24 first obtained from the department, ~~unless written consent of~~  
25 ~~the surety or sureties on the original bond required by s.~~  
26 ~~468.408 is filed with the department,~~ and unless the  
27 registration ~~license~~ is returned to the department for the  
28 recording thereon of such changes. A charge of \$25 shall be  
29 made by the department for the recording of authorization for  
30 each change of name or change of location.

31

1           (4) No registration ~~license~~ issued under this part  
2 shall be assignable.

3           Section 15. Section 468.406, Florida Statutes, is  
4 amended to read:

5           468.406 Fees to be charged by talent agencies; rates;  
6 display.--

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

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

26           Section 16. Section 468.407, Florida Statutes, is  
27 amended to read:

28           468.407 Registration ~~License~~; content; posting.--

29           (1) The talent agency registration ~~license~~ shall be  
30 valid for the biennial period in which issued and shall be in  
31 such form as may be determined by the department, but shall at



1 least specify the name under which the applicant is to  
2 operate, the address of the place of business, the expiration  
3 date of the registration license, the full names and titles of  
4 the owner and the operator, and the number of the registration  
5 license.

6 (2) The talent agency registration license shall at  
7 all times be displayed conspicuously in the place of business  
8 in such manner as to be open to the view of the public and  
9 subject to the inspection of all duly authorized officers of  
10 the state and county.

11 (3) If a registrant licensee desires to cancel his or  
12 her registration license, he or she must notify the department  
13 and forthwith return to the department the registration  
14 license so canceled. No registration license fee may be  
15 refunded upon cancellation of the registration license.

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

18 468.410 Prohibition against registration fees;  
19 referral.--

20 (3) A talent agency shall give each applicant a copy  
21 of a contract which lists the services to be provided and the  
22 fees to be charged. The contract shall state that the talent  
23 agency is registered with ~~regulated by~~ the department and  
24 shall list the address and telephone number of the department.

25 Section 18. Section 468.412, Florida Statutes, is  
26 amended to read:

27 468.412 Talent agency requirements ~~regulations~~.--

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

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

3           (a) The name and address of each artist employing such  
4 talent agency;

5           (b) The amount of fees received from each such artist;  
6 and

7           (c) The employment in which each such artist is  
8 engaged at the time of employing such talent agency and the  
9 amount of compensation of the artist in such employment, if  
10 any, and the employments subsequently secured by such artist  
11 during the term of the contract between the artist and the  
12 talent agency and the amount of compensation received by the  
13 artist pursuant thereto. ~~and~~

14           ~~(d) Other information which the department may require~~  
15 ~~from time to time.~~

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

23           (3)~~(4)~~ Each talent agency shall post in a conspicuous  
24 place in the office of such talent agency a printed copy of  
25 this part ~~and of the rules adopted under this part.~~ Such  
26 ~~copies shall also contain the name and address of the officer~~  
27 ~~charged with enforcing this part.~~ The department shall  
28 furnish to talent agencies printed copies of any statute ~~or~~  
29 ~~rule~~ required to be posted under this subsection.

30           (4)~~(5)~~ No talent agency may knowingly issue a contract  
31 for employment containing any term or condition which, if

1 complied with, would be in violation of law, or attempt to  
2 fill an order for help to be employed in violation of law.

3 (5)~~(6)~~ No talent agency may publish or cause to be  
4 published any false, fraudulent, or misleading information,  
5 representation, notice, or advertisement. All advertisements  
6 of a talent agency by means of card, circulars, or signs, and  
7 in newspapers and other publications, and all letterheads,  
8 receipts, and blanks shall be printed and contain the  
9 registered ~~licensed~~ name, department registration ~~license~~  
10 number, and address of the talent agency and the words "talent  
11 agency." No talent agency may give any false information or  
12 make any false promises or representations concerning an  
13 engagement or employment to any applicant who applies for an  
14 engagement or employment.

15 (6)~~(7)~~ No talent agency may send or cause to be sent  
16 any person as an employee to any house of ill fame, to any  
17 house or place of amusement for immoral purposes, to any place  
18 resorted to for the purposes of prostitution, to any place for  
19 the modeling or photographing of a minor in the nude in the  
20 absence of written permission from the minor's parents or  
21 legal guardians, the character of which places the talent  
22 agency could have ascertained upon reasonable inquiry.

23 (7)~~(8)~~ No talent agency may divide fees with anyone,  
24 including, but not limited to, an agent or other employee of  
25 an employer, a buyer, a casting director, a producer, a  
26 director, or any venue that uses entertainment.

27 (8)~~(9)~~ If a talent agency collects from an artist a  
28 fee or expenses for obtaining employment for the artist, and  
29 the artist fails to procure such employment, or the artist  
30 fails to be paid for such employment if procured, such talent  
31 agency shall, upon demand therefor, repay to the artist the

1 fee and expenses so collected. Unless repayment thereof is  
2 made within 48 hours after demand therefor, the talent agency  
3 shall pay to the artist an additional sum equal to the amount  
4 of the fee.

5 ~~(9)(10)~~ Each talent agency must maintain a permanent  
6 office and must maintain regular operating hours at that  
7 office.

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

10 468.413 Unlawful acts ~~Legal requirements~~; penalties.--

11 (1) Each of the following acts constitutes a felony of  
12 the third degree, punishable as provided in s. 775.082, s.  
13 775.083, or s. 775.084:

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

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

19 (2) Each of the following acts constitutes a  
20 misdemeanor of the second degree, punishable as provided in s.  
21 775.082 or s. 775.083:

22 (a) Relocating a business as a talent agency, or  
23 operating under any name other than that designated on the  
24 registration license, ~~unless written notification is given to~~  
25 ~~the department and to the surety or sureties on the original~~  
26 ~~bond, and unless the registration license is returned to the~~  
27 department for the recording thereon of such changes.

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

30 (c) Failing to show on a registration license  
31 application whether or not the agency or any owner of the

1 agency is financially interested in any other business of like  
2 nature and, if so, failing to specify such interest or  
3 interests.

4 (d) Failing to maintain the records required by s.  
5 468.409 or knowingly making false entries in such records.

6 (e) Requiring as a condition to registering or  
7 obtaining employment or placement for any applicant that the  
8 applicant subscribe to, purchase, or attend any publication,  
9 postcard service, advertisement, resume service, photography  
10 service, school, acting school, workshop, or acting workshop.

11 (f) Failing to give each applicant a copy of a  
12 contract which lists the services to be provided and the fees  
13 to be charged, which states that the talent agency is  
14 registered with ~~regulated by~~ the department, ~~and which lists~~  
15 ~~the address and telephone number of the department.~~

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

18 (h) Knowingly sending or causing to be sent any artist  
19 to a prospective employer or place of business, the character  
20 or operation of which employer or place of business the talent  
21 agency knows to be in violation of the laws of the United  
22 States or of this state.

23 (3) The court may, in addition to other punishment  
24 provided for in subsection (1) or subsection (2), suspend or  
25 revoke the registration license of any person licensee under  
26 this part who has been found guilty of any violation of  
27 subsection (1) or misdemeanor listed in subsection (2).

28 (4) ~~If a~~ ~~In the event the department or any state~~  
29 attorney finds ~~shall have~~ probable cause to believe that a  
30 talent agency or other person has violated any provision of  
31 subsection (1) or subsection (2), an action may be brought by

1 the department or any state attorney to enjoin such talent  
2 agency or any person from continuing such violation, or  
3 engaging therein or doing any acts in furtherance thereof, and  
4 for such other relief as to the court seems appropriate. In  
5 addition to this remedy, the department may permanently  
6 prohibit a person from operating or working for a talent  
7 agency ~~assess a penalty against any talent agency or any~~  
8 ~~person in an amount not to exceed \$1,000.~~

9 (5) Any person injured by a prohibited act or practice  
10 in violation of this part may bring a civil action in circuit  
11 court for temporary or permanent injunctive relief and may  
12 seek appropriate civil relief, including, but not limited to,  
13 a civil penalty not to exceed \$5,000 for each violation,  
14 restitution and treble damages for injured parties, and court  
15 costs and reasonable attorney's fees.

16 Section 20. Section 468.414, Florida Statutes, is  
17 amended to read:

18 468.414 Collection and deposit of moneys;  
19 appropriation.--Proceeds from the ~~finer, fees, and penalties~~  
20 imposed pursuant to this part shall be deposited in the  
21 Professional Regulation Trust Fund, created by s. 215.37.

22 Section 21. Section 468.415, Florida Statutes, is  
23 amended to read:

24 468.415 Sexual misconduct in the operation of a talent  
25 agency.--The talent agent-artist relationship is founded on  
26 mutual trust. Sexual misconduct in the operation of a talent  
27 agency means violation of the talent agent-artist relationship  
28 through which the talent agent uses the relationship to induce  
29 or attempt to induce the artist to engage or attempt to engage  
30 in sexual activity. Sexual misconduct is prohibited in the  
31 operation of a talent agency. If any agent, owner, or operator

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

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

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

11 468.609 Administration of this part; standards for  
12 certification; additional categories of certification.--

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

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

24 (c) The board may provide for appropriate levels of  
25 provisional certificates and may issue these certificates with  
26 such special conditions or requirements relating to the place  
27 of employment of the person holding the certificate, the  
28 supervision of such person on a consulting or advisory basis,  
29 or other matters as the board may deem necessary to protect  
30 the public safety and health.

31

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

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

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

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

21           468.627 Application; examination; renewal; fees.--

22           (4) Employees of local government agencies having  
23 responsibility for building code inspection, building  
24 construction regulation, and enforcement of building,  
25 plumbing, mechanical, electrical, gas, fire prevention,  
26 energy, accessibility, and other construction codes shall pay  
27 no application fees or examination fees. However, the fee  
28 charged by the examination contract vendor to the department  
29 for scheduling an examination of an employee of a local  
30 government shall be recovered from any employee who does not  
31 report for the scheduled examination. The department shall



1 have the final approval for excusing applicants from a  
2 scheduled examination and may waive recovery of the fee in  
3 case of hardship.

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

6           471.025 Seals.--

7           (1) The board shall prescribe, by rule, the forms a  
8 form of seals ~~seal~~ to be used by registrants holding valid  
9 certificates of registration. Each registrant shall obtain at  
10 least one ~~an impression-type metal~~ seal in the form approved  
11 by board rule aforesaid and may, in addition, register his or  
12 her seal electronically in accordance with ss. 282.70-282.75.  
13 All final drawings, specifications, plans, reports, or  
14 documents prepared or issued by the registrant and being filed  
15 for public record and all final bid documents provided to the  
16 owner or the owner's representative shall be signed by the  
17 registrant, dated, and stamped with said seal. Such signature,  
18 date, and seal shall be evidence of the authenticity of that  
19 to which they are affixed. Drawings, specifications, plans,  
20 reports, final bid documents, or documents prepared or issued  
21 by a registrant may be transmitted electronically and may be  
22 signed by the registrant, dated, and stamped electronically  
23 with said seal in accordance with ss. 282.70-282.75.

24           Section 26. Section 472.001, Florida Statutes, is  
25 amended to read:

26           472.001 Purpose.--The Legislature deems it necessary  
27 to regulate surveyors and mappers as provided in this chapter  
28 ~~ss. 472.001-472.041.~~

29           Section 27. Section 472.003, Florida Statutes, is  
30 amended to read:

31

1           472.003 Exemptions ~~Persons not affected by ss.~~  
2 ~~472.001-472.041.~~--This chapter does ~~Sections 472.001-472.041~~  
3 ~~do~~ not apply to:  
4           (1) Any surveyor and mapper working as a salaried  
5 employee of the United States Government when engaged in work  
6 solely for the United States Government.  
7           (2) A registered professional engineer who takes or  
8 contracts for professional surveying and mapping services  
9 incidental to her or his practice of engineering and who  
10 delegates such surveying and mapping services to a registered  
11 professional surveyor and mapper qualified within her or his  
12 firm or contracts for such professional surveying and mapping  
13 services to be performed by others who are registered  
14 professional surveyors and mappers under this chapter ~~the~~  
15 ~~provisions of ss. 472.001-472.041.~~  
16           (3) The following persons when performing construction  
17 layout from boundary, horizontal, and vertical controls that  
18 have been established by a registered professional surveyor  
19 and mapper:  
20           (a) Contractors performing work on bridges, roads,  
21 streets, highways, or railroads, or utilities and services  
22 incidental thereto, or employees who are subordinates of such  
23 contractors provided that the employee does not hold herself  
24 or himself out for hire or engage in such contracting except  
25 as an employee;  
26           (b) Certified or registered contractors licensed  
27 pursuant to part I of chapter 489 or employees who are  
28 subordinates of such contractors provided that the employee  
29 does not hold herself or himself out for hire or engage in  
30 contracting except as an employee; and  
31

1 (c) Registered professional engineers licensed  
2 pursuant to chapter 471 and employees of a firm, corporation,  
3 or partnership who are the subordinates of the registered  
4 professional engineer in responsible charge.

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

11 (5)(a) Persons who are employees of any state, county,  
12 municipal, or other governmental unit of this state and who  
13 are the subordinates of a person in responsible charge  
14 registered under this chapter, to the extent that the  
15 supervision meets standards adopted by rule of the board, if  
16 any.

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

21 (c) Persons who are employees of an individual  
22 registered or legal entity certified under this chapter and  
23 who are the subordinates of a person in responsible charge  
24 registered under this chapter, to the extent that the  
25 supervision meets standards adopted by rule of the board, if  
26 any.

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

29 472.005 Definitions.--As used in this chapter ~~ss.~~  
30 ~~472.001-472.041~~:

31

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

3           (2) "Department" means the Department of Business and  
4 Professional Regulation.

5           (3) "Surveyor and mapper" includes the term  
6 "professional surveyor and mapper" and means a person who is  
7 registered to engage in the practice of surveying and mapping  
8 under this chapter ~~ss. 472.001-472.041~~. For the purposes of  
9 this subsection ~~statute~~, a surveyor and mapper means a person  
10 who determines and displays the facts of size, shape,  
11 topography, tidal datum planes, legal or geodetic location or  
12 relation, and orientation of improved or unimproved real  
13 property through direct measurement or from certifiable  
14 measurement through accepted photogrammetric procedures.

