

Bill No. CS for SB 348, 1st Eng.

Amendment No. Barcode 493372

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Campbell moved the following amendment:

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13 **Senate Amendment**

14 Delete everything after the enacting clause

15

16 and insert:

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 2. Florida Board of Auctioneers, created under part VI

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1 of chapter 468.

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

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

6 5. Construction Industry Licensing Board, created
7 under part I of chapter 489.

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

9 ~~6.7.~~ Electrical Contractors' Licensing Board, created
10 under part II of chapter 489.

11 ~~7.8.~~ Board of Employee Leasing Companies, created
12 under part XI of chapter 468.

13 ~~8.9.~~ Board of Funeral Directors and Embalmers, created
14 under chapter 470.

15 ~~9.10.~~ Board of Landscape Architecture, created under
16 part II of chapter 481.

17 ~~10.11.~~ Board of Pilot Commissioners, created under
18 chapter 310.

19 ~~11.12.~~ Board of Professional Engineers, created under
20 chapter 471.

21 ~~12.13.~~ Board of Professional Geologists, created under
22 chapter 492.

23 ~~13.14.~~ Board of Professional Surveyors and Mappers,
24 created under chapter 472.

25 ~~14.15.~~ Board of Veterinary Medicine, created under
26 chapter 474.

27 (6) Each board with ~~five or more~~ than seven members
28 shall have at least two consumer members who are not, and have
29 never been, members or practitioners of the profession
30 regulated by such board or of any closely related profession.
31 Each board with seven or fewer ~~than five~~ members shall have at

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1 least one consumer member who is not, and has never been, a
2 member or practitioner of the profession regulated by such
3 board or of any closely related profession.

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

6 326.001 Short title.--This chapter Sections
7 ~~326.001-326.006~~ may be cited as the "Yacht and Ship Brokers'
8 Act."

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

11 326.002 Definitions.--As used in this chapter ss.
12 ~~326.001-326.006~~, the term:

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

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

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

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

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

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

31 326.003 Administration.--The department division

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1 shall:

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

4 (2) Adopt rules pursuant to ss. 120.536(1) and 120.54
5 necessary to administer this chapter ~~implement ss.~~
6 ~~326.001-326.006~~ and to classify brokers and salespersons and
7 regulate their activities.

8 (3) Enforce the provisions of this chapter ~~ss.~~
9 ~~326.001-326.006~~ against any person who operates as a broker or
10 salesperson without a license.

11 Section 5. Section 326.004, Florida Statutes, is
12 amended to read:

13 326.004 Licensing.--

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

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

21 (3) A license is not required for:

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

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

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

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

28 (e) A transaction involving the foreclosure of a
29 security interest in a yacht.

30 (4) Any person who purchases a used yacht for resale
31 must transfer title to such yacht into his or her name and

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1 maintain the title or bill of sale in his or her possession to
2 be exempt from licensure.

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

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

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

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

15 (c) Post the bond required by the Yacht and Ship
16 Brokers' Act.

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

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

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

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

29 (b) Surety bonds and irrevocable letters of credit
30 must be in a form to be approved by the department ~~division~~
31 and must be conditioned upon the broker complying with the

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

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

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

28

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

31 (8) A person may not be licensed as a broker unless he

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1 or she has been a salesperson for at least 2 consecutive
2 years, and may not be licensed as a broker after October 1,
3 1990, unless he or she has been licensed as a salesperson for
4 at least 2 consecutive years.

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

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

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

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

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

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

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

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

20 Section 6. Section 326.006, Florida Statutes, is
21 amended to read:

22 326.006 Powers and duties of department ~~division~~.--

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

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

31 (a) The department ~~division~~ may make necessary public

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1 or private investigations within or outside this state to
2 determine whether any person has violated this chapter or any
3 rule or order issued under this chapter, to aid in the
4 enforcement of this chapter, or to aid in the adoption of
5 rules or forms under this chapter.

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

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

28 (d) Notwithstanding any remedies available to a yacht
29 or ship purchaser, if the department ~~division~~ has reasonable
30 cause to believe that a violation of any provision of this
31 chapter or rule adopted under this chapter has occurred, the

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1 ~~department division~~ may institute enforcement proceedings in
2 its own name against any broker or salesperson or any of his
3 or her assignees or agents, or against any unlicensed person
4 or any of his or her assignees or agents, as follows:

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

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

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

20 4. The ~~department division~~ may impose a civil penalty
21 against a broker or salesperson or any of his or her assignees
22 or agents, or against an unlicensed person or any of his or
23 her assignees or agents, for any violation of this chapter or
24 a rule adopted under this chapter. A penalty may be imposed
25 for each day of continuing violation, but in no event may the
26 penalty for any offense exceed \$10,000. All amounts collected
27 must be deposited with the Treasurer to the credit of the
28 ~~Professional Regulation Division of Florida Land Sales,~~
29 ~~Condominiums, and Mobile Homes~~ Trust Fund. If a broker,
30 salesperson, or unlicensed person working for a broker, fails
31 to pay the civil penalty, the ~~department division~~ shall

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1 thereupon issue an order suspending the broker's license until
 2 such time as the civil penalty is paid or may pursue
 3 enforcement of the penalty in a court of competent
 4 jurisdiction. The order imposing the civil penalty or the
 5 order of suspension may not become effective until 20 days
 6 after the date of such order. Any action commenced by the
 7 department ~~division~~ must be brought in the county in which the
 8 department ~~division~~ has its executive offices or in the county
 9 where the violation occurred.