15           (4)(a) "Practice of surveying and mapping" means,  
16 among other things, any professional service or work, the  
17 adequate performance of which involves the application of  
18 special knowledge of the principles of mathematics, the  
19 related physical and applied sciences, and the relevant  
20 requirements of law for adequate evidence of the act of  
21 measuring, locating, establishing, or reestablishing lines,  
22 angles, elevations, natural and manmade features in the air,  
23 on the surface and immediate subsurface of the earth, within  
24 underground workings, and on the beds or surface of bodies of  
25 water, for the purpose of determining, establishing,  
26 describing, displaying, or interpreting the facts of size,  
27 shape, topography, tidal datum planes, legal or geodetic  
28 location or relocation, and orientation of improved or  
29 unimproved real property and appurtenances thereto, including  
30 acreage and condominiums.

31

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

16           (5) ~~The term~~ "Surveyor and mapper intern" includes ~~the~~  
17 ~~term~~ "surveyor-mapper-in-training" and means a person who  
18 complies with the requirements of this chapter ~~provided by ss.~~  
19 ~~472.001-472.041~~ and who has passed an examination as provided  
20 by rules adopted by the board.

21           (6) ~~The term~~ "Responsible charge" means direct control  
22 and personal supervision of surveying and mapping work, but  
23 does not include experience as a chainperson, rodperson,  
24 instrumentperson, ordinary draftsperson, digitizer, scribe,  
25 photo lab technician, ordinary stereo plotter operator, aerial  
26 photo pilot, photo interpreter, and other positions of routine  
27 work.

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

31

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

4           (9) "Employee" means a person who receives  
5 compensation from and is under the supervision and control of  
6 an employer who regularly deducts the F.I.C.A. and withholding  
7 tax and provides workers' compensation, all as prescribed by  
8 law.

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

12           (11) "Monument" means an artificial or natural object  
13 that is permanent or semipermanent and used or presumed to  
14 occupy any real property corner, any point on a boundary line,  
15 or any reference point or other point to be used for  
16 horizontal or vertical control.

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

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

22           472.011 Fees.--

23           (1) The board, by rule, may establish fees to be paid  
24 for applications, examination, reexamination, licensing and  
25 renewal, inactive status application and reactivation of  
26 inactive licenses, recordmaking and recordkeeping, and  
27 applications for providers of continuing education. The board  
28 may also establish by rule a delinquency fee. The board shall  
29 establish fees that are adequate to ensure the continued  
30 operation of the board. Fees shall be based on department  
31 estimates of the revenue required to implement this chapter

1 ~~ss. 472.001-472.041~~ and the provisions of law with respect to  
2 the regulation of surveyors and mappers.

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

5 472.015 Licensure.--

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

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

14 472.021 Certification of partnerships and  
15 corporations.--

16 (1) The practice of or the offer to practice surveying  
17 and mapping by registrants through a corporation or  
18 partnership offering surveying and mapping services to the  
19 public, or by a corporation or partnership offering said  
20 services to the public through registrants under this chapter  
21 ~~ss. 472.001-472.041~~ as agents, employees, officers, or  
22 partners, is permitted subject to the provisions of this  
23 chapter ~~ss. 472.001-472.041~~, provided that one or more of the  
24 principal officers of the corporation or one or more partners  
25 of the partnership and all personnel of the corporation or  
26 partnership who act in its behalf as surveyors and mappers in  
27 this state are registered as provided by this chapter ~~ss.~~  
28 ~~472.001-472.041~~, and, further, provided that the corporation  
29 or partnership has been issued a certificate of authorization  
30 by the board as provided in this section. All final drawings,  
31 specifications, plans, reports, or other papers or documents

1 involving the practice of surveying and mapping which are  
2 prepared or approved for the use of the corporation or  
3 partnership or for delivery to any person or for public record  
4 within the state must be dated and must bear the signature and  
5 seal of the registrant who prepared or approved them. Nothing  
6 in this section shall be construed to allow a corporation to  
7 hold a certificate of registration to practice surveying and  
8 mapping. No corporation or partnership shall be relieved of  
9 responsibility for the conduct or acts of its agents,  
10 employees, or officers by reason of its compliance with this  
11 section, nor shall any individual practicing surveying and  
12 mapping be relieved of responsibility for professional  
13 services performed by reason of his or her employment or  
14 relationship with a corporation or partnership.

15 Section 32. Section 472.027, Florida Statutes, is  
16 amended to read:

17 472.027 Minimum technical standards for surveying and  
18 mapping.--The board shall adopt rules relating to the practice  
19 of surveying and mapping which establish minimum technical  
20 standards to ensure the achievement of no less than minimum  
21 degrees of accuracy, completeness, and quality in order to  
22 assure adequate and defensible real property boundary  
23 locations and other pertinent information provided by  
24 surveyors and mappers under the authority of this chapter ~~ss.~~  
25 ~~472.001-472.041.~~

26 Section 33. Section 472.029, Florida Statutes, is  
27 amended to read:

28 472.029 Authorization ~~Surveyors and mappers authorized~~  
29 ~~to enter lands of third parties; under certain~~  
30 conditions.--Surveyors and mappers and their subordinates may  
31 go on, over, and upon the lands of others when necessary to



1 make surveys and maps or to search for, uncover, locate, or  
2 set monuments, and, in so doing, may carry with them their  
3 agents and employees necessary for that purpose. Entry under  
4 the right hereby granted does not constitute trespass, and  
5 surveyors and mappers and their subordinates and duly  
6 authorized agents or employees so entering are not liable to  
7 arrest or to a civil action by reason of such entry as long as  
8 the entering is in compliance with all federal, state, and  
9 local regulations pertaining to premises security,  
10 agricultural protections, and other health and safety  
11 requirements. However, this section does not give authority  
12 to registrants, subordinates, agents, or employees to destroy,  
13 injure, damage, or otherwise move any physical improvements  
14 ~~anything~~ on lands of another without the written permission of  
15 the landowner. No landowner shall be liable to any third party  
16 for any civil or criminal act, or any damages, which result in  
17 whole or in part through the negligent or intentional conduct  
18 of any person regulated by this section. If a landowner is  
19 given at least 72 hours' written actual notice of entry, the  
20 duty of care owed to those regulated by this section shall be  
21 that due to a licensee under this chapter; however, if no such  
22 notice is given, the landowner's duty of care shall be that  
23 due to an unforeseen trespasser.

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

26 810.12 Unauthorized entry on land; prima facie  
27 evidence of trespass.--

28 (5) However, this section shall not apply to any  
29 official or employee of the state or a county, municipality,  
30 or other governmental agency now authorized by law to enter  
31 upon lands or to registered engineers, ~~and~~ surveyors and

1 mappers, and other persons authorized to enter lands pursuant  
2 to ss. 471.027 and 472.029. The provisions of this section  
3 shall not apply to the trimming or cutting of trees or timber  
4 by municipal or private public utilities, or their employees,  
5 contractors, or subcontractors, when such trimming is required  
6 for the establishment or maintenance of the service furnished  
7 by any such utility.

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

10 472.031 Prohibitions; penalties.--

11 (1) No person shall:

12 (a) Practice surveying and mapping unless such person  
13 is registered under this chapter ~~pursuant to ss.~~  
14 ~~472.001-472.041~~;

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

18 (c) Present as his or her own the registration of  
19 another;

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

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

24 Section 36. Section 472.037, Florida Statutes, is  
25 amended to read:

26 472.037 Application of chapter ~~ss. 472.001-472.041~~.--

27 (1) Nothing contained in this chapter ~~ss.~~  
28 ~~472.001-472.041~~ shall be construed to repeal, amend, limit, or  
29 otherwise affect any local building code or zoning law or  
30 ordinance, now or hereafter enacted, which is more restrictive  
31 with respect to the services of registered surveyors and

1 mappers than the provisions of this chapter ~~ss.~~  
2 ~~472.001-472.041~~.

3 (2) In counties or municipalities that issue building  
4 permits, such permits shall not be issued in any case where it  
5 is apparent from the application for such building permit that  
6 the provisions of this chapter ~~ss. 472.001-472.041~~ have been  
7 violated. However, this shall not authorize the withholding of  
8 building permits in any cases within the exempt classes set  
9 forth in this chapter ~~ss. 472.001-472.041~~.

10 Section 37. Section 476.014, Florida Statutes, is  
11 amended to read:

12 476.014 Short title.--This chapter ~~act~~ may be cited as  
13 the "Barbers' Act."

14 Section 38. Section 476.034, Florida Statutes, is  
15 amended to read:

16 476.034 Definitions.--As used in this chapter ~~act~~:

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

20 (2) "Barbering" means any of the following practices  
21 when done for remuneration and for the public, but not when  
22 done for the treatment of disease or physical or mental  
23 ailments: shaving, cutting, trimming, coloring, shampooing,  
24 arranging, dressing, curling, or waving the hair or beard or  
25 applying oils, creams, lotions, or other preparations to the  
26 face, scalp, or neck, either by hand or by mechanical  
27 appliances.

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

30 (4) "Board" means the ~~Barbers'~~Board of Barbering and  
31 Cosmetology.

1           (5) "Department" means the Department of Business and  
2 Professional Regulation.

3           Section 39. Section 476.054, Florida Statutes, is  
4 amended to read:

5           476.054 ~~Barbers'~~Board of Barbering and Cosmetology.--

6           (1) There is created within the department the  
7 ~~Barbers'~~Board of Barbering and Cosmetology, consisting of  
8 seven members who shall be appointed by the Governor, subject  
9 to confirmation by the Senate.

10          (2) Two ~~Five~~ members of the board must ~~shall~~ be  
11 licensed barbers who have practiced the occupation of  
12 barbering in this state for at least 5 years. Four members  
13 must be licensed cosmetologists who have practiced cosmetology  
14 in this state for at least 5 years, and the remaining member  
15 must ~~two members of the board shall~~ be a resident citizens of  
16 the state who ~~is~~ are not presently a licensed barber or  
17 cosmetologist ~~barbers~~. No person may ~~shall~~ be appointed to the  
18 board who is ~~in any way~~ connected with the manufacture,  
19 rental, or wholesale distribution of barber or cosmetology  
20 equipment and supplies.

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

25          (4) No person may ~~shall~~ be appointed to serve more  
26 than two consecutive terms. Any vacancy shall be filled by  
27 appointment by the Governor for the unexpired portion of the  
28 term.

29          (5) Each board member shall receive \$50 per day, up to  
30 a maximum of \$2,000 per year, for time spent on board  
31 business, plus per diem and mileage allowances as provided in

1 s. 112.061 from the place of her or his residence to the place  
2 of meeting and the return therefrom.

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

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

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

13 (9)~~(6)~~ Each board member shall be held accountable to  
14 the Governor for the proper performance of all duties and  
15 obligations of such board member's office. The Governor shall  
16 cause to be investigated any complaints or unfavorable reports  
17 received concerning the actions of the board or its individual  
18 members and shall take appropriate action thereon, which may  
19 include removal of any board member for malfeasance,  
20 misfeasance, neglect of duty, commission of a felony,  
21 drunkenness, incompetency, or permanent inability to perform  
22 her or his official duties.

23 Section 40. Section 476.064, Florida Statutes, is  
24 amended to read:

25 476.064 Organization; headquarters; personnel;  
26 meetings.--

27 ~~(1) The board shall annually elect a chair and a vice~~  
28 ~~chair from its number.~~The board shall maintain its  
29 headquarters in Tallahassee.

30 (2) The department shall appoint or employ such  
31 personnel as ~~may be~~ necessary to assist the board in

1 exercising the powers and performing the duties and  
2 obligations set forth in this chapter act. Such personnel need  
3 not be licensed barbers or cosmetologists and shall not be  
4 members of the board. Such personnel shall be authorized to  
5 do and perform such duties and work as may be assigned by the  
6 board.

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

12 (3)(4) The board has authority to adopt rules pursuant  
13 to ss. 120.536(1) and 120.54 necessary to administer ~~implement~~  
14 ~~the provisions of~~ this chapter.

15 Section 41. Subsections (1) and (2) of section  
16 476.074, Florida Statutes, are amended to read:

17 476.074 Legal, investigative, and inspection  
18 services.--

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

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

24 Section 42. Subsection (2) of section 476.154, Florida  
25 Statutes, is amended to read:

26 476.154 Biennial renewal of licenses.--

27 (2) Any license or certificate of registration issued  
28 pursuant to this chapter act for a period less than the  
29 established biennial issuance period may be issued for that  
30 lesser period of time, and the department shall adjust the  
31

1 required fee accordingly. The board shall adopt rules  
2 providing for such partial period fee adjustments.

3 Section 43. Paragraphs (a) and (b) of subsection (1)  
4 of section 476.194, Florida Statutes, are amended to read:

5 476.194 Prohibited acts.--

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

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

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

12 Section 44. Subsections (1) and (3) of section  
13 476.214, Florida Statutes, are amended to read:

14 476.214 Grounds for suspending, revoking, or refusing  
15 to grant license or certificate.--

16 (1) The board shall have the power to revoke or  
17 suspend any license, registration card, or certificate of  
18 registration issued pursuant to this chapter act, or to  
19 reprimand, censure, deny subsequent licensure of, or otherwise  
20 discipline any holder of a license, registration card, or  
21 certificate of registration issued pursuant to this chapter  
22 act, for any of the following causes:

23 (a) Gross malpractice or gross incompetency in the  
24 practice of barbering;

25 (b) Practice by a person knowingly having an  
26 infectious or contagious disease; or

27 (c) Commission of any of the offenses described in s.  
28 476.194.

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

1           Section 45. Section 476.234, Florida Statutes, is  
2 amended to read:

3           476.234 Civil proceedings.--In addition to any other  
4 remedy, the department may file a proceeding in the name of  
5 the state seeking issuance of a restraining order, injunction,  
6 or writ of mandamus against any person who is or has been  
7 violating any of the provisions of this chapter act or the  
8 lawful rules or orders of the board, commission, or  
9 department.

10           Section 46. Subsection (1) of section 477.013, Florida  
11 Statutes, is amended to read:

12           477.013 Definitions.--As used in this chapter:

13           (1) "Board" means the Board of Barbering and  
14 Cosmetology.

15           Section 47. Section 477.015, Florida Statutes, is  
16 repealed.

17           Section 48. The Barbers' Board created pursuant to  
18 section 476.054, Florida Statutes, and the Board of  
19 Cosmetology created pursuant to section 477.015, Florida  
20 Statutes, are abolished. All rules of the Barbers' Board and  
21 the Board of Cosmetology in effect on the effective date of  
22 this act shall remain in full force and shall become rules of  
23 the Board of Barbering and Cosmetology.

24           Section 49. The Board of Barbering and Cosmetology is  
25 created by this act by the amendment of section 476.054,  
26 Florida Statutes, and the repeal of section 477.015, Florida  
27 Statutes. Appointments to this board are new and shall be made  
28 by the Governor, subject to confirmation by the Senate, for  
29 initial terms of 4 years or less so that no more than two  
30 terms expire in any one year. The board shall assume  
31 responsibilities for the regulation of barbering pursuant to



1 chapter 476, Florida Statutes, and the regulation of  
2 cosmetology pursuant to chapter 477, Florida Statutes, as  
3 provided in those chapters.

4 Section 50. The Board of Barbering and Cosmetology  
5 shall be replaced as the party of interest for any legal  
6 actions naming the Barbers' Board or the Board of Cosmetology  
7 as a party.

8 Section 51. Subsection (7) of section 477.019, Florida  
9 Statutes, is amended to read:

10 477.019 Cosmetologists; qualifications; licensure;  
11 supervised practice; license renewal; endorsement; continuing  
12 education.--

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

29 (b) Any person whose occupation or practice is  
30 confined solely to hair braiding, hair wrapping, or body  
31

1 wrapping is exempt from the continuing education requirements  
2 of this subsection.

3       (c) The board shall by rule establish criteria for the  
4 approval of continuing education courses and providers.~~The~~  
5 ~~board may, by rule, require any licensee in violation of a~~  
6 ~~continuing education requirement to take a refresher course or~~  
7 ~~refresher course and examination in addition to any other~~  
8 ~~penalty. The number of hours for the refresher course may not~~  
9 ~~exceed 48 hours.~~

10       (d) The board shall approve all continuing education  
11 courses and providers as set forth in this subsection. The  
12 board may not approve any course which does not substantially  
13 and exclusively relate to the practice of cosmetology and  
14 serve to ensure the protection of the public. Courses given at  
15 cosmetology conferences may be counted toward the number of  
16 continuing education hours required if approved by the  
17 department.

18       (e) Correspondence courses may be approved if offered  
19 by a provider approved by the board under paragraph (d) and  
20 meet all relevant course criteria established by the board.  
21 Correspondence courses must include a written post course  
22 examination developed and graded by the course provider which  
23 demonstrates the licensee's understanding of the subject  
24 matter taught by the course. The board may, by rule, set the  
25 minimum allowed passing score for such examinations.

26       Section 52. 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 shall not exceed \$25.

17 Section 53. Subsection (1) of section 481.209, Florida  
18 Statutes, is amended to read:

19 481.209 Examinations.--

20 (1) A person desiring to be licensed as a registered  
21 architect shall apply to the department to take the licensure  
22 examination. The department shall administer the licensure  
23 examination for architects to each applicant who the board  
24 certifies:

25 (a) Has completed the application form and remitted a  
26 nonrefundable application fee and an examination fee which is  
27 refundable if the applicant is found to be ineligible to take  
28 the examination;

29 (b)1. ~~Has successfully completed all architectural~~  
30 ~~curriculum courses required by and~~ Is a graduate of a school  
31

1 or college of architecture accredited by the National  
2 Architectural Accreditation Board; or

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

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

15 Section 54. Section 481.223, Florida Statutes, is  
16 amended to read:

17 481.223 Prohibitions; penalties; injunctive relief.--

18 (1) A person may not knowingly:

19 (a) Practice architecture unless the person is an  
20 architect or a registered architect;

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

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

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

29 (e) Give false or forged evidence to the board or a  
30 member thereof;

31

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

4 (g) Employ unlicensed persons to practice architecture  
5 or interior design; or

6 (h) Conceal information relative to violations of this  
7 part.

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

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

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

26 Section 55. Effective July 1, 2001, subsections (2)  
27 and (4) of section 489.107, Florida Statutes, are amended to  
28 read:

29 489.107 Construction Industry Licensing Board.--

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

31

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

1 board; ~~one of the members appointed pursuant to paragraph~~  
2 ~~(2)(j)~~ and ~~one of the member members~~ appointed pursuant to  
3 paragraph (2)(k). Division I has jurisdiction over the  
4 regulation of general contractors, building contractors, and  
5 residential contractors.

6 (b) Division II is comprised of the roofing  
7 contractor, sheet metal contractor, air-conditioning  
8 contractor, mechanical contractor, pool contractor, plumbing  
9 contractor, and underground utility and excavation contractor  
10 members of the board; and one of the member members appointed  
11 pursuant to paragraph (2)(j) ~~and one of the members appointed~~  
12 ~~pursuant to paragraph (2)(k)~~. Division II has jurisdiction  
13 over the regulation of contractors defined in s.  
14 489.105(3)(d)-(p).

15 (c) Jurisdiction for the regulation of specialty  
16 contractors defined in s. 489.105(3)(q) shall lie with the  
17 division having jurisdiction over the scope of work of the  
18 specialty contractor as defined by board rule.

19 Section 56. Section 489.1133, Florida Statutes, is  
20 created to read:

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

1           Section 57. Paragraph (b) of subsection (4) of section  
2 489.115, Florida Statutes, as amended by chapters 98-287 and  
3 2000-141, Laws of Florida, is amended to read:

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

6           (4)

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

26           2. In addition, the board may approve specialized  
27 continuing education courses on compliance with the wind  
28 resistance provisions for one and two family dwellings  
29 contained in the Florida Building Code and any alternate  
30 methodologies for providing such wind resistance which have  
31 been approved for use by the Florida Building Commission.



1 Contractors defined in s. 489.105(3)(a)-(c)~~Division I~~  
2 ~~certificateholders or registrants~~ who demonstrate proficiency  
3 upon completion of such specialized courses may certify plans  
4 and specifications for one and two family dwellings to be in  
5 compliance with the code or alternate methodologies, as  
6 appropriate, except for dwellings located in floodways or  
7 coastal hazard areas as defined in ss. 60.3D and E of the  
8 National Flood Insurance Program.

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

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

27           Section 58. Subsection (1) of section 489.118, Florida  
28 Statutes, is amended to read:

29           489.118 Certification of registered contractors;  
30 grandfathering provisions.--The board shall, upon receipt of a  
31 completed application and appropriate fee, issue a certificate

1 in the appropriate category to any contractor registered under  
2 this part who makes application to the board and can show that  
3 he or she meets each of the following requirements:

4 (1) Currently holds a valid registered local license  
5 in one of the contractor categories defined in s.  
6 489.105(3)(a)-(p) or holds a valid registered local specialty  
7 license which substantially corresponds to a type of specialty  
8 contractor recognized for state certification pursuant to  
9 board rule under s. 489.113(6).

10 Section 59. Subsection (6) of section 489.507, Florida  
11 Statutes, is repealed.

12 Section 60. The Electrical Contractors' Licensing  
13 Board shall review its operations and its regular board  
14 meeting lengths and locations and develop a plan to reduce its  
15 annual operating budget by \$25,000, and shall submit the plan  
16 to the Department of Business and Professional Regulation by  
17 January 1, 2002.

18 Section 61. Subsection (6) of section 489.511, Florida  
19 Statutes, is amended to read:

20 489.511 Certification; application; examinations;  
21 endorsement.--

22 (6) The board shall certify as qualified for  
23 certification by endorsement any individual who applies from a  
24 state that has a mutual reciprocity endorsement agreement with  
25 the board and ~~applying for certification~~ who+

26 (a) meets the requirements for certification ~~as set~~  
27 forth in this section; has passed a national, regional, state,  
28 or United States territorial licensing examination that is  
29 substantially equivalent to the examination required by this  
30 part; and has satisfied the requirements set forth in s.  
31 489.521. ~~7~~ or

1           ~~(b) Holds a valid license to practice electrical or~~  
2 ~~alarm system contracting issued by another state or territory~~  
3 ~~of the United States, if the criteria for issuance of such~~  
4 ~~license was substantially equivalent to the certification~~  
5 ~~criteria that existed in this state at the time the~~  
6 ~~certificate was issued.~~

7           Section 62. Subsection (5) of section 498.005, Florida  
8 Statutes, is amended to read:

9           498.005 Definitions.--As used in this chapter, unless  
10 the context otherwise requires, the term:

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

14           Section 63. Section 498.019, Florida Statutes, is  
15 amended to read:

16           498.019 Professional Regulation Division ~~of Florida~~  
17 ~~Land Sales, Condominiums, and Mobile Homes~~ Trust Fund.--

18           ~~(1) There is created within the State Treasury the~~  
19 ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~  
20 ~~Trust Fund to be used for the administration and operation of~~  
21 ~~this chapter and chapters 718, 719, 721, and 723 by the~~  
22 ~~division.~~

23           ~~(2)~~ All moneys collected by the division from fees,  
24 fines, or penalties or from costs awarded to the division by a  
25 court shall be paid into the Professional Regulation Division  
26 ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust  
27 Fund to be used to administer and enforce this chapter and  
28 rules adopted thereunder. The department shall maintain a  
29 separate account in the trust fund and shall administer the  
30 account pursuant to s. 455.219. The Legislature shall  
31 appropriate funds from this trust fund sufficient to carry out

1 the provisions of this chapter ~~and the provisions of law with~~  
2 ~~respect to each category of business covered by this trust~~  
3 ~~fund. The division shall maintain separate revenue accounts~~  
4 ~~in the trust fund for each of the businesses regulated by the~~  
5 ~~division. The division shall provide for the proportionate~~  
6 ~~allocation among the accounts of expenses incurred by the~~  
7 ~~division in the performance of its duties with respect to each~~  
8 ~~of these businesses. As part of its normal budgetary process,~~  
9 ~~the division shall prepare an annual report of revenue and~~  
10 ~~allocated expenses related to the operation of each of these~~  
11 ~~businesses which may be used to determine fees charged by the~~  
12 ~~division. This subsection shall operate pursuant to the~~  
13 ~~provisions of s. 215.20.~~

14 Section 64. Subsection (5) of section 498.049, Florida  
15 Statutes, is amended to read:

16 498.049 Suspension; revocation; civil penalties.--

17 (5) Each person who materially participates in any  
18 offer or disposition of any interest in subdivided lands in  
19 violation of this chapter or relevant rules involving fraud,  
20 deception, false pretenses, misrepresentation, or false  
21 advertising or the disposition, concealment, or diversion of  
22 any funds or assets of any person which adversely affects the  
23 interests of a purchaser of any interest in subdivided lands,  
24 and who directly or indirectly controls a subdivider or is a  
25 general partner, officer, director, agent, or employee of a  
26 subdivider shall also be liable under this subsection jointly  
27 and severally with and to the same extent as the subdivider,  
28 unless that person did not know, and in the exercise of  
29 reasonable care could not have known, of the existence of the  
30 facts creating the alleged liability. Among these persons a  
31 right of contribution shall exist, except that a creditor of a

1 subdivider shall not be jointly and severally liable unless  
2 the creditor has assumed managerial or fiduciary  
3 responsibility in a manner related to the basis for the  
4 liability of the subdivider under this subsection. Civil  
5 penalties shall be limited to \$10,000 for each offense, and  
6 all amounts collected shall be deposited with the Treasurer to  
7 the credit of the Professional Regulation ~~Division of Florida~~  
8 ~~Land Sales, Condominiums, and Mobile Homes~~ Trust Fund. No  
9 order requiring the payment of a civil penalty shall become  
10 effective until 20 days after the date of the order, unless  
11 otherwise agreed in writing by the person on whom the penalty  
12 is imposed.

13 Section 65. Subsection (2) of section 190.009, Florida  
14 Statutes, is amended to read:

15 190.009 Disclosure of public financing.--

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

21 Section 66. The regulation of land sales pursuant to  
22 chapter 498, Florida Statutes, shall remain under the  
23 Department of Business and Professional Regulation but is  
24 reassigned from the Division of Florida Land Sales,  
25 Condominiums, and Mobile Homes to the Division of Real Estate.  
26 All funds collected by the department pursuant to this  
27 regulation and all funds in the account created within the  
28 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund  
29 for the purpose of this regulation shall be deposited in an  
30 account created within the Professional Regulation Trust Fund  
31 for this same purpose.

1           Section 67. 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 68. Paragraph (c) of subsection (4) of section  
9 718.105, Florida Statutes, is amended to read:

10           718.105 Recording of declaration.--

11           (4)

12           (c) If the sum of money held by the clerk has not been  
13 paid to the developer or association as provided in paragraph  
14 (b) by 3 years after the date the declaration was originally  
15 recorded, the clerk in his or her discretion may notify, in  
16 writing, the registered agent of the association that the sum  
17 is still available and the purpose for which it was deposited.  
18 If the association does not record the certificate within 90  
19 days after the clerk has given the notice, the clerk may  
20 disburse the money to the developer. If the developer cannot  
21 be located, the clerk shall disburse the money to the division  
22 ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ for  
23 deposit in the Division of ~~Florida Land Sales, Condominiums,~~  
24 Timeshare, and Mobile Homes Trust Fund.

25           Section 69. Section 718.1255, Florida Statutes, is  
26 amended to read:

27           718.1255 Alternative dispute resolution; ~~voluntary~~  
28 ~~mediation;~~ mandatory nonbinding arbitration and mediation;  
29 local resolution; exemptions; legislative findings.--

30           (1) APPLICABILITY DEFINITIONS.--

31

1           (a) The provisions of subsection (3) apply to As used  
2 ~~in this section, the term "dispute" means any disagreement~~  
3 ~~between two or more parties that involves+~~  
4           ~~(a) The authority of the board of directors, under~~  
5 ~~this chapter or association document to+~~  
6           ~~1. Require any owner to take any action, or not to~~  
7 ~~take any action, involving that owner's unit or the~~  
8 ~~appurtenances thereto.~~  
9           ~~2. Alter or add to a common area or element.~~  
10          ~~(b) the failure of a governing body, when required by~~  
11 ~~this chapter or an association document, to+~~  
12          ~~1. properly conduct elections or to recall a board~~  
13 ~~member.~~  
14          (b) The provisions of paragraph (3)(f)-(n) apply to  
15 any disagreement between two or more parties that involves:  
16          1. The authority of the board of directors, under this  
17 chapter or an association document, to:  
18           a. Require any owner to take any action, or not to  
19 take any action, involving that owner's unit or the  
20 appurtenances thereto; or  
21           b. Alter or add to a common area or element.  
22          2. The failure of a governing body, when required by  
23 this chapter or an association document, to:  
24           a.2. Give adequate notice of meetings or other  
25 actions; or  
26           b.3. Properly conduct meetings; or  
27           c.4. Allow inspection of books and records.  
28  
29 ~~"Dispute" does not include any disagreement that primarily~~  
30 ~~involves: title to any unit or common element; the~~  
31 ~~interpretation or enforcement of any warranty; the levy of a~~

1 ~~fee or assessment, or the collection of an assessment levied~~  
2 ~~against a party; the eviction or other removal of a tenant~~  
3 ~~from a unit; alleged breaches of fiduciary duty by one or more~~  
4 ~~directors; or claims for damages to a unit based upon the~~  
5 ~~alleged failure of the association to maintain the common~~  
6 ~~elements or condominium property.~~

7 ~~(2) VOLUNTARY MEDIATION.--Voluntary mediation through~~  
8 ~~Citizen Dispute Settlement Centers as provided for in s.~~  
9 ~~44.201 is encouraged.~~

10 (2)~~(3)~~ LEGISLATIVE FINDINGS.--

11 (a) The Legislature finds that unit owners are  
12 frequently at a disadvantage when litigating against an  
13 association. Specifically, a condominium association, with its  
14 statutory assessment authority, is often more able to bear the  
15 costs and expenses of litigation than the unit owner who must  
16 rely on his or her own financial resources to satisfy the  
17 costs of litigation against the association.