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

- 12 1. Makes a substantial and intentional
- 13 misrepresentation, with respect to a transaction involving a
- 14 yacht, upon which any person has relied.
- 15 2. Makes a false warranty, with respect to a
- 16 transaction involving a yacht, of a character likely to
- 17 influence, persuade, or induce any person with whom business
- 18 is transacted.
- 19 3. Engages in continued misrepresentation or makes
- 20 false warranties with respect to transactions involving a
- 21 yacht, whether or not relied upon by another person.
- 22 4. Acts for both the buyer and seller in a transaction
- 23 involving a yacht without the knowledge and written consent of
- 24 both parties.
- 25 5. Commingles the money or other property of his or
- 26 her principal with his or her own.
- 27 6. Commits fraud or dishonest acts in the conduct of
- 28 any transaction involving a yacht.
- 29 7. Allows an unlicensed person to use his or her name
- 30 to evade the provisions of the Yacht and Ship Brokers' Act.
- 31 8. Violates any law governing the transactions

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1 involving a yacht, including any provision relating to the
2 collection or payment of sales or use taxes.

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

5 10. Is convicted of a felony.

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

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

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

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

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

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

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

30 399.061 Inspections; correction of deficiencies.--

31 (1)(a) All elevators or other conveyances subject to

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

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

27 (2) The division may ~~shall~~ employ state elevator
28 inspectors to conduct the inspections as required by
29 subsection (1) and may charge an inspection fee for each
30 inspection sufficient to cover the costs of that inspection,
31 as provided by rule. Each state elevator inspector shall hold

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1 a certificate of competency issued by the division.

2 (3) Whenever the division determines from the results
3 of any inspection that, in the interest of the public safety,
4 an elevator is in an unsafe condition, the division may seal
5 the elevator or order the discontinuance of the use of the
6 elevator until the division determines by inspection that such
7 elevator has been satisfactorily repaired or replaced so that
8 the elevator may be operated in a safe manner.

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

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

15 455.213 General licensing provisions.--

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

20 Notwithstanding any other provision of law, the department is
21 the sole authority for determining the content of any
22 documents to be submitted for initial licensure and licensure
23 renewal. Such documents may contain information including, as
24 appropriate demographics, education, work history, personal
25 background, criminal history, finances, business information,
26 complaints, inspections, investigations, discipline, bonding,
27 signature notarization, photographs, performance periods,
28 reciprocity, local government approvals, supporting
29 documentation, periodic reporting requirements, fingerprint
30 requirements, continuing education requirements, and ongoing
31 education monitoring.The application shall be supplemented as

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

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

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

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1 Section 10. Section 455.224, Florida Statutes, is
2 amended to read:

3 455.224 Authority to issue citations.--

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

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

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

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

31 (5) Service of a citation may be made by personal

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1 service or certified mail, restricted delivery, to the subject
2 at the subject's last known address.

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

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

27 Section 11. Subsections (10) and (11) of section
28 468.401, Florida Statutes, are amended to read:

29 468.401 Regulation of talent agencies;
30 definitions.--As used in this part or any rule adopted
31 pursuant hereto:

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

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

8 Section 12. Section 468.402, Florida Statutes, is
9 amended to read:

10 468.402 Operation of a talent agency ~~Duties of the~~
11 ~~department; authority to issue and revoke license;~~ adoption of
12 rules.--

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

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

18 (b) Violated any provision of this part, chapter 455,
19 any lawful disciplinary order of the department, or any rule
20 of the department.

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

25 (d) Made, printed, published, distributed, or caused,
26 authorized, or knowingly permitted the making, printing,
27 publication, or distribution of any false statement,
28 description, or promise of such a character as to reasonably
29 induce any person to act to his or her damage or injury, if
30 such statement, description, or promises were purported to be
31 performed by the talent agency and if the owner or operator

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1 then knew, or by the exercise of reasonable care and inquiry,
2 could have known, of the falsity of the statement,
3 description, or promise.

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

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

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

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

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

28 (j) Willfully made or filed a report or record that
29 the registrant ~~licensee~~ knew to be false, failed to file a
30 report or record required by state or federal law, impeded or
31 obstructed such filing, or induced another person to impede or

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1 obstruct such filing. Such reports or records shall include
2 only those that are signed in the registrant's licensee's
3 capacity as a registered licensed talent agency.

4 (k) Advertised goods or services in a manner that was
5 fraudulent, false, deceptive, or misleading in form or
6 content.

7 (l) Advertised, operated, or attempted to operate
8 under a name other than the name appearing on the registration
9 license.

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

12 (n) Operated with a revoked, suspended, inactive, or
13 delinquent registration license.

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

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

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

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

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

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1 (t) Exercised undue influence on the artist in such a
2 manner as to exploit the artist for financial gain of the
3 registrant licensee or a third party, which includes, but is
4 not limited to, the promoting or selling of services to the
5 artist.

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

9 ~~(2)(3) The department may~~ has authority to adopt rules
10 pursuant to ss. 120.536(1) and 120.54 necessary to administer
11 ~~implement the provisions of this part.~~

12 ~~(3)(4) A revoked or suspended~~ registration license
13 must be returned to the department within 7 days after the
14 time for appeal has elapsed.

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

19 (a) Deny an application for registration licensure as
20 a talent agency.

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

23 ~~(c) Impose an administrative fine, not to exceed~~
24 ~~\$5,000, for each count or separate offense.~~

25 ~~(d) Require restitution.~~

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

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

29 ~~(6) A person shall be subject to the disciplinary~~
30 ~~actions specified in subsection (5) for violations of~~
31 ~~subsection (1) by that person's agents or employees in the~~

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1 ~~course of their employment with that person.~~

2 ~~(5)(7)~~ The department may deny a registration license
3 if any owner or operator listed on the application has been
4 associated with a talent agency whose registration license has
5 been revoked or otherwise disciplined.