18 (b) The Legislature finds that the courts are becoming  
19 overcrowded with condominium and other disputes, and further  
20 finds that alternative dispute resolution has been making  
21 progress in reducing court dockets and trials and in offering  
22 a more efficient, cost-effective option to court litigation.  
23 However, the Legislature also finds that alternative dispute  
24 resolution should not be used as a mechanism to encourage the  
25 filing of frivolous or nuisance suits.

26 (c) There exists a need to develop a flexible means of  
27 alternative dispute resolution that directs disputes to the  
28 most efficient means of resolution.

29 (d) The high cost and significant delay of circuit  
30 court litigation faced by unit owners in the state can be  
31 alleviated by requiring nonbinding arbitration and mediation



1 in appropriate cases, thereby reducing delay and attorney's  
2 fees while preserving the right of either party to have its  
3 case heard by a jury, if applicable, in a court of law.

4 (3)~~(4)~~ MANDATORY NONBINDING ARBITRATION AND MEDIATION

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

25 (a) Prior to the institution of court litigation, a  
26 party to a dispute shall petition the division for nonbinding  
27 arbitration. The petition must be accompanied by a filing fee  
28 in the amount of \$50. Filing fees collected under this  
29 section must be used to defray the expenses of the alternative  
30 dispute resolution program.

31

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

4 1. Advance written notice of the specific nature of  
5 the dispute;

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

8 3. Notice of the intention to file an arbitration  
9 petition or other legal action in the absence of a resolution  
10 of the dispute.

11

12 Failure to include the allegations or proof of compliance with  
13 these prerequisites requires dismissal of the petition without  
14 prejudice.

15 (c) Upon receipt, the petition shall be promptly  
16 reviewed by the division to determine the existence of a  
17 dispute and compliance with the requirements of paragraphs (a)  
18 and (b). If emergency relief is required and is not available  
19 through arbitration, a motion to stay the arbitration may be  
20 filed. The motion must be accompanied by a verified petition  
21 alleging facts that, if proven, would support entry of a  
22 temporary injunction, and if an appropriate motion and  
23 supporting papers are filed, the division may abate the  
24 arbitration pending a court hearing and disposition of a  
25 motion for temporary injunction.

26 (d) Upon determination by the division that a dispute  
27 exists and that the petition substantially meets the  
28 requirements of paragraphs (a) and (b) and any other  
29 applicable rules, a copy of the petition shall forthwith be  
30 served by the division upon all respondents.

31

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

11           (f) The arbitrator or the division may refer the  
12 parties to a Citizens Dispute Settlement Center under s.  
13 44.201 in the county in which the dispute arose ~~Upon referral~~  
14 ~~of a case to mediation, or~~ the parties may agree on ~~must~~  
15 ~~select~~ a mutually acceptable mediator. To assist in the  
16 selection, the arbitrator shall provide the parties with a  
17 list of both volunteer and paid mediators that have been  
18 certified by the division under s. 718.501. If the parties  
19 are unable to agree on a mediator within the time allowed by  
20 the arbitrator or the division, the arbitrator or the division  
21 shall appoint a mediator from the list of certified mediators.  
22 If a case is referred to mediation, the parties shall attend a  
23 mediation conference, as scheduled by the parties and the  
24 mediator. If any party fails to attend a duly noticed  
25 mediation conference, without the permission or approval of  
26 the arbitrator or mediator, the arbitrator or the division may  
27 ~~must~~ impose sanctions against the party, including the  
28 striking of any pleadings filed, the entry of an order of  
29 dismissal or default if appropriate, and the award of costs  
30 and attorneys' fees incurred by the other parties. Unless  
31 otherwise agreed to by the parties or as provided by order of

1 the arbitrator, a party is deemed to have appeared at a  
2 mediation conference by the physical presence of the party or  
3 its representative having full authority to settle without  
4 further consultation, provided that an association may comply  
5 by having one or more representatives present with full  
6 authority to negotiate a settlement and recommend that the  
7 board of administration ratify and approve such a settlement  
8 within 5 days from the date of the mediation conference. The  
9 mediator or Citizens Dispute Settlement Center may charge fees  
10 for handling these cases.The parties shall share equally the  
11 expense of mediation, unless they agree otherwise.

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

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

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

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

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

31

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

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

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

1 not be granted with respect to an arbitration award that has  
2 been stayed. If the petition for enforcement is granted, the  
3 petitioner shall recover reasonable attorney's fees and costs  
4 incurred in enforcing the arbitration award. A mediation  
5 settlement may also be enforced through the county or circuit  
6 court, as applicable, by the filing of a court case.~~and~~ Any  
7 costs and fees incurred in the enforcement of a settlement  
8 agreement reached at mediation must be awarded to the  
9 prevailing party in any enforcement action.

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

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

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

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

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

20 (d) The eviction or other removal of a tenant from a  
21 unit;

22 (e) Alleged breaches of fiduciary duty by one or more  
23 directors; or

24 (f) Claims for damages to a unit based upon the  
25 alleged failure of the association to maintain the common  
26 elements or condominium property.

27 Section 70. The Division of Condominiums, Timeshare,  
28 and Mobile Homes of the Department of Business and  
29 Professional Regulation shall continue the arbitration of any  
30 cases which qualified for arbitration on the date the case was  
31

1 filed with the division and which were filed with the division  
2 prior to the date on which this act becomes law.

3 Section 71. There is appropriated 1 FTE and \$440,626  
4 from the Division of Condominiums, Timeshare, and Mobile Homes  
5 Trust Fund to the Department of Business and Professional  
6 Regulation for the purpose of investigating and resolving  
7 disputes and dealing with compliance issues relating to  
8 condominiums and cooperatives. This appropriation shall not  
9 take effect if a similar amount of funding is included in the  
10 various appropriations for compliance and enforcement in the  
11 Florida Condominiums, Timeshare, and Mobile Homes program in  
12 the fiscal year 2001-2002 General Appropriations Act.

13 Section 72. Section 718.501, Florida Statutes, is  
14 amended to read:

15 718.501 Powers and duties of Division of ~~Florida Land~~  
16 ~~Sales, Condominiums, Timeshare, and Mobile Homes.--~~

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

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



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

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

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

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

1           2. The division may issue an order requiring the  
2 developer, association, officer, or member of the board of  
3 administration, or its assignees or agents, to cease and  
4 desist from the unlawful practice and take such affirmative  
5 action as in the judgment of the division will carry out the  
6 purposes of this chapter. Such affirmative action may include,  
7 but is not limited to, an order requiring a developer to pay  
8 moneys determined to be owed to a condominium association.

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

12           4. The division may impose a civil penalty against a  
13 developer or association, or its assignee or agent, for any  
14 violation of this chapter or a rule promulgated pursuant  
15 hereto. The division may impose a civil penalty individually  
16 against any officer or board member who willfully and  
17 knowingly violates a provision of this chapter, a rule adopted  
18 pursuant hereto, or a final order of the division. The term  
19 "willfully and knowingly" means that the division informed the  
20 officer or board member that his or her action or intended  
21 action violates this chapter, a rule adopted under this  
22 chapter, or a final order of the division and that the officer  
23 or board member refused to comply with the requirements of  
24 this chapter, a rule adopted under this chapter, or a final  
25 order of the division. The division, prior to initiating  
26 formal agency action under chapter 120, shall afford the  
27 officer or board member an opportunity to voluntarily comply  
28 with this chapter, a rule adopted under this chapter, or a  
29 final order of the division. An officer or board member who  
30 complies within 10 days is not subject to a civil penalty. A  
31 penalty may be imposed on the basis of each day of continuing

1 violation, but in no event shall the penalty for any offense  
2 exceed \$5,000. By January 1, 1998, the division shall adopt,  
3 by rule, penalty guidelines applicable to possible violations  
4 or to categories of violations of this chapter or rules  
5 adopted by the division. The guidelines must specify a  
6 meaningful range of civil penalties for each such violation of  
7 the statute and rules and must be based upon the harm caused  
8 by the violation, the repetition of the violation, and upon  
9 such other factors deemed relevant by the division. For  
10 example, the division may consider whether the violations were  
11 committed by a developer or owner-controlled association, the  
12 size of the association, and other factors. The guidelines  
13 must designate the possible mitigating or aggravating  
14 circumstances that justify a departure from the range of  
15 penalties provided by the rules. It is the legislative intent  
16 that minor violations be distinguished from those which  
17 endanger the health, safety, or welfare of the condominium  
18 residents or other persons and that such guidelines provide  
19 reasonable and meaningful notice to the public of likely  
20 penalties that may be imposed for proscribed conduct. This  
21 subsection does not limit the ability of the division to  
22 informally dispose of administrative actions or complaints by  
23 stipulation, agreed settlement, or consent order. All amounts  
24 collected shall be deposited with the Treasurer to the credit  
25 of the Division of ~~Florida Land Sales~~, Condominiums,  
26 Timeshare, and Mobile Homes Trust Fund. If a developer fails  
27 to pay the civil penalty, the division shall thereupon issue  
28 an order directing that such developer cease and desist from  
29 further operation until such time as the civil penalty is paid  
30 or may pursue enforcement of the penalty in a court of  
31 competent jurisdiction. If an association fails to pay the

1 civil penalty, the division shall thereupon pursue enforcement  
2 in a court of competent jurisdiction, and the order imposing  
3 the civil penalty or the cease and desist order will not  
4 become effective until 20 days after the date of such order.  
5 Any action commenced by the division shall be brought in the  
6 county in which the division has its executive offices or in  
7 the county where the violation occurred.

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

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

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

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

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

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

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

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

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

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

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

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

27 (3) If it appears that a person has violated or is  
28 about to violate a provision of this chapter or a division  
29 rule or order, the division, with or without prior  
30 administrative proceedings, may bring an action in the circuit  
31 court to enjoin the violation and to enforce compliance with

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

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

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

30 (b) Seek the imposition of a civil penalty through the  
31 circuit court for any violation for which the division may

1 issue a notice to show cause. The civil penalty shall be no  
2 less than \$500 and no more than \$10,000 for each violation.  
3 The court may also award to the prevailing party court costs  
4 and reasonable attorney's fees and, in the event the division  
5 prevails, may also award reasonable costs of investigation.

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

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

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

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



1       (9) The division may intervene in any suit against a  
2 developer or a condominium association concerning violations  
3 of any provision of this chapter and the rules promulgated  
4 thereunder. The developer or association shall promptly  
5 furnish the division a copy of the complaint and, if requested  
6 by the division, copies of all pleadings.

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

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

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

20       (11) The executive offices of the division shall be  
21 established and maintained in Tallahassee. The division may  
22 establish and maintain branch offices.

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

29       (13) The powers and duties contained in this section  
30 are available to the division in its enforcement of this  
31

1 chapter, chapter 719, parts I and II of chapter 721, and  
2 chapter 723.

3 Section 73. Paragraph (a) of subsection (2) of section  
4 718.502, Florida Statutes, is amended to read:

5 718.502 Filing prior to sale or lease.--

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

30 Section 74. Section 718.504, Florida Statutes, is  
31 amended to read:

1           718.504 Prospectus or offering circular.--Every  
2 developer of a residential condominium which contains more  
3 than 20 residential units, or which is part of a group of  
4 residential condominiums which will be served by property to  
5 be used in common by unit owners of more than 20 residential  
6 units, shall prepare a prospectus or offering circular and  
7 file it with the division of ~~Florida Land Sales, Condominiums,~~  
8 ~~and Mobile Homes~~ prior to entering into an enforceable  
9 contract of purchase and sale of any unit or lease of a unit  
10 for more than 5 years and shall furnish a copy of the  
11 prospectus or offering circular to each buyer. In addition to  
12 the prospectus or offering circular, each buyer shall be  
13 furnished a separate page entitled "Frequently Asked Questions  
14 and Answers," which shall be in accordance with a format  
15 approved by the division and a copy of the financial  
16 information required by s. 718.111. This page shall, in  
17 readable language, inform prospective purchasers regarding  
18 their voting rights and unit use restrictions, including  
19 restrictions on the leasing of a unit; shall indicate whether  
20 and in what amount the unit owners or the association is  
21 obligated to pay rent or land use fees for recreational or  
22 other commonly used facilities; shall contain a statement  
23 identifying that amount of assessment which, pursuant to the  
24 budget, would be levied upon each unit type, exclusive of any  
25 special assessments, and which shall further identify the  
26 basis upon which assessments are levied, whether monthly,  
27 quarterly, or otherwise; shall state and identify any court  
28 cases in which the association is currently a party of record  
29 in which the association may face liability in excess of  
30 \$100,000; and which shall further state whether membership in  
31 a recreational facilities association is mandatory, and if so,

1 shall identify the fees currently charged per unit type. The  
2 division shall by rule require such other disclosure as in its  
3 judgment will assist prospective purchasers. The prospectus or  
4 offering circular may include more than one condominium,  
5 although not all such units are being offered for sale as of  
6 the date of the prospectus or offering circular. The  
7 prospectus or offering circular must contain the following  
8 information:

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

11 (a) The name of the condominium.

12 (b) The following statements in conspicuous type:

13 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS  
14 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM  
15 UNIT.

16 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
17 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL  
18 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND  
19 SALES MATERIALS.

20 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS  
21 CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER  
22 TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR  
23 CORRECT REPRESENTATIONS.

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

27 (3) A separate index of the contents and exhibits of  
28 the prospectus.

29 (4) Beginning on the first page of the text (not  
30 including the summary and index), a description of the  
31

1 condominium, including, but not limited to, the following  
2 information:

3 (a) Its name and location.

4 (b) A description of the condominium property,  
5 including, without limitation:

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

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

18 3. The estimated latest date of completion of  
19 constructing, finishing, and equipping. In lieu of a date,  
20 the description shall include a statement that the estimated  
21 date of completion of the condominium is in the purchase  
22 agreement and a reference to the article or paragraph  
23 containing that information.

24 (c) The maximum number of units that will use  
25 facilities in common with the condominium. If the maximum  
26 number of units will vary, a description of the basis for  
27 variation and the minimum amount of dollars per unit to be  
28 spent for additional recreational facilities or enlargement of  
29 such facilities. If the addition or enlargement of facilities  
30 will result in a material increase of a unit owner's

31

1 maintenance expense or rental expense, if any, the maximum  
2 increase and limitations thereon shall be stated.

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

8 (b) If timeshare estates are or may be created with  
9 respect to any unit in the condominium, a statement in  
10 conspicuous type stating that timeshare estates are created  
11 and being sold in units in the condominium.

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

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

18 (b) Each swimming pool, as to its general location,  
19 approximate size and depths, approximate deck size and  
20 capacity, and whether heated.

21 (c) Additional facilities, as to the number of each  
22 facility, its approximate location, approximate size, and  
23 approximate capacity.

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

31

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

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

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

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

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

26  
27 Descriptions as to locations, areas, capacities, numbers,  
28 volumes, or sizes may be stated as approximations or minimums.

29           (7) A description of the recreational and other  
30 facilities that will be used in common with other  
31 condominiums, community associations, or planned developments

1 which require the payment of the maintenance and expenses of  
2 such facilities, either directly or indirectly, by the unit  
3 owners. The description shall include, but not be limited to,  
4 the following:

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

6 (b) Facilities not committed to be built except under  
7 certain conditions, and a statement of those conditions or  
8 contingencies.

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

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

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

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

30  
31



1 Descriptions shall include location, areas, capacities,  
2 numbers, volumes, or sizes and may be stated as approximations  
3 or minimums.

4 (8) Recreation lease or associated club membership:

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

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

19 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
20 MANDATORY FOR UNIT OWNERS; or

21 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF  
22 OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES  
23 LEASE; or

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

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

31

1 Immediately following the applicable statement, the location  
2 in the disclosure materials where the development is described  
3 in detail shall be stated.

4 (c) If the developer, or any other person other than  
5 the unit owners and other persons having use rights in the  
6 facilities, reserves, or is entitled to receive, any rent,  
7 fee, or other payment for the use of the facilities, then  
8 there shall be the following statement in conspicuous type:  
9 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND  
10 USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES.

11 Immediately following this statement, the location in the  
12 disclosure materials where the rent or land use fees are  
13 described in detail shall be stated.

14 (d) If, in any recreation format, whether leasehold,  
15 club, or other, any person other than the association has the  
16 right to a lien on the units to secure the payment of  
17 assessments, rent, or other exactions, there shall appear a  
18 statement in conspicuous type in substantially the following  
19 form:

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

24 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
25 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING  
26 DUE FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE  
27 RECREATIONAL OR COMMONLY USED FACILITIES. THE UNIT OWNER'S  
28 FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF  
29 THE LIEN.

30  
31

1 Immediately following the applicable statement, the location  
2 in the disclosure materials where the lien or lien right is  
3 described in detail shall be stated.

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

12 Immediately following this statement, the location in the  
13 disclosure materials where such reserved rights are described  
14 shall be stated.

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

22 (11) The arrangements for management of the  
23 association and maintenance and operation of the condominium  
24 property and of other property that will serve the unit owners  
25 of the condominium property, and a description of the  
26 management contract and all other contracts for these purposes  
27 having a term in excess of 1 year, including the following:

- 28 (a) The names of contracting parties.  
29 (b) The term of the contract.  
30 (c) The nature of the services included.

31

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

3 (e) A reference to the volumes and pages of the  
4 condominium documents and of the exhibits containing copies of  
5 such contracts.

6  
7 Copies of all described contracts shall be attached as  
8 exhibits. If there is a contract for the management of the  
9 condominium property, then a statement in conspicuous type in  
10 substantially the following form shall appear, identifying the  
11 proposed or existing contract manager: THERE IS (IS TO BE) A  
12 CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH  
13 (NAME OF THE CONTRACT MANAGER). Immediately following this  
14 statement, the location in the disclosure materials of the  
15 contract for management of the condominium property shall be  
16 stated.

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

29 (13) If there are any restrictions upon the sale,  
30 transfer, conveyance, or leasing of a unit, then a statement  
31 in conspicuous type in substantially the following form shall

1 be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS  
2 RESTRICTED OR CONTROLLED. Immediately following this  
3 statement, the location in the disclosure materials where the  
4 restriction, limitation, or control on the sale, lease, or  
5 transfer of units is described in detail shall be stated.

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

8 (a) A statement in conspicuous type in substantially  
9 the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL  
10 LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately  
11 following this statement, the location in the disclosure  
12 materials where the phasing is described shall be stated.

13 (b) A summary of the provisions of the declaration  
14 which provide for the phasing.

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

29 (d) A statement of the maximum number of buildings  
30 containing units, the maximum and minimum numbers of units in  
31 each building, the maximum number of units, and the minimum

1 and maximum square footage of the units that may be contained  
2 within each parcel of land which may be added to the  
3 condominium.

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

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

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

21 (c) A statement of the minimum and maximum number of  
22 condominiums, and the minimum and maximum number of units in  
23 each of those condominiums, which will or may be operated by  
24 the association, and the latest date by which the exact number  
25 will be finally determined.

26 (d) A statement as to whether any of the condominiums  
27 in the multicondominium may include units intended to be used  
28 for nonresidential purposes and the purpose or purposes  
29 permitted for such use.

30  
31

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

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

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

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

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

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

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

1           (20) An explanation of the manner in which the  
2 apportionment of common expenses and ownership of the common  
3 elements has been determined.

4           (21) An estimated operating budget for the condominium  
5 and the association, and a schedule of the unit owner's  
6 expenses shall be attached as an exhibit and shall contain the  
7 following information:

8           (a) The estimated monthly and annual expenses of the  
9 condominium and the association that are collected from unit  
10 owners by assessments.

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

31



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

7 1. Expenses for the association and condominium:

8 a. Administration of the association.

9 b. Management fees.

10 c. Maintenance.

11 d. Rent for recreational and other commonly used  
12 facilities.

13 e. Taxes upon association property.

14 f. Taxes upon leased areas.

15 g. Insurance.

16 h. Security provisions.

17 i. Other expenses.

18 j. Operating capital.

19 k. Reserves.

20 l. Fees payable to the division.

21 2. Expenses for a unit owner:

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

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

29 (d) The estimated amounts shall be stated for a period  
30 of at least 12 months and may distinguish between the period  
31 prior to the time unit owners other than the developer elect a

1 majority of the board of administration and the period after  
2 that date.

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

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

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

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

15 (b) The articles of incorporation creating the  
16 association.

17 (c) The bylaws of the association.

18 (d) The ground lease or other underlying lease of the  
19 condominium.

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

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

26 (g) A copy of the floor plan of the unit and the plot  
27 plan showing the location of the residential buildings and the  
28 recreation and other common areas.

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

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

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

4 (k) A declaration of servitude of properties serving  
5 the condominium but not owned by unit owners or leased to them  
6 or the association.

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

10 (m) The statement of inspection for termite damage and  
11 treatment of the existing improvements, if the condominium is  
12 a conversion.

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

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

16 (p) A copy of the documents containing any  
17 restrictions on use of the property required by subsection  
18 (16).

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

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

28 (27) If the developer is required by state or local  
29 authorities to obtain acceptance or approval of any dock or  
30 marina facilities intended to serve the condominium, a copy of  
31 any such acceptance or approval acquired by the time of filing

1 with the division under s. 718.502(1) or a statement that such  
2 acceptance or approval has not been acquired or received.

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

6 Section 75. Section 718.508, Florida Statutes, is  
7 amended to read:

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

17 Section 76. Section 718.509, Florida Statutes, is  
18 amended to read:

19 718.509 Division of ~~Florida Land Sales,~~Condominiums,  
20 Timeshare,and Mobile Homes Trust Fund.--

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

25 (2) All funds collected by the division and any amount  
26 paid for a fee or penalty under this chapter shall be  
27 deposited in the State Treasury to the credit of the Division  
28 of ~~Florida Land Sales,~~Condominiums, Timeshare,and Mobile  
29 Homes Trust Fund created by s. 718.509 ~~498.019~~. The division  
30 shall maintain separate revenue accounts in the trust fund for  
31 each business regulated by the division, and shall provide for

1 the proportionate allocation among the accounts of expenses  
2 incurred in the performance of its duties for each of these  
3 businesses. As part of its normal budgetary process, the  
4 division shall prepare an annual report of revenue and  
5 allocated expenses related to the operation of each of these  
6 businesses, which may be used to determine fees charged by the  
7 division. The provisions of s. 215.20 apply to the trust fund.

8 Section 77. Paragraph (a) of subsection (2) of section  
9 718.608, Florida Statutes, is amended to read:

10 718.608 Notice of intended conversion; time of  
11 delivery; content.--

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

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

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

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

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

30  
31

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

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

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

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

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

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

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

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

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

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

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

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

26           719.103 Definitions.--As used in this chapter:

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

30           Section 79. Section 719.1255, Florida Statutes, is  
31 amended to read:

1           719.1255 Alternative resolution of disputes.--The  
2 ~~division of Florida Land Sales, Condominiums, and Mobile Homes~~  
3 ~~of the Department of Business and Professional Regulation~~  
4 shall provide for alternative dispute resolution in accordance  
5 with s. 718.1255.

6           Section 80. Section 719.501, Florida Statutes, is  
7 amended to read:

8           719.501 Powers and duties of Division of ~~Florida Land~~  
9 ~~Sales, Condominiums, Timeshare, and Mobile Homes.--~~

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

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

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

30           (c) For the purpose of any investigation under this  
31 chapter, the division director or any officer or employee



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

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

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

26 2. The division may issue an order requiring the  
27 developer, association, officer, or member of the board, or  
28 its assignees or agents, to cease and desist from the unlawful  
29 practice and take such affirmative action as in the judgment  
30 of the division will carry out the purposes of this chapter.  
31 Such affirmative action may include, but is not limited to, an

1 order requiring a developer to pay moneys determined to be  
2 owed to a condominium association.

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

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

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

1 county in which the division has its executive offices or in  
2 the county where the violation occurred.

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

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

11 (g) The division shall establish procedures for  
12 providing notice to an association when the division is  
13 considering the issuance of a declaratory statement with  
14 respect to the cooperative documents governing such  
15 cooperative community.

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

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

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

1 of the association and the total revenue collected by the  
2 association.

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

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

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

30 (n) The division shall develop a program to certify  
31 both volunteer and paid mediators to provide mediation of

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

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

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

28 Section 81. Paragraph (a) of subsection (2) of section  
29 719.502, Florida Statutes, is amended to read:

30 719.502 Filing prior to sale or lease.--

31

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

25           Section 82. Section 719.504, Florida Statutes, is  
26 amended to read:

27           719.504 Prospectus or offering circular.--Every  
28 developer of a residential cooperative which contains more  
29 than 20 residential units, or which is part of a group of  
30 residential cooperatives which will be served by property to  
31 be used in common by unit owners of more than 20 residential

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



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

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

5 (a) The name of the cooperative.

6 (b) The following statements in conspicuous type:

- 7 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS  
8 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE  
9 UNIT.
- 10 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
11 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL  
12 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND  
13 SALES MATERIALS.

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

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

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

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

27 (a) Its name and location.

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

26 (8) Recreation lease or associated club membership:

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

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

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

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

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

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

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

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

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

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

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

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

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

20  
21 Immediately following the applicable statement, the location  
22 in the disclosure materials where the lien or lien right is  
23 described in detail shall be stated.

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

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

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

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

17 (a) The names of contracting parties.

18 (b) The term of the contract.

19 (c) The nature of the services included.

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

22 (e) A reference to the volumes and pages of the  
23 cooperative documents and of the exhibits containing copies of  
24 such contracts.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30  
31

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

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

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

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

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

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

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

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

7           (c) The bylaws of the association.

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

27 Section 83. Section 719.508, Florida Statutes, is  
28 amended to read:

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

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

8 Section 84. Paragraph (a) of subsection (2) of section  
9 719.608, Florida Statutes, is amended to read:

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

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

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

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

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

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

30  
31



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

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

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

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

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

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

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

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

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

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

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

24           Section 85. Subsection (10) of section 721.05, Florida  
25 Statutes, is amended to read:

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

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

31

1           Section 86. Paragraph (d) of subsection (2) of section  
2 721.07, Florida Statutes, is amended to read:

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

9           (2)

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

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

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

31

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

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

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

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

31

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

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

18 Section 87. Subsection (8) of section 721.08, Florida  
19 Statutes, is amended to read:

20 721.08 Escrow accounts; nondisturbance instruments;  
21 alternate security arrangements; transfer of legal title.--

22 (8) An escrow agent holding escrowed funds pursuant to  
23 this chapter that have not been claimed for a period of 5  
24 years after the date of deposit shall make at least one  
25 reasonable attempt to deliver such unclaimed funds to the  
26 purchaser who submitted such funds to escrow. In making such  
27 attempt, an escrow agent is entitled to rely on a purchaser's  
28 last known address as set forth in the books and records of  
29 the escrow agent and is not required to conduct any further  
30 search for the purchaser. If an escrow agent's attempt to  
31 deliver unclaimed funds to any purchaser is unsuccessful, the

1 escrow agent may deliver such unclaimed funds to the division  
2 and the division shall deposit such unclaimed funds in the  
3 Division of ~~Florida Land Sales, Condominiums, Timeshare, and~~  
4 Mobile Homes Trust Fund, 30 days after giving notice in a  
5 publication of general circulation in the county in which the  
6 timeshare property containing the purchaser's timeshare  
7 interest is located. The purchaser may claim the same at any  
8 time prior to the delivery of such funds to the division.  
9 After delivery of such funds to the division, the purchaser  
10 shall have no more rights to the unclaimed funds. The escrow  
11 agent shall not be liable for any claims from any party  
12 arising out of the escrow agent's delivery of the unclaimed  
13 funds to the division pursuant to this section.