6 Section 13. Section 468.403, Florida Statutes, is
7 amended to read:

8 468.403 Registration License requirements.--

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

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

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

30 ~~(b) Each owner of a talent agency that is a~~
31 ~~corporation shall submit to the department, with the~~

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1 ~~application for licensure of the agency, a full set of~~
2 ~~fingerprints of the principal officer signing the application~~
3 ~~form and the bond form, and a full set of fingerprints of each~~
4 ~~operator, and a photograph of each taken within the preceding~~
5 ~~2 years. The department shall conduct an examination of~~
6 ~~fingerprint records and police records.~~

7 ~~(3)(4)~~ Each application must include:

8 (a) The name and address of the owner of the talent
9 agency.

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

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

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

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

29 ~~(5)(7)~~ If the applicant is a corporation, the
30 application shall include the corporate name and the names,
31 residential addresses, and telephone numbers of all persons

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1 actively participating in the business of the corporation and
2 shall include the names of all persons exercising managing
3 responsibility in the applicant's or registrant's licensee's
4 office.

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

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

18 Section 14. Section 468.404, Florida Statutes, is
19 amended to read:

20 468.404 Registration License; fees; renewals.--

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

31 (2) If one or more individuals on the basis of whose

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

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

20 (4) No registration license issued under this part
21 shall be assignable.

22 Section 15. Section 468.406, Florida Statutes, is
23 amended to read:

24 468.406 Fees to be charged by talent agencies; rates;
25 display.--

26 (1) Each talent agency applicant for a license shall
27 maintain and provide to its artists or potential clients file
28 with the application an itemized schedule of maximum fees,
29 charges, and commissions which it intends to charge and
30 collect for its services. This schedule may thereafter be
31 raised only by notifying its artists filing with the

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1 ~~department an amended or supplemental schedule~~ at least 30
2 days before the change is to become effective. The schedule
3 shall be posted in a conspicuous place in each place of
4 business of the agency and shall be printed in not less than a
5 30-point boldfaced type, except that an agency that uses
6 written contracts containing maximum fee schedules need not
7 post such schedules.

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

14 Section 16. Section 468.407, Florida Statutes, is
15 amended to read:

16 468.407 Registration License; content; posting.--

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

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

30 (3) If a registrant licensee desires to cancel his or
31 her registration license, he or she must notify the department

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1 and forthwith return to the department the registration
2 ~~license~~ so canceled. No registration license fee may be
3 refunded upon cancellation of the registration license.

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

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

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

13 Section 18. Section 468.412, Florida Statutes, is
14 amended to read:

15 468.412 Talent agency requirements ~~regulations~~.--

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

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

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

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

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

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1 artist pursuant thereto. ~~and~~

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

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

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

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

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

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

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

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

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

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

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

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

30 (1) Each of the following acts constitutes a felony of
31 the third degree, punishable as provided in s. 775.082, s.

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1 775.083, or s. 775.084:

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

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

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

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

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

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

23 (d) Failing to maintain the records required by s.
24 468.409 or knowingly making false entries in such records.

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

30 (f) Failing to give each applicant a copy of a
31 contract which lists the services to be provided and the fees

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1 to be charged, which states that the talent agency is
2 registered with ~~regulated by~~ the department, ~~and which lists~~
3 ~~the address and telephone number of the department.~~

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

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

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

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

28 (5) Any person injured by a prohibited act or practice
29 in violation of this part may bring a civil action in circuit
30 court for temporary or permanent injunctive relief and may
31 seek appropriate civil relief, including, but not limited to,

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1 a civil penalty not to exceed \$5,000 for each violation,
 2 restitution and treble damages for injured parties, and court
 3 costs and reasonable attorney's fees.

4 Section 20. Section 468.414, Florida Statutes, is
 5 amended to read:

6 468.414 Collection and deposit of moneys;
 7 appropriation.--Proceeds from the ~~finer, fees, and penalties~~
 8 imposed pursuant to this part shall be deposited in the
 9 Professional Regulation Trust Fund, created by s. 215.37.

10 Section 21. Section 468.415, Florida Statutes, is
 11 amended to read:

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

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

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

30 468.609 Administration of this part; standards for
 31 certification; additional categories of certification.--

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

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

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

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

26 2. Direct supervision and the determination of
27 qualifications under this paragraph may be provided by a
28 building code administrator who holds a limited or provisional
29 certificate in any county with a population of less than
30 75,000 and in any municipality located within such a county.

31 3. Direct supervision under this paragraph may be

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1 provided in any county with a population of less than 75,000
2 and in any municipality within such county by
3 telecommunication devices if the supervision is appropriate
4 for the facts surrounding the performance of the duties being
5 supervised.

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

8 468.627 Application; examination; renewal; fees.--

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

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

24 471.025 Seals.--

25 (1) The board shall prescribe, by rule, the forms a
26 form of seals ~~seal~~ to be used by registrants holding valid
27 certificates of registration. Each registrant shall obtain at
28 least one ~~an impression-type metal~~ seal in the form approved
29 by board rule ~~aforsaid~~ and may, in addition, register his or
30 her seal electronically in accordance with ss. 282.70-282.75.
31 All final drawings, specifications, plans, reports, or

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

11 Section 26. Section 472.001, Florida Statutes, is
12 amended to read:

13 472.001 Purpose.--The Legislature deems it necessary
14 to regulate surveyors and mappers as provided in this chapter
15 ~~ss. 472.001-472.041.~~

16 Section 27. Section 472.003, Florida Statutes, is
17 amended to read:

18 472.003 Exemptions ~~Persons not affected by ss.~~
19 ~~472.001-472.041.~~--This chapter does ~~Sections 472.001-472.041~~
20 ~~do~~ not apply to:

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

24 (2) A registered professional engineer who takes or
25 contracts for professional surveying and mapping services
26 incidental to her or his practice of engineering and who
27 delegates such surveying and mapping services to a registered
28 professional surveyor and mapper qualified within her or his
29 firm or contracts for such professional surveying and mapping
30 services to be performed by others who are registered
31 professional surveyors and mappers under this chapter ~~the~~

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1 ~~provisions of ss. 472.001-472.041.~~

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

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

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

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

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

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

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1 any.