14 Section 88. Section 721.26, Florida Statutes, is  
15 amended to read:

16 721.26 Regulation by division.--The division has the  
17 power to enforce and ensure compliance with the provisions of  
18 this chapter, except for parts III and IV, using the powers  
19 provided in this chapter, as well as the powers prescribed in  
20 chapter ~~chapters 498, 718, and~~ 719. In performing its duties,  
21 the division shall have the following powers and duties:

22 (1) To aid in the enforcement of this chapter, or any  
23 division rule or order promulgated or issued pursuant to this  
24 chapter, the division may make necessary public or private  
25 investigations within or outside this state to determine  
26 whether any person has violated or is about to violate this  
27 chapter, or any division rule or order promulgated or issued  
28 pursuant to this chapter.

29 (2) The division may require or permit any person to  
30 file a written statement under oath or otherwise, as the  
31

1 | division determines, as to the facts and circumstances  
2 | concerning a matter under investigation.

3 |         (3) For the purpose of any investigation under this  
4 | chapter, the director of the division or any officer or  
5 | employee designated by the director may administer oaths or  
6 | affirmations, subpoena witnesses and compel their attendance,  
7 | take evidence, and require the production of any matter which  
8 | is relevant to the investigation, including the identity,  
9 | existence, description, nature, custody, condition, and  
10 | location of any books, documents, or other tangible things and  
11 | the identity and location of persons having knowledge of  
12 | relevant facts or any other matter reasonably calculated to  
13 | lead to the discovery of material evidence. Failure to obey a  
14 | subpoena or to answer questions propounded by the  
15 | investigating officer and upon reasonable notice to all  
16 | persons affected thereby shall be a violation of this chapter.  
17 | In addition to the other enforcement powers authorized in this  
18 | subsection, the division may, at its discretion, apply to the  
19 | circuit court for an order compelling compliance.

20 |         (4) The division may prepare and disseminate a  
21 | prospectus and other information to assist prospective  
22 | purchasers, sellers, and managing entities of timeshare plans  
23 | in assessing the rights, privileges, and duties pertaining  
24 | thereto.

25 |         (5) Notwithstanding any remedies available to  
26 | purchasers, if the division has reasonable cause to believe  
27 | that a violation of this chapter, or of any division rule or  
28 | order promulgated or issued pursuant to this chapter, has  
29 | occurred, the division may institute enforcement proceedings  
30 | in its own name against any regulated party, as such term is  
31 | defined in this subsection:

1           (a)1. "Regulated party," for purposes of this section,  
2 means any developer, exchange company, seller, managing  
3 entity, association, association director, association  
4 officer, manager, management firm, escrow agent, trustee, any  
5 respective assignees or agents, or any other person having  
6 duties or obligations pursuant to this chapter.

7           2. Any person who materially participates in any offer  
8 or disposition of any interest in, or the management or  
9 operation of, a timeshare plan in violation of this chapter or  
10 relevant rules involving fraud, deception, false pretenses,  
11 misrepresentation, or false advertising or the disbursement,  
12 concealment, or diversion of any funds or assets, which  
13 conduct adversely affects the interests of a purchaser, and  
14 which person directly or indirectly controls a regulated party  
15 or is a general partner, officer, director, agent, or employee  
16 of such regulated party, shall be jointly and severally liable  
17 under this subsection with such regulated party, unless such  
18 person did not know, and in the exercise of reasonable care  
19 could not have known, of the existence of the facts giving  
20 rise to the violation of this chapter. A right of  
21 contribution shall exist among jointly and severally liable  
22 persons pursuant to this paragraph.

23           (b) The division may permit any person whose conduct  
24 or actions may be under investigation to waive formal  
25 proceedings and enter into a consent proceeding whereby an  
26 order, rule, or letter of censure or warning, whether formal  
27 or informal, may be entered against that person.

28           (c) The division may issue an order requiring a  
29 regulated party to cease and desist from an unlawful practice  
30 under this chapter and take such affirmative action as in the  
31



1 judgment of the division will carry out the purposes of this  
2 chapter.

3 (d)1. The division may bring an action in circuit  
4 court for declaratory or injunctive relief or for other  
5 appropriate relief, including restitution.

6 2. The division shall have broad authority and  
7 discretion to petition the circuit court to appoint a receiver  
8 with respect to any managing entity which fails to perform its  
9 duties and obligations under this chapter with respect to the  
10 operation of a timeshare plan. The circumstances giving rise  
11 to an appropriate petition for receivership under this  
12 subparagraph include, but are not limited to:

13 a. Damage to or destruction of any of the  
14 accommodations or facilities of a timeshare plan, where the  
15 managing entity has failed to repair or reconstruct same.

16 b. A breach of fiduciary duty by the managing entity,  
17 including, but not limited to, undisclosed self-dealing or  
18 failure to timely assess, collect, or disburse the common  
19 expenses of the timeshare plan.

20 c. Failure of the managing entity to operate the  
21 timeshare plan in accordance with the timeshare instrument and  
22 this chapter.

23  
24 If, under the circumstances, it appears that the events giving  
25 rise to the petition for receivership cannot be reasonably and  
26 timely corrected in a cost-effective manner consistent with  
27 the timeshare instrument, the receiver may petition the  
28 circuit court to implement such amendments or revisions to the  
29 timeshare instrument as may be necessary to enable the  
30 managing entity to resume effective operation of the timeshare  
31 plan, or to enter an order terminating the timeshare plan, or

1 to enter such further orders regarding the disposition of the  
2 timeshare property as the court deems appropriate, including  
3 the disposition and sale of the timeshare property held by the  
4 association or the purchasers. In the event of a receiver's  
5 sale, all rights, title, and interest held by the association  
6 or any purchaser shall be extinguished and title shall vest in  
7 the buyer. This provision applies to timeshare estates and  
8 timeshare licenses. All reasonable costs and fees of the  
9 receiver relating to the receivership shall become common  
10 expenses of the timeshare plan upon order of the court.

11 3. The division may revoke its approval of any filing  
12 for any timeshare plan for which a petition for receivership  
13 has been filed pursuant to this paragraph.

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

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

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

31

1           (f) In order to permit the regulated party an  
2 opportunity either to appeal such decision administratively or  
3 to seek relief in a court of competent jurisdiction, the order  
4 imposing the penalty or the cease and desist order shall not  
5 become effective until 20 days after the date of such order.

6           (g) Any action commenced by the division shall be  
7 brought in the county in which the division has its executive  
8 offices or in the county where the violation occurred.

9           (h) Notice to any regulated party shall be complete  
10 when delivered by United States mail, return receipt  
11 requested, to the party's address currently on file with the  
12 division or to such other address at which the division is  
13 able to locate the party. Every regulated party has an  
14 affirmative duty to notify the division of any change of  
15 address at least 5 business days prior to such change.

16           (6) The division has authority to adopt rules pursuant  
17 to ss. 120.536(1) and 120.54 to implement and enforce the  
18 provisions of this chapter.

19           (7)(a) The use of any unfair or deceptive act or  
20 practice by any person in connection with the sales or other  
21 operations of an exchange program or timeshare plan is a  
22 violation of this chapter.

23           (b) Any violation of the Florida Deceptive and Unfair  
24 Trade Practices Act, ss. 501.201 et seq., relating to the  
25 creation, promotion, sale, operation, or management of any  
26 timeshare plan shall also be a violation of this chapter.

27           (c) The division is authorized to institute  
28 proceedings against any such person and take any appropriate  
29 action authorized in this section in connection therewith,  
30 notwithstanding any remedies available to purchasers.

31

1           (8) The failure of any person to comply with any order  
2 of the division is a violation of this chapter.

3           Section 89. Section 721.28, Florida Statutes, is  
4 amended to read:

5           721.28 Division of ~~Florida Land Sales~~, Condominiums,  
6 Timeshare, and Mobile Homes Trust Fund.--All funds collected  
7 by the division and any amounts paid as fees or penalties  
8 under this chapter shall be deposited in the State Treasury to  
9 the credit of the Division of ~~Florida Land Sales~~,  
10 Condominiums, Timeshare, and Mobile Homes Trust Fund created  
11 by s. 718.509 ~~498.019~~.

12           Section 90. Paragraph (c) of subsection (1) of section  
13 721.301, Florida Statutes, is amended to read:

14           721.301 Florida Timesharing, Vacation Club, and  
15 Hospitality Program.--

16           (1)

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

25           Section 91. Section 721.50, Florida Statutes, is  
26 amended to read:

27           721.50 Short title.--This part may be cited as the  
28 "McAllister Act" in recognition and appreciation for the years  
29 of extraordinary and insightful contributions by Mr. Bryan C.  
30 McAllister, Examinations Supervisor, former Division of  
31 Florida Land Sales, Condominiums, and Mobile Homes.

1           Section 92. Subsection (10) of section 721.82, Florida  
2 Statutes, is amended to read:

3           721.82 Definitions.--As used in this part, the term:

4           (10) "Registered agent" means an agent duly appointed  
5 ~~by the obligor~~ under s. 721.84 for the purpose of accepting  
6 all notices and service of process under this part for the  
7 obligor. A registered agent may be an individual resident in  
8 this state whose business office qualifies as a registered  
9 office, or a domestic or foreign corporation or a  
10 not-for-profit corporation as defined in chapter 617  
11 authorized to transact business or to conduct its affairs in  
12 this state, whose business office qualifies as a registered  
13 office. A registered agent for any obligor may not be the  
14 lienholder or the attorney for the lienholder.

15           Section 93. Subsection (5) of section 721.84, Florida  
16 Statutes, is amended, present subsections (6) and (7) are  
17 renumbered as subsections (9) and (10), respectively, and new  
18 subsections (6), (7), and (8) are added to that section, to  
19 read:

20           721.84 Appointment of a registered agent; duties.--

21           (5) A registered agent may resign his or her agency  
22 appointment for any obligor for which he or she serves as  
23 registered agent, provided that:

24           (a) The resigning registered agent executes a written  
25 statement of resignation that identifies himself or herself  
26 and the street address of his or her registered office, and  
27 identifies the obligors affected by his or her resignation;

28           (b)1. A successor registered agent is appointed by the  
29 resigning registered agent and such successor registered agent  
30 executes an acceptance of appointment as successor registered  
31

1 agent and satisfies all of the requirements of subsection (1);  
2 ~~or-~~

3 2. The registered agent provides 120 days' prior  
4 written notice to the mortgagee as to the mortgage lien and to  
5 the owners' association of the timeshare plan as to the  
6 assessment lien of its intent to deliver the statement of  
7 resignation. Prior to the effective date of termination of the  
8 resigning registered agent's agency and registered office, a  
9 ~~The resigning registered agent may designate the successor~~  
10 ~~registered agent; however, if the resigning registered agent~~  
11 ~~fails to designate a successor registered agent or the~~  
12 ~~designated successor registered agent fails to accept, the~~  
13 ~~successor registered agent for the affected obligors may be~~  
14 ~~designated by the mortgagee as to the mortgage lien and by the~~  
15 ~~owners' association of the timeshare plan as to the assessment~~  
16 ~~lien; and~~

17 (c)1. If a successor registered agent is appointed  
18 under subparagraph (b)1., copies of the statement of  
19 resignation and acceptance of appointment as successor  
20 registered agent are promptly mailed to the affected obligors  
21 at the obligors' last designated address shown on the records  
22 of the resigning registered agent and to the affected  
23 lienholders; or-

24 2. If a resigning registered agent has previously  
25 provided notice under subparagraph (b)2., a copy of the  
26 statement of resignation is promptly mailed to the affected  
27 obligors at the obligor's last designated address shown on the  
28 records of the resigning registered agent and a copy of the  
29 statement of resignation and a list of the obligors' last  
30 designated addresses shown on the records of the resigning  
31

1 registered agent are promptly mailed to the affected  
2 lienholders.

3 (6) If a successor registered agent is appointed under  
4 subparagraph (5)(b)1., the agency and registered office of the  
5 resigning registered agent are terminated and the agency and  
6 registered office of the successor registered agent are  
7 effective as of the 10th day after the date on which the  
8 statement of resignation and acceptance of appointment as  
9 successor registered agent are received by the lienholder,  
10 unless a longer period is provided in the statement of  
11 resignation and acceptance of appointment as successor  
12 registered agent.

13 (7) If a resigning registered agent has previously  
14 provided notice under subparagraph (5)(b)2. and a successor  
15 registered agent is not designated or the designated successor  
16 registered agent fails to accept the appointment as registered  
17 agent, the agency and registered office of the resigning  
18 registered agent are terminated effective as of the 10th day  
19 after the date on which the statement of resignation and list  
20 of obligors required by subparagraph (5)(c)2. are received by  
21 the lienholder, unless a longer period is provided in the  
22 statement of resignation. After the effective date of the  
23 termination of the agency and registered office of the  
24 resigning registered agent, if no successor registered agent  
25 exists, the affected lienholders must mail any notice or  
26 document required to be delivered by a lienholder to the  
27 obligor by first class mail if the obligor's address is within  
28 the United States, and by international air mail if the  
29 obligor's address is outside the United States, with postage  
30 fees prepaid to the obligor at the obligor's last designated  
31 address as shown on the records of the resigning registered

1 agent. Whenever no successor registered agent exists, a  
2 successor registered agent for the affected obligors may be  
3 designated by the mortgagee as to the mortgage lien and by the  
4 owners' association of the timeshare plan as to the assessment  
5 lien.

6 (8) If a successor registered agent is appointed under  
7 subparagraph (5)(b)2. or under subsection (7), copies of the  
8 acceptance of appointment as successor registered agent must  
9 be promptly mailed, by the mortgagee as to a registered agent  
10 appointed by the mortgagee as to the mortgage lien, and by the  
11 owners' association of the timeshare plan as to the assessment  
12 lien, to the affected obligors at the obligor's last address  
13 shown on the records of the resigning registered agent. The  
14 agency and registered office of the successor registered agent  
15 are effective as of the date provided in the acceptance of  
16 appointment.

17 Section 94. Subsection (1) of section 723.003, Florida  
18 Statutes, is amended to read:

19 723.003 Definitions.--As used in this chapter, the  
20 following words and terms have the following meanings unless  
21 clearly indicated otherwise:

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

25 Section 95. Paragraph (e) of subsection (5) of section  
26 723.006, Florida Statutes, is amended to read:

27 723.006 Powers and duties of division.--In performing  
28 its duties, the division has the following powers and duties:

29 (5) Notwithstanding any remedies available to mobile  
30 home owners, mobile home park owners, and homeowners'  
31 associations, if the division has reasonable cause to believe



1 that a violation of any provision of this chapter or any rule  
2 promulgated pursuant hereto has occurred, the division may  
3 institute enforcement proceedings in its own name against a  
4 developer, mobile home park owner, or homeowners' association,  
5 or its assignee or agent, as follows:

6 (e)1. The division may impose a civil penalty against  
7 a mobile home park owner or homeowners' association, or its  
8 assignee or agent, for any violation of this chapter, a  
9 properly promulgated park rule or regulation, or a rule or  
10 regulation promulgated pursuant hereto. A penalty may be  
11 imposed on the basis of each separate violation and, if the  
12 violation is a continuing one, for each day of continuing  
13 violation, but in no event may the penalty for each separate  
14 violation or for each day of continuing violation exceed  
15 \$5,000. All amounts collected shall be deposited with the  
16 Treasurer to the credit of the Division of ~~Florida Land Sales,~~  
17 Condominiums, Timeshare, and Mobile Homes Trust Fund.

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

31

1           Section 96. Section 723.0065, Florida Statutes, is  
2 amended to read:

3           723.0065 Public records exemption; findings.--The  
4 Legislature, in narrowing the existing public records  
5 exemption pursuant to s. 1, chapter 94-78, Laws of Florida,  
6 finds that a public necessity exists to keep confidential and  
7 retain the public records exemption for financial records of  
8 mobile home park owners acquired by the division ~~of Florida~~  
9 ~~Land Sales, Condominiums, and Mobile Homes~~ when performing its  
10 duties under the Florida Mobile Home Act unless the mobile  
11 home park owner has violated the provisions of this chapter.  
12 In that case, only those financial records that are  
13 specifically relevant to the finding of violation should be  
14 released. If it were otherwise, the division would encounter  
15 difficulties in procuring such proprietary information which  
16 would impede the effective and efficient performance of the  
17 division's public duties. Additionally, release of such  
18 proprietary information would harm the business interests of  
19 innocent mobile home park owners to the advantage of  
20 competitors and potential purchasers. Effective monitoring of  
21 the division's performance of its duties can be conducted  
22 without access to these records, and these records are  
23 otherwise available pursuant to a civil complaint as  
24 envisioned by the act. Accordingly, the public good served by  
25 access to financial records of a mobile home park owner who  
26 has not violated the provisions of this chapter is outweighed  
27 by the interference with division investigations and the  
28 private harm that could be caused by allowing such access.

29           Section 97. Section 723.009, Florida Statutes, is  
30 amended to read:

31

1           723.009 Division of ~~Florida Land Sales~~, Condominiums,  
2 Timeshare, and Mobile Homes Trust Fund.--All proceeds from the  
3 fees, penalties, and fines imposed pursuant to this chapter  
4 shall be deposited into the Division of ~~Florida Land Sales~~,  
5 Condominiums, Timeshare, and Mobile Homes Trust Fund created  
6 by s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated  
7 by the Legislature pursuant to chapter 216, may be used to  
8 defray the expenses incurred by the division in administering  
9 the provisions of this chapter.

10           Section 98. Subsection (2) of section 73.073, Florida  
11 Statutes, is amended to read:

12           73.073 Eminent domain procedure with respect to  
13 condominium common elements.--

14           (2) With respect to the exercise of eminent domain or  
15 a negotiated sale for the purchase or taking of a portion of  
16 the common elements of a condominium, the condemning authority  
17 shall have the responsibility of contacting the condominium  
18 association and acquiring the most recent rolls indicating the  
19 names of the unit owners or contacting the appropriate taxing  
20 authority to obtain the names of the owners of record on the  
21 tax rolls. Notification shall thereupon be sent by certified  
22 mail, return receipt requested, to the unit owners of record  
23 of the condominium units by the condemning authority  
24 indicating the intent to purchase or take the required  
25 property and requesting a response from the unit owner. The  
26 condemning authority shall be responsible for the expense of  
27 sending notification pursuant to this section. Such notice  
28 shall, at a minimum, include:

- 29           (a) The name and address of the condemning authority.  
30           (b) A written or visual description of the property.

31

1 (c) The public purpose for which the property is  
2 needed.

3 (d) The appraisal value of the property.

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

7 (f) A clear, concise statement relating to the power  
8 of the association to convey the property on behalf of the  
9 unit owners if no objection to the taking or appraisal value  
10 is raised, and the effects of this alternative on the unit  
11 owner.

12  
13 The Division of ~~Florida Land Sales~~, Condominiums, Timeshare,  
14 and Mobile Homes of the Department of Business and  
15 Professional Regulation may adopt, by rule, a standard form  
16 for such notice and may require the notice to include any  
17 additional relevant information.

18 Section 99. Paragraph (e) of subsection (6) of section  
19 192.037, Florida Statutes, is amended to read:

20 192.037 Fee timeshare real property; taxes and  
21 assessments; escrow.--

22 (6)

23 (e) On or before May 1 of each year, a statement of  
24 receipts and disbursements of the escrow account must be filed  
25 with the Division of ~~Florida Land Sales~~, Condominiums,  
26 Timeshare, and Mobile Homes of the Department of Business and  
27 Professional Regulation, which may enforce this paragraph  
28 pursuant to s. 721.26. This statement must appropriately show  
29 the amount of principal and interest in such account.

30 Section 100. Paragraph (i) of subsection (7) of  
31 section 213.053, Florida Statutes, is amended to read:

1           213.053 Confidentiality and information sharing.--

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

4           (i) Information relative to chapters 212 and 326 to  
5 the ~~Division of Florida Land Sales, Condominiums, and Mobile~~  
6 ~~Homes of the~~ Department of Business and Professional  
7 Regulation in the conduct of its official duties.

8  
9 Disclosure of information under this subsection shall be  
10 pursuant to a written agreement between the executive director  
11 and the agency. Such agencies, governmental or  
12 nongovernmental, shall be bound by the same requirements of  
13 confidentiality as the Department of Revenue. Breach of  
14 confidentiality is a misdemeanor of the first degree,  
15 punishable as provided by s. 775.082 or s. 775.083.

16           Section 101. Paragraph (w) of subsection (4) of  
17 section 215.20, Florida Statutes, is amended to read:

18           215.20 Certain income and certain trust funds to  
19 contribute to the General Revenue Fund.--

20           (4) The income of a revenue nature deposited in the  
21 following described trust funds, by whatever name designated,  
22 is that from which the deductions authorized by subsection (3)  
23 shall be made:

24           (w) The Division of ~~Florida Land Sales, Condominiums,~~  
25 Timeshare, and Mobile Homes Trust Fund established pursuant to  
26 s. 718.509 ~~498.019~~.

27  
28 The enumeration of the foregoing moneys or trust funds shall  
29 not prohibit the applicability thereto of s. 215.24 should the  
30 Governor determine that for the reasons mentioned in s. 215.24  
31 the money or trust funds should be exempt herefrom, as it is

1 the purpose of this law to exempt income from its force and  
2 effect when, by the operation of this law, federal matching  
3 funds or contributions or private grants to any trust fund  
4 would be lost to the state.

5 Section 102. Paragraph (a) of subsection (4) of  
6 section 380.0651, Florida Statutes, is amended to read:

7 380.0651 Statewide guidelines and standards.--

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

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

16 1.a. The same person has retained or shared control of  
17 the developments;

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

20 c. There is common management of the developments  
21 controlling the form of physical development or disposition of  
22 parcels of the development.

23 2. There is a reasonable closeness in time between the  
24 completion of 80 percent or less of one development and the  
25 submission to a governmental agency of a master plan or series  
26 of plans or drawings for the other development which is  
27 indicative of a common development effort.

28 3. A master plan or series of plans or drawings exists  
29 covering the developments sought to be aggregated which have  
30 been submitted to a local general-purpose government, water  
31 management district, the Florida Department of Environmental

1 Protection, or the Division of ~~Florida Land Sales,~~  
2 Condominiums, Timeshare, and Mobile Homes for authorization to  
3 commence development. The existence or implementation of a  
4 utility's master utility plan required by the Public Service  
5 Commission or general-purpose local government or a master  
6 drainage plan shall not be the sole determinant of the  
7 existence of a master plan.

8 4. The voluntary sharing of infrastructure that is  
9 indicative of a common development effort or is designated  
10 specifically to accommodate the developments sought to be  
11 aggregated, except that which was implemented because it was  
12 required by a local general-purpose government; water  
13 management district; the Department of Environmental  
14 Protection; the Division of ~~Florida Land Sales,~~ Condominiums,  
15 Timeshare, and Mobile Homes; or the Public Service Commission.

16 5. There is a common advertising scheme or promotional  
17 plan in effect for the developments sought to be aggregated.

18 Section 103. Subsection (5) of section 455.116,  
19 Florida Statutes, is amended to read:

20 455.116 Regulation trust funds.--The following trust  
21 funds shall be placed in the department:

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

24 Section 104. Section 475.455, Florida Statutes, is  
25 amended to read:

26 475.455 Exchange of disciplinary information.--The  
27 commission shall inform the Division of ~~Florida Land Sales,~~  
28 Condominiums, Timeshare, and Mobile Homes of the Department of  
29 Business and Professional Regulation of any disciplinary  
30 action the commission has taken against any of its licensees.  
31 The division shall inform the commission of any disciplinary

1 action the division has taken against any broker or  
2 salesperson registered with the division.

3 Section 105. Section 509.512, Florida Statutes, is  
4 amended to read:

5 509.512 Timeshare plan developer and exchange company  
6 exemption.--Sections 509.501-509.511 do not apply to a  
7 developer of a timeshare plan or an exchange company approved  
8 by the Division of ~~Florida Land Sales~~, Condominiums,  
9 Timeshare, and Mobile Homes pursuant to chapter 721, but only  
10 to the extent that the developer or exchange company engages  
11 in conduct regulated under chapter 721.

12 Section 106. Subsection (1) of section 559.935,  
13 Florida Statutes, is amended to read:

14 559.935 Exemptions.--

15 (1) This part does not apply to:

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

18 (b) Any direct common carrier of passengers or  
19 property regulated by an agency of the Federal Government or  
20 employees of such carrier when engaged solely in the  
21 transportation business of the carrier as identified in the  
22 carrier's certificate;

23 (c) An intrastate common carrier of passengers or  
24 property selling only transportation as defined in the  
25 applicable state or local registration or certification, or  
26 employees of such carrier when engaged solely in the  
27 transportation business of the carrier;

28 (d) Hotels, motels, or other places of public  
29 accommodation selling public accommodations, or employees of  
30 such hotels, motels, or other places of public accommodation,  
31 when engaged solely in making arrangements for lodging,



1 accommodations, or sightseeing tours within the state, or  
2 taking reservations for the traveler with times, dates,  
3 locations, and accommodations certain at the time the  
4 reservations are made, provided that hotels and motels  
5 registered with the Department of Business and Professional  
6 Regulation pursuant to chapter 509 are excluded from the  
7 provisions of this chapter;

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

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

12 (g) Persons who make travel arrangements for  
13 themselves; for their employees or agents; for distributors,  
14 franchisees, or dealers of the persons' products or services;  
15 for entities which are financially related to the persons; or  
16 for the employees or agents of the distributor, franchisee, or  
17 dealer or financially related entity;

18 (h) A developer of a timeshare plan or an exchange  
19 company approved by the Division of ~~Florida Land Sales,~~  
20 Condominiums, Timeshare, and Mobile Homes pursuant to chapter  
21 721, but only to the extent that the developer or exchange  
22 company engages in conduct regulated under chapter 721; or

23 (i) Persons or entities engaged solely in offering  
24 diving services, including classes and sales or rentals of  
25 equipment, when engaged in making any prearranged  
26 travel-related or tourist-related services in conjunction with  
27 a primarily dive-related event.

28 Section 107. Effective July 1, 2001, paragraph (f) is  
29 added to subsection (3) of section 489.537, Florida Statutes,  
30 to read:

31 489.537 Application of this part.--

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

3           (f) To require that a licensed electrical journeyman  
4 be present on an industrial or commercial new construction  
5 site of 15,000 square feet or more when electrical work is  
6 being performed, in order to supervise or perform such work.  
7 Additionally, the department shall adopt rules to implement a  
8 required statewide registration designation for electrical  
9 journeyman for industrial and commercial job sites to take  
10 effect January 1, 2003.

11           Section 108. Effective July 1, 2001, subsection (2) of  
12 section 468.452, Florida Statutes, is amended to read:

13           468.452 Definitions.--For purposes of this part, the  
14 term:

15           (2) "Athlete agent" means a person who, directly or  
16 indirectly, recruits or solicits a student athlete to enter  
17 into an agent contract, or who, for any type of financial  
18 gain, procures, offers, promises, or attempts to obtain  
19 employment or promotional fees or benefits for a student  
20 athlete with a professional sports team or as a professional  
21 athlete, or with any promoter who markets or attempts to  
22 market the student athlete's athletic ability or athletic  
23 reputation. This term includes all employees and other persons  
24 acting on behalf of an athlete agent who participate in the  
25 activities included under this subsection. The term does not  
26 include a spouse, parent, sibling, grandparent, or guardian of  
27 the student-athlete or an individual acting solely on behalf  
28 of a professional sports team or professional sports  
29 organization.

30           Section 109. Effective July 1, 2001, section 468.453,  
31 Florida Statutes, is amended to read:

1           468.453 Licensure required; qualifications;  
2 examination; bond; exception; license nontransferable.--

3           (1) Any person who practices as an athlete agent in  
4 this state must be licensed pursuant to this part.

5           (2) A person shall be licensed as an athlete agent if  
6 the applicant:

7           (a) Is at least 18 years of age.

8           (b) Is of good moral character.

9           ~~(c) Passes an examination provided by the department~~  
10 ~~which tests the applicant's proficiency to practice as an~~  
11 ~~athlete agent, including, but not limited to, knowledge of the~~  
12 ~~laws and rules of this state relating to athlete agents, this~~  
13 ~~part, and chapter 455.~~

14           (c)~~(d)~~ Has completed the application form and remitted  
15 an application fee not to exceed \$500, ~~an examination fee not~~  
16 ~~to exceed the actual cost for the examination plus \$500,~~an  
17 active licensure fee not to exceed \$2,000, and all other  
18 applicable fees provided for in this part or in chapter 455.