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

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

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

14 472.005 Definitions.--As used in this chapter ss.
15 ~~472.001-472.041~~:

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

18 (2) "Department" means the Department of Business and
19 Professional Regulation.

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

30 (4)(a) "Practice of surveying and mapping" means,
31 among other things, any professional service or work, the

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1 adequate performance of which involves the application of
2 special knowledge of the principles of mathematics, the
3 related physical and applied sciences, and the relevant
4 requirements of law for adequate evidence of the act of
5 measuring, locating, establishing, or reestablishing lines,
6 angles, elevations, natural and manmade features in the air,
7 on the surface and immediate subsurface of the earth, within
8 underground workings, and on the beds or surface of bodies of
9 water, for the purpose of determining, establishing,
10 describing, displaying, or interpreting the facts of size,
11 shape, topography, tidal datum planes, legal or geodetic
12 location or relocation, and orientation of improved or
13 unimproved real property and appurtenances thereto, including
14 acreage and condominiums.

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

30 (5) ~~The term~~ "Surveyor and mapper intern" includes ~~the~~
31 ~~term~~ "surveyor-mapper-in-training" and means a person who

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1 complies with the requirements of this chapter ~~provided by ss.~~
2 ~~472.001-472.041~~ and who has passed an examination as provided
3 by rules adopted by the board.

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

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

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

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

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

25 (11) "Monument" means an artificial or natural object
26 that is permanent or semipermanent and used or presumed to
27 occupy any real property corner, any point on a boundary line,
28 or any reference point or other point to be used for
29 horizontal or vertical control.

30 (12) "Legal entity" means a corporation, partnership,
31 association, or person practicing under a fictitious name who

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1 is certified under s. 472.021.

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

4 472.011 Fees.--

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

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

18 472.015 Licensure.--

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

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

27 472.021 Certification of partnerships and
28 corporations.--

29 (1) The practice of or the offer to practice surveying
30 and mapping by registrants through a corporation or
31 partnership offering surveying and mapping services to the

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

28 Section 32. Section 472.027, Florida Statutes, is
29 amended to read:

30 472.027 Minimum technical standards for surveying and
31 mapping.--The board shall adopt rules relating to the practice

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1 of surveying and mapping which establish minimum technical
2 standards to ensure the achievement of no less than minimum
3 degrees of accuracy, completeness, and quality in order to
4 assure adequate and defensible real property boundary
5 locations and other pertinent information provided by
6 surveyors and mappers under the authority of this chapter ss.
7 ~~472.001-472.041.~~

8 Section 33. Section 472.029, Florida Statutes, is
9 amended to read:

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

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1 delivered to a landowner or the landowner's registered agent
 2 three business days prior to entry on a parcel containing more
 3 than 160 acres classified as agricultural land, the duty of
 4 care owed to those regulated by this section shall be that due
 5 to a licensee under this chapter; however, if no such notice
 6 is given, the landowner's duty of care shall be that due to an
 7 unforeseen trespasser.

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

10 810.12 Unauthorized entry on land; prima facie
 11 evidence of trespass.--

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

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

25 472.031 Prohibitions; penalties.--

26 (1) No person shall:

27 (a) Practice surveying and mapping unless such person
 28 is registered under this chapter ~~pursuant to ss.~~
 29 ~~472.001-472.041;~~

30 (b) Use the name or title "registered surveyor and
 31 mapper" when such person has not registered under this chapter

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1 ~~pursuant to ss. 472.001-472.041;~~

2 (c) Present as his or her own the registration of
3 another;

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

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

8 Section 36. Section 472.037, Florida Statutes, is
9 amended to read:

10 472.037 Application of chapter ~~ss. 472.001-472.041.--~~

11 (1) Nothing contained in this chapter ~~ss.~~
12 ~~472.001-472.041~~ shall be construed to repeal, amend, limit, or
13 otherwise affect any local building code or zoning law or
14 ordinance, now or hereafter enacted, which is more restrictive
15 with respect to the services of registered surveyors and
16 mappers than the provisions of this chapter ~~ss.~~
17 ~~472.001-472.041~~.

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

25 Section 37. A new subsection (4) is added to section
26 475.01, Florida Statutes, to read:

27 475.01 Definitions.--

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

30 Section 38. Section 476.014, Florida Statutes, is
31 amended to read:

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

3 Section 39. Section 476.034, Florida Statutes, is
4 amended to read:

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

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

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

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

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

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

23 Section 40. Section 476.054, Florida Statutes, is
24 amended to read:

25 476.054 ~~Barbers'~~Board of Barbering and Cosmetology--

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

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

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

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

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

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

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

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

31 (8) The board shall hold such meetings during the year

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1 as necessary, one of which shall be the annual meeting. The
2 chair may call other meetings. A quorum shall consist of not
3 fewer than four members.

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

14 Section 41. Section 476.064, Florida Statutes, is
15 amended to read:

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

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

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

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

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

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

6 Section 42. Subsections (1) and (2) of section
7 476.074, Florida Statutes, are amended to read:

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

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

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

15 Section 43. Subsection (2) of section 476.154, Florida
16 Statutes, is amended to read:

17 476.154 Biennial renewal of licenses.--

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

24 Section 44. Paragraphs (a) and (b) of subsection (1)
25 of section 476.194, Florida Statutes, are amended to read:

26 476.194 Prohibited acts.--

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

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

31 (b) Engage in willful or repeated violations of this

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1 chapter act or of any of the rules adopted by the board.

2 Section 45. Subsections (1) and (3) of section
3 476.214, Florida Statutes, are amended to read:

4 476.214 Grounds for suspending, revoking, or refusing
5 to grant license or certificate.--

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

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

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

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

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

22 Section 46. Section 476.234, Florida Statutes, is
23 amended to read:

24 476.234 Civil proceedings.--In addition to any other
25 remedy, the department may file a proceeding in the name of
26 the state seeking issuance of a restraining order, injunction,
27 or writ of mandamus against any person who is or has been
28 violating any of the provisions of this chapter act or the
29 lawful rules or orders of the board, commission, or
30 department.

31 Section 47. Subsection (1) of section 477.013, Florida

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1 Statutes, is amended to read:

2 477.013 Definitions.--As used in this chapter:

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

5 Section 48. Section 477.015, Florida Statutes, is
6 repealed.

7 Section 49. The Barbers' Board created pursuant to
8 section 476.054, Florida Statutes, and the Board of
9 Cosmetology created pursuant to section 477.015, Florida
10 Statutes, are abolished. All rules of the Barbers' Board and
11 the Board of Cosmetology in effect on the effective date of
12 this act shall remain in full force and shall become rules of
13 the Board of Barbering and Cosmetology.

14 Section 50. The Board of Barbering and Cosmetology is
15 created by this act by the amendment of section 476.054,
16 Florida Statutes, and the repeal of section 477.015, Florida
17 Statutes. Appointments to this board are new and shall be made
18 by the Governor, subject to confirmation by the Senate, for
19 initial terms of 4 years or less so that no more than two
20 terms expire in any one year. The board shall assume
21 responsibilities for the regulation of barbering pursuant to
22 chapter 476, Florida Statutes, and the regulation of
23 cosmetology pursuant to chapter 477, Florida Statutes, as
24 provided in those chapters.

25 Section 51. The Board of Barbering and Cosmetology
26 shall be replaced as the party of interest for any legal
27 actions naming the Barbers' Board or the Board of Cosmetology
28 as a party.

29 Section 52. Subsection (7) of section 477.019, Florida
30 Statutes, is amended to read:

31 477.019 Cosmetologists; qualifications; licensure;

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1 supervised practice; license renewal; endorsement; continuing
2 education.--

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

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

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

30 (d) The board shall approve all continuing education
31 courses and providers as set forth in this subsection. The

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1 board may not approve any course which does not substantially
2 and exclusively relate to the practice of cosmetology and
3 serve to ensure the protection of the public. Courses given at
4 cosmetology conferences may be counted toward the number of
5 continuing education hours required if approved by the
6 department.

7 (e) Correspondence courses may be approved if offered
8 by a provider approved by the board under paragraph (d) and
9 meet all relevant course criteria established by the board.

10 Correspondence courses must include a written post course
11 examination developed and graded by the course provider which
12 demonstrates the licensee's understanding of the subject
13 matter taught by the course. The board may, by rule, set the
14 minimum allowed passing score for such examinations.

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

17 477.026 Fees; disposition.--

18 (1) The board shall set fees according to the
19 following schedule:

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

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

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

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

30 (e) For specialists, fees for initial registration,
31 registration renewal, and delinquent renewal shall not exceed

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1 \$50.

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

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

7 481.209 Examinations.--

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

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

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

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

31 (c) Has completed, prior to examination, 1 year of the

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1 internship experience required by s. 481.211(1).

2 Section 55. Section 481.223, Florida Statutes, is
3 amended to read:

4 481.223 Prohibitions; penalties; injunctive relief--

5 (1) A person may not knowingly:

6 (a) Practice architecture unless the person is an
7 architect or a registered architect;

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

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

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

16 (e) Give false or forged evidence to the board or a
17 member thereof;

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

21 (g) Employ unlicensed persons to practice architecture
22 or interior design; or

23 (h) Conceal information relative to violations of this
24 part.

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

28 (3)(a) Notwithstanding chapter 455 or any other
29 provision of law to the contrary, an affected person may
30 maintain an action for injunctive relief to restrain or
31 prevent a person from violating paragraph (1)(a), paragraph

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1 (1)(b), or paragraph (1)(c). The prevailing party shall be
 2 entitled to actual costs and attorney's fees.
 3 (b) For purposes of this subsection, "affected person"
 4 means a person directly affected by the actions of a person
 5 suspected of violating paragraph (1)(a), paragraph (1)(b), or
 6 paragraph (1)(c) and includes, but is not limited to, the
 7 department, any person who received services from the alleged
 8 violator, or any private association composed primarily of
 9 members of the profession the alleged violator is practicing
 10 or offering to practice or holding himself or herself out as
 11 qualified to practice.

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

15 489.107 Construction Industry Licensing Board.--

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

17 (a) Four are primarily engaged in business as general
 18 contractors;

19 (b) Three are primarily engaged in business as
 20 building contractors or residential contractors, however, at
 21 least one building contractor and one residential contractor
 22 shall be appointed;

23 (c) One is primarily engaged in business as a roofing
 24 contractor;

25 (d) One is primarily engaged in business as a sheet
 26 metal contractor;

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

29 (f) One is primarily engaged in business as a
 30 mechanical contractor;

31 (g) One is primarily engaged in business as a pool

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1 contractor;

2 (h) One is primarily engaged in business as a plumbing
3 contractor;

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

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

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

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

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

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

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

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

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

8 Section 57. Section 489.1133, Florida Statutes, is
9 created to read:

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

21 Section 58. Paragraph (b) of subsection (4) of section
22 489.115, Florida Statutes, as amended by chapters 98-287 and
23 2000-141, Laws of Florida, is amended to read:

24 489.115 Certification and registration; endorsement;
25 reciprocity; renewals; continuing education.--

26 (4)

27 (b)1. Each certificateholder or registrant shall
28 provide proof, in a form established by rule of the board,
29 that the certificateholder or registrant has completed at
30 least 14 classroom hours of at least 50 minutes each of
31 continuing education courses during each biennium since the

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1 issuance or renewal of the certificate or registration. The
2 board shall establish by rule that a portion of the required
3 14 hours must deal with the subject of workers' compensation,
4 business practices, and workplace safety. The board shall by
5 rule establish criteria for the approval of continuing
6 education courses and providers, including requirements
7 relating to the content of courses and standards for approval
8 of providers, and may by rule establish criteria for accepting
9 alternative nonclassroom continuing education on an
10 hour-for-hour basis. The board shall prescribe by rule the
11 continuing education, if any, which is required during the
12 first biennium of initial licensure. A person who has been
13 licensed for less than an entire biennium must not be required
14 to complete the full 14 hours of continuing education.

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

29 3. Each certificateholder or registrant shall provide
30 to the board proof of completion of the core curriculum
31 courses, or passing the equivalency test of the Building Code

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

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

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

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

24 (1) Currently holds a valid registered local license
25 in one of the contractor categories defined in s.
26 489.105(3)(a)-(p) or holds a valid registered local specialty
27 license which substantially corresponds to a type of specialty
28 contractor recognized for state certification pursuant to
29 board rule under s. 489.113(6).

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

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1 Section 61. The Electrical Contractors' Licensing
2 Board shall review its operations and its regular board
3 meeting lengths and locations and develop a plan to reduce its
4 annual operating budget by \$25,000, and shall submit the plan
5 to the Department of Business and Professional Regulation by
6 January 1, 2002.

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

9 489.511 Certification; application; examinations;
10 endorsement.--

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

15 ~~(a) meets the requirements for certification as set~~
16 ~~forth in this section; has passed a national, regional, state,~~
17 ~~or United States territorial licensing examination that is~~
18 ~~substantially equivalent to the examination required by this~~
19 ~~part; and has satisfied the requirements set forth in s.~~
20 ~~489.521.;~~ or

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

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

29 489.537 Application of this part.--

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

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

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

11 498.005 Definitions.--As used in this chapter, unless
 12 the context otherwise requires, the term:

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

16 Section 65. Section 498.019, Florida Statutes, is
 17 amended to read:

18 498.019 Professional Regulation Division of Florida
 19 ~~Land Sales, Condominiums, and Mobile Homes~~ Trust Fund.--

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

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

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1 account pursuant to s. 455.219. The Legislature shall
2 appropriate funds from this trust fund sufficient to carry out
3 the provisions of this chapter ~~and the provisions of law with~~
4 ~~respect to each category of business covered by this trust~~
5 ~~fund. The division shall maintain separate revenue accounts~~
6 ~~in the trust fund for each of the businesses regulated by the~~
7 ~~division. The division shall provide for the proportionate~~
8 ~~allocation among the accounts of expenses incurred by the~~
9 ~~division in the performance of its duties with respect to each~~
10 ~~of these businesses. As part of its normal budgetary process,~~
11 ~~the division shall prepare an annual report of revenue and~~
12 ~~allocated expenses related to the operation of each of these~~
13 ~~businesses which may be used to determine fees charged by the~~
14 ~~division. This subsection shall operate pursuant to the~~
15 ~~provisions of s. 215.20.~~

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

18 498.049 Suspension; revocation; civil penalties.--

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

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

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

17 190.009 Disclosure of public financing.--

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

23 Section 68. The regulation of land sales pursuant to
24 chapter 498, Florida Statutes, shall remain under the
25 Department of Business and Professional Regulation but is
26 reassigned from the Division of Florida Land Sales,
27 Condominiums, and Mobile Homes to the Division of Real Estate.
28 All funds collected by the department pursuant to this
29 regulation and all funds in the account created within the
30 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund
31 for the purpose of this regulation shall be deposited in an

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

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

5 718.103 Definitions.--As used in this chapter, the
 6 term:

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

10 Section 70. Paragraph (c) of subsection (4) of section
 11 718.105, Florida Statutes, is amended to read:

12 718.105 Recording of declaration.--

13 (4)

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

27 Section 71. Section 718.1255, Florida Statutes, is
 28 amended to read:

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

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

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

8 ~~(2) VOLUNTARY MEDIATION.--Voluntary mediation through~~
9 ~~Citizen Dispute Settlement Centers as provided for in s.~~
10 ~~44.201 is encouraged.~~

11 ~~(2)(3) LEGISLATIVE FINDINGS.--~~

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

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

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

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

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

5 (3)(4) MANDATORY NONBINDING ARBITRATION AND MEDIATION
6 OF DISPUTES.--The division of Florida Land Sales,
7 Condominiums, and Mobile Homes of the Department of Business
8 and Professional Regulation shall provide employ full-time
9 attorneys to act as arbitrators to conduct the arbitration
10 hearings as required provided by this chapter. The department
11 may employ attorneys to act as arbitrators, and the division
12 may also certify attorneys who are not employed by the
13 division to act as arbitrators to conduct the arbitration
14 hearings provided by this chapter section. No person may be
15 employed by the department as an a full-time arbitrator unless
16 he or she is a member in good standing of The Florida Bar. The
17 department shall promulgate rules of procedure to govern such
18 arbitration hearings including mediation incident thereto.
19 The decision of an arbitrator shall be final; however, such a
20 decision shall not be deemed final agency action. Nothing in
21 this provision shall be construed to foreclose parties from
22 proceeding in a trial de novo unless the parties have agreed
23 that the arbitration is binding. If such judicial proceedings
24 are initiated, the final decision of the arbitrator shall be
25 admissible in evidence in the trial de novo.

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

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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 (e) Either before or after the filing of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 14 (a) Title to any unit or common element;
- 15 (b) The interpretation or enforcement of any warranty;
- 16 (c) The levy of a fee or assessment or the collection
17 of an assessment levied against a party;
- 18 (d) The eviction or other removal of a tenant from a
19 unit;
- 20 (e) Alleged breaches of fiduciary duty by one or more
21 directors; or
- 22 (f) Claims for damages to a unit based upon the
23 alleged failure of the association to maintain the common
24 elements or condominium property.

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

31 Section 72. The Division of Condominiums, Timeshare,

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1 and Mobile Homes of the Department of Business and
 2 Professional Regulation shall continue the arbitration of any
 3 cases which qualified for arbitration on the date the case was
 4 filed with the division and which were filed with the division
 5 prior to the date on which this act becomes law.

6 Section 73. There is appropriated 1 FTE and \$440,626
 7 from the Division of Condominiums, Timeshare, and Mobile Homes
 8 Trust Fund to the Department of Business and Professional
 9 Regulation for the purpose of investigating and resolving
 10 disputes and dealing with compliance issues relating to
 11 condominiums and cooperatives. This appropriation shall not
 12 take effect if a similar amount of funding is included in the
 13 various appropriations for compliance and enforcement in the
 14 Florida Condominiums, Timeshare, and Mobile Homes program in
 15 the fiscal year 2001-2002 General Appropriations Act.

16 Section 74. Section 718.501, Florida Statutes, is
 17 amended to read:

18 718.501 Powers and duties of Division of ~~Florida Land~~
 19 ~~Sales~~, Condominiums, Timeshare, and Mobile Homes.--

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

30 (a) The division may make necessary public or private
 31 investigations within or outside this state to determine

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1 whether any person has violated this chapter or any rule or
2 order hereunder, to aid in the enforcement of this chapter, or
3 to aid in the adoption of rules or forms hereunder.

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

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

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

30 1. The division may permit a person whose conduct or
31 actions may be under investigation to waive formal proceedings

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1 and enter into a consent proceeding whereby orders, rules, or
2 letters of censure or warning, whether formal or informal, may
3 be entered against the person.

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

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

15 4. The division may impose a civil penalty against a
16 developer or association, or its assignee or agent, for any
17 violation of this chapter or a rule promulgated pursuant
18 hereto. The division may impose a civil penalty individually
19 against any officer or board member who willfully and
20 knowingly violates a provision of this chapter, a rule adopted
21 pursuant hereto, or a final order of the division. The term
22 "willfully and knowingly" means that the division informed the
23 officer or board member that his or her action or intended
24 action violates this chapter, a rule adopted under this
25 chapter, or a final order of the division and that the officer
26 or board member refused to comply with the requirements of
27 this chapter, a rule adopted under this chapter, or a final
28 order of the division. The division, prior to initiating
29 formal agency action under chapter 120, shall afford the
30 officer or board member an opportunity to voluntarily comply
31 with this chapter, a rule adopted under this chapter, or a

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

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1 further operation until such time as the civil penalty is paid
2 or may pursue enforcement of the penalty in a court of
3 competent jurisdiction. If an association fails to pay the
4 civil penalty, the division shall thereupon pursue enforcement
5 in a court of competent jurisdiction, and the order imposing
6 the civil penalty or the cease and desist order will not
7 become effective until 20 days after the date of such order.
8 Any action commenced by the division shall be brought in the
9 county in which the division has its executive offices or in
10 the county where the violation occurred.

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

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

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

30 (i) The division shall annually provide each
31 association with a summary of declaratory statements and

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1 formal legal opinions relating to the operations of
2 condominiums which were rendered by the division during the
3 previous year.

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

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

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

27 (m) When a complaint is made, the division shall
28 conduct its inquiry with due regard to the interests of the
29 affected parties. Within 30 days after receipt of a complaint,
30 the division shall acknowledge the complaint in writing and
31 notify the complainant whether the complaint is within the

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

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

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

30 Section 75. Paragraph (a) of subsection (2) of section
31 718.502, Florida Statutes, is amended to read:

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1 718.502 Filing prior to sale or lease.--
2 (2)(a) Prior to filing as required by subsection (1),
3 and prior to acquiring an ownership, leasehold, or contractual
4 interest in the land upon which the condominium is to be
5 developed, a developer shall not offer a contract for purchase
6 of a unit or lease of a unit for more than 5 years. However,
7 the developer may accept deposits for reservations upon the
8 approval of a fully executed escrow agreement and reservation
9 agreement form properly filed with the division of ~~Florida~~
10 ~~Land Sales, Condominiums, and Mobile Homes~~. Each filing of a
11 proposed reservation program shall be accompanied by a filing
12 fee of \$250. Reservations shall not be taken on a proposed
13 condominium unless the developer has an ownership, leasehold,
14 or contractual interest in the land upon which the condominium
15 is to be developed. The division shall notify the developer
16 within 20 days of receipt of the reservation filing of any
17 deficiencies contained therein. Such notification shall not
18 preclude the determination of reservation filing deficiencies
19 at a later date, nor shall it relieve the developer of any
20 responsibility under the law. The escrow agreement and the
21 reservation agreement form shall include a statement of the
22 right of the prospective purchaser to an immediate unqualified
23 refund of the reservation deposit moneys upon written request
24 to the escrow agent by the prospective purchaser or the
25 developer.

26 Section 76. Section 718.504, Florida Statutes, is
27 amended to read:

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

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

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1 although not all such units are being offered for sale as of
2 the date of the prospectus or offering circular. The
3 prospectus or offering circular must contain the following
4 information:

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

7 (a) The name of the condominium.

8 (b) The following statements in conspicuous type:

9 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS
10 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM
11 UNIT.

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

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

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

23 (3) A separate index of the contents and exhibits of
24 the prospectus.

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

29 (a) Its name and location.

30 (b) A description of the condominium property,
31 including, without limitation:

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

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

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

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

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

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1 lease in the disclosure materials shall be stated.

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

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

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

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

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

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

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

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

30 2. A reference to the location in the disclosure
31 materials of the lease or other agreements providing for the

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1 use of those facilities; and

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

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

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

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

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

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

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1 contingencies.

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

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

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

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

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

27 (8) Recreation lease or associated club membership:

28 (a) If any recreational facilities or other facilities
29 offered by the developer and available to, or to be used by,
30 unit owners are to be leased or have club membership
31 associated, the following statement in conspicuous type shall

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

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

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

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

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

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

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

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

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1 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND
2 USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES.
3 Immediately following this statement, the location in the
4 disclosure materials where the rent or land use fees are
5 described in detail shall be stated.

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

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

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

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

26 (9) If the developer or any other person has the right
27 to increase or add to the recreational facilities at any time
28 after the establishment of the condominium whose unit owners
29 have use rights therein, without the consent of the unit
30 owners or associations being required, there shall appear a
31 statement in conspicuous type in substantially the following

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1 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED
2 WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S).
3 Immediately following this statement, the location in the
4 disclosure materials where such reserved rights are described
5 shall be stated.

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

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

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

27
28 Copies of all described contracts shall be attached as
29 exhibits. If there is a contract for the management of the
30 condominium property, then a statement in conspicuous type in
31 substantially the following form shall appear, identifying the

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

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

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

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

29 (a) A statement in conspicuous type in substantially
30 the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL
31 LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately

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1 following this statement, the location in the disclosure
2 materials where the phasing is described shall be stated.

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

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

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

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

27 (a) A statement in conspicuous type in substantially
28 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
29 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
30 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately
31 following this statement, the location in the prospectus or

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1 offering circular and its exhibits where the multicondominium
2 aspects of the offering are described must be stated.

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

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

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

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

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

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

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

29 (17) A summary of the restrictions, if any, to be
30 imposed on units concerning the use of any of the condominium
31 property, including statements as to whether there are

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1 restrictions upon children and pets, and reference to the
2 volumes and pages of the condominium documents where such
3 restrictions are found, or if such restrictions are contained
4 elsewhere, then a copy of the documents containing the
5 restrictions shall be attached as an exhibit.

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

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

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

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

27 (a) The estimated monthly and annual expenses of the
28 condominium and the association that are collected from unit
29 owners by assessments.

30 (b) The estimated monthly and annual expenses of each
31 unit owner for a unit, other than common expenses paid by all

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

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

- 25 1. Expenses for the association and condominium:
26 a. Administration of the association.
27 b. Management fees.
28 c. Maintenance.
29 d. Rent for recreational and other commonly used
30 facilities.
31 e. Taxes upon association property.

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

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1 declaration if the declaration has not been recorded.

2 (b) The articles of incorporation creating the
3 association.

4 (c) The bylaws of the association.

5 (d) The ground lease or other underlying lease of the
6 condominium.

7 (e) The management agreement and all maintenance and
8 other contracts for management of the association and
9 operation of the condominium and facilities used by the unit
10 owners having a service term in excess of 1 year.

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

13 (g) A copy of the floor plan of the unit and the plot
14 plan showing the location of the residential buildings and the
15 recreation and other common areas.

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

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

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

22 (k) A declaration of servitude of properties serving
23 the condominium but not owned by unit owners or leased to them
24 or the association.

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

28 (m) The statement of inspection for termite damage and
29 treatment of the existing improvements, if the condominium is
30 a conversion.

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

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

3 (p) A copy of the documents containing any
4 restrictions on use of the property required by subsection
5 (16).

6 (25) Any prospectus or offering circular complying,
7 prior to the effective date of this act, with the provisions
8 of former ss. 711.69 and 711.802 may continue to be used
9 without amendment or may be amended to comply with the
10 provisions of this chapter.

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

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

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

24 Section 77. Section 718.508, Florida Statutes, is
25 amended to read:

26 718.508 Regulation by Division of Hotels and
27 Restaurants.--In addition to the authority, regulation, or
28 control exercised by the Division of ~~Florida Land Sales,~~
29 Condominiums, Timeshare, and Mobile Homes pursuant to this act
30 with respect to condominiums, buildings included in a
31 condominium property shall be subject to the authority,

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1 regulation, or control of the Division of Hotels and
2 Restaurants of the Department of Business and Professional
3 Regulation, to the extent provided for in chapter 399.

4 Section 78. Section 718.509, Florida Statutes, is
5 amended to read:

6 718.509 Division of ~~Florida Land Sales~~, Condominiums,
7 Timeshare, and Mobile Homes Trust Fund.--

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

12 (2) All funds collected by the division and any amount
13 paid for a fee or penalty under this chapter shall be
14 deposited in the State Treasury to the credit of the Division
15 of ~~Florida Land Sales~~, Timeshare, and Mobile
16 Homes Trust Fund created by s. 718.509 ~~498.019~~. The division
17 shall maintain separate revenue accounts in the trust fund for
18 each business regulated by the division, and shall provide for
19 the proportionate allocation among the accounts of expenses
20 incurred in the performance of its duties for each of these
21 businesses. As part of its normal budgetary process, the
22 division shall prepare an annual report of revenue and
23 allocated expenses related to the operation