19           (d)~~(e)~~ Has submitted to the department a fingerprint  
20 card for a criminal history records check. The fingerprint  
21 card shall be forwarded to the Division of Criminal Justice  
22 Information Systems within the Department of Law Enforcement  
23 for purposes of processing the fingerprint card to determine  
24 if the applicant has a criminal history record. The  
25 fingerprint card shall also be forwarded to the Federal Bureau  
26 of Investigation for purposes of processing the fingerprint  
27 card to determine if the applicant has a criminal history  
28 record. The information obtained by the processing of the  
29 fingerprint card by the Florida Department of Law Enforcement  
30 and the Federal Bureau of Investigation shall be sent to the

31

1 department for the purpose of determining if the applicant is  
2 statutorily qualified for licensure.

3 (e)(f) Has not in any jurisdiction, within the  
4 preceding 5 years, been convicted or found guilty of or  
5 entered a plea of nolo contendere for, regardless of  
6 adjudication, a crime which relates to the applicant's  
7 practice or ability to practice as an athlete agent.

8 ~~(g) Has posted with the department a \$15,000 surety  
9 bond issued by an insurance company authorized to do business  
10 in this state. The bond shall be in favor of the State of  
11 Florida, Department of Business and Professional Regulation,  
12 for the use and benefit of any student athlete or college or  
13 university within Florida who or which is injured or damaged,  
14 including reasonable costs and attorney's fees, as a result of  
15 acts or omissions by the athlete agent pursuant to a license  
16 issued under this part. The bond shall be written in the form  
17 determined by the department. The bond shall provide that the  
18 athlete agent is responsible for the acts or omissions of any  
19 representatives acting under the athlete agent's supervision  
20 or authority. The bond shall be in effect for and cover all  
21 times that the athlete agent has an active license and  
22 conducts business pursuant to that license in this or any  
23 other state.~~

24 (3) An unlicensed individual may act as an athlete  
25 agent if:

26 (a) A student-athlete or person acting on the  
27 athlete's behalf initiates communication with the individual;  
28 and

29 (b) Within 7 days after an initial act as an athlete  
30 agent, the individual submits an application for licensure.

31 ~~Members of The Florida Bar are exempt from the state laws and~~

1 ~~rules component, and the fee for such, of the examination~~  
2 ~~required by this section.~~

3 (4) A license issued to an athlete agent is not  
4 transferable.

5 (5) By acting as an athlete agent in this state, a  
6 nonresident individual appoints the department as the  
7 individual's agent for service of process in any civil action  
8 related to the individual's acting as an athlete agent.

9 (6) The department may issue a temporary license while  
10 an application for licensure is pending. If the department  
11 issues a notice of intent to deny the license application, the  
12 initial temporary license expires and may not be extended  
13 during any proceeding or administrative or judicial review.

14 Section 110. Effective July 1, 2001, section 468.454,  
15 Florida Statutes, is amended to read:

16 468.454 Contracts.--

17 (1) An agent contract must be in a record, signed, or  
18 otherwise authenticated by the parties.

19 (2) An agent contract must state:

20 (a) The amount and method of calculating the  
21 consideration to be paid by the student-athlete for services  
22 to be provided by the athlete agent and any other  
23 consideration the agent has received or will receive from any  
24 other source under the contract;

25 (b) The name of any person not listed in the licensure  
26 application who will be compensated because the  
27 student-athlete signed the agent contract;

28 (c) A description of any expenses that the  
29 student-athlete agrees to reimburse;

30 (d) A description of the services to be provided to  
31 the student-athlete;

1           (e) The duration of the contract; and

2           (f) The date of execution.

3           (3) An agent contract must contain, in close proximity  
4 to the signature of the student-athlete, a conspicuous notice  
5 in boldface type in capital letters stating:

6

7                               WARNING TO STUDENT-ATHLETE

8

9           IF YOU SIGN THE CONTRACT:

10          1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS  
11 A STUDENT-ATHLETE IN YOUR SPORT;

12          2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72  
13 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND  
14 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC  
15 DIRECTOR; AND

16          3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS  
17 AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS  
18 CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

19

20          (4) An agent contract that does not conform to this  
21 section is voidable by the student-athlete. If a  
22 student-athlete voids an agent contract, the student-athlete  
23 is not required to pay any consideration or return any  
24 consideration received from the athlete agent to induce the  
25 student-athlete to enter into the contract.

26          (5) The athlete agent shall give a record of the  
27 signed or authenticated agent contract to the student-athlete  
28 at the time of execution.

29          (6) Within 72 hours after entering into an agent  
30 contract or before the next scheduled athletic event in which  
31 the student-athlete may participate, whichever occurs first,

1 the athlete agent must give notice in a record of the  
2 existence of the contract to the athletic director of the  
3 educational institution at which the student-athlete is  
4 enrolled or the athlete agent has reasonable grounds to  
5 believe the student-athlete intends to enroll.

6 (7) Within 72 hours after entering into an agent  
7 contract or before the next athletic event in which the  
8 student-athlete may participate, whichever occurs first, the  
9 student-athlete must inform the athletic director of the  
10 educational institution at which the student-athlete is  
11 enrolled that he or she has entered into an agent contract.

12 (8) A student-athlete may cancel an agent contract by  
13 giving notice of the cancellation to the athlete agent in a  
14 record within 14 days after the contract is signed.

15 (9) A student-athlete may not waive the right to  
16 cancel an agent contract.

17 (10) If a student-athlete cancels an agent contract,  
18 the student-athlete is not required to pay any consideration  
19 or return any consideration received from the athlete agent to  
20 induce the student-athlete to enter into the contract.

21 ~~(1) An athlete agent and a student athlete who enter~~  
22 ~~into an agent contract must provide written notice of the~~  
23 ~~contract to the athletic director or the president of the~~  
24 ~~college or university in which the student athlete is~~  
25 ~~enrolled. The athlete agent and the student must give the~~  
26 ~~notice before the contracting student athlete practices or~~  
27 ~~participates in any intercollegiate athletic event or within~~  
28 ~~72 hours after entering into said contract, whichever comes~~  
29 ~~first. Failure of the athlete agent to provide this~~  
30 ~~notification is a felony of the third degree, punishable as~~  
31

1 ~~provided in ss. 775.082, 775.083, 775.084, 775.089, and~~  
2 ~~775.091.~~

3 ~~(2) A written contract between a student athlete and~~  
4 ~~an athlete agent must state the fees and percentages to be~~  
5 ~~paid by the student athlete to the agent and must have a~~  
6 ~~notice printed near the student athlete's signature containing~~  
7 ~~the following statement in 10-point boldfaced type:~~

8 ~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS~~  
9 ~~CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO~~  
10 ~~COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL~~  
11 ~~PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED~~  
12 ~~INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF~~  
13 ~~YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO~~  
14 ~~THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE~~  
15 ~~ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS~~  
16 ~~NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL~~  
17 ~~YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY~~  
18 ~~CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING~~  
19 ~~OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE~~  
20 ~~DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS~~  
21 ~~CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR~~  
22 ~~CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT~~  
23 ~~RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE~~  
24 ~~ATHLETICS."~~

25 ~~(3) An agent contract which does not meet the~~  
26 ~~requirements of this section is void and unenforceable.~~

27 ~~(4) Within 15 days after the date the athletic~~  
28 ~~director or president of the college or university of the~~  
29 ~~student athlete receives the notice required by this section~~  
30 ~~that a student athlete has entered into an athlete agent~~  
31 ~~contract, the student athlete shall have the right to rescind~~



1 ~~the contract with the athlete agent by giving written notice~~  
2 ~~to the athlete agent of the student athlete's rescission of~~  
3 ~~the contract. The student athlete may not under any~~  
4 ~~circumstances waive the student athlete's right to rescind the~~  
5 ~~agent contract.~~

6 ~~(5) A postdated agent contract is void and~~  
7 ~~unenforceable.~~

8 (11)~~(6)~~ An athlete agent shall not enter into an agent  
9 contract that purports to or takes effect at a future time  
10 after the student athlete no longer has remaining eligibility  
11 to participate in intercollegiate athletics. Such a contract  
12 is void and unenforceable.

13 (12)~~(7)~~ An agent contract between a student athlete  
14 and a person not licensed under this part is void and  
15 unenforceable.

16 Section 111. Effective July 1, 2001, subsection (3) of  
17 section 468.456, Florida Statutes, is amended to read:

18 468.456 Prohibited acts.--

19 (3) When the department finds any person guilty of any  
20 of the prohibited acts set forth in subsection (1), the  
21 department may enter an order imposing one or more of the  
22 penalties provided for in s. 455.227, and an administrative  
23 fine not to exceed \$25,000 for each separate offense. In  
24 addition to any other penalties or disciplinary actions  
25 provided for in this part, the department shall suspend or  
26 revoke the license of any athlete agent licensed under this  
27 part who violates paragraph (1)(f) or paragraph (1)(o) or s.  
28 468.45615.

29 Section 112. Effective July 1, 2001, subsection (4) is  
30 added to section 468.45615, Florida Statutes, to read:

31

1           468.45615 Provision of illegal inducements to athletes  
2 prohibited; penalties; license suspension.--

3           (4)(a) An athlete agent, with the intent to induce a  
4 student-athlete to enter into an agent contract, may not:

5           1. Give any materially false or misleading information  
6 or make a materially false promise or representation;

7           2. Furnish anything of value to a student-athlete  
8 before the student-athlete enters into the agent contract; or

9           3. Furnish anything of value to any individual other  
10 than the student-athlete or another athlete agent.

11           (b) An athlete agent may not intentionally:

12           1. Initiate contact with a student-athlete unless  
13 licensed under this part;

14           2. Refuse or fail to retain or permit inspection of  
15 the records required to be retained by s. 468.4565;

16           3. Provide materially false or misleading information  
17 in an application for licensure;

18           4. Predate or postdate an agent contract;

19           5. Fail to give notice of the existence of an agent  
20 contract as required by s. 468.454(6); or

21           6. Fail to notify a student-athlete before the  
22 student-athlete signs or otherwise authenticates an agent  
23 contract for a sport that the signing or authentication may  
24 make the student-athlete ineligible to participate as a  
25 student-athlete in that sport.

26           (c) An athlete agent who violates this subsection  
27 commits a felony of the second degree, punishable as provided  
28 in s. 775.082, s. 775.083, or s. 775.084.

29           Section 113. Effective July 1, 2001, section 468.4562,  
30 Florida Statutes, is amended to read:

31           468.4562 Civil action by institution.--

1           (1) A college or university may sue for damages, as  
2 provided by this section, any person who violates this part.  
3 A college or university may seek equitable relief to prevent  
4 or minimize harm arising from acts or omissions which are or  
5 would be a violation of this part.

6           (2) For purposes of this section, a college or  
7 university is damaged if, because of activities of the person,  
8 the college or university is penalized,~~or is~~ disqualified,~~or~~  
9 suspended from participation in intercollegiate athletics by a  
10 national association for the promotion and regulation of  
11 intercollegiate athletics,~~or~~ by an intercollegiate athletic  
12 conference or by reasonable self-imposed disciplinary action  
13 taken to mitigate sanctions likely to be imposed by such  
14 organization and, because of that penalty, disqualification,  
15 ~~or~~ suspension, or action the institution:

16           (a) Loses revenue from media coverage of a sports  
17 contest;

18           (b) Loses the right to grant an athletic scholarship;

19           (c) Loses the right to recruit an athlete;

20           (d) Is prohibited from participating in postseason  
21 athletic competition;

22           (e) Forfeits an athletic contest; or

23           (f) Otherwise suffers an adverse financial impact.

24           (3) An institution that prevails in a suit brought  
25 under this section may recover:

26           (a) Actual damages;

27           (b) Punitive damages;

28           (c) Treble damages;

29           (d) Court costs; and

30           (e) Reasonable attorney's fees.

31

1           (4) A right of action under this section does not  
2 accrue until the educational institution discovers or by the  
3 exercise of reasonable diligence would have discovered the  
4 violation by the athlete agent or former student-athlete.

5           (5) Any liability of the athlete agent or the former  
6 student-athlete under this section is several and not joint.

7           (6) This part does not restrict rights, remedies, or  
8 defenses of any person under law or equity.

9           Section 114. Effective July 1, 2001, subsection (1) of  
10 section 468.4565, Florida Statutes, is amended to read:

11           468.4565 Business records requirement.--

12           (1) An athlete agent ~~who holds an active license and~~  
13 ~~engages in business as an athlete agent~~ shall establish and  
14 maintain complete financial and business records. The athlete  
15 agent shall save each entry into a financial or business  
16 record for at least 5 ~~4~~ years from the date of entry. These  
17 records must include, but shall not be limited to:

18           (a) The name and address of each individual  
19 represented by the athlete agent;

20           (b) Any agent contract entered into by the athlete  
21 agent; and

22           (c) Any direct costs incurred by the athlete agent in  
23 the recruitment or solicitation of a student-athlete to enter  
24 into an agent contract.

25           Section 115. Effective July 1, 2001, sections 468.4563  
26 and 468.4564, Florida Statutes, are repealed.

27           Section 116. Except as otherwise expressly provided in  
28 this act, this act shall take effect October 1, 2001.

29  
30  
31

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   SB 2210

4 The Committee Substitute for Senate Bill 2210 deletes from the  
5 original bill provisions:

- 6           -Creating exemptions from career service;
- 7           -Decreasing the level of regulation of auctioneers;
- 8           -Transferring regulation of asbestos abatement;
- 9           -Transferring regulation of funeral directors, embalmers,  
10           and direct disposers;
- 11           -Repealing the condominium arbitration program; and
- 12           -Transferring the Construction Industry Licensing Board  
13           from Jacksonville to Tallahassee.

14 The Committee Substitute adds provisions:

- 15           -Allowing entry onto property by surveyors and mappers;
- 16           -Revising the jurisdiction of the condominium arbitration  
17           program;
- 18           -Creating condominium enforcement remedies for the  
19           Division;
- 20           -Revising elevator inspection requirements;
- 21           -Requiring certain information on license application and  
22           providing that the prohibition on issuance of license to any  
23           person who has not complied with an order applies to all  
24           divisions, not just division of professions;
- 25           -Providing that the Board of Barbers and Cosmetology is  
26           to establish the criteria for approval of cosmetology  
27           continuing education courses and to approve the courses and  
28           providers;
- 29           -Allowing a local government to require that a licensed  
30           electrical journeyman be present at certain construction  
31           sites;
- Regulating athlete agents; and
- Creating a procedure for appointing a successor  
          registered agent for timeshare foreclosures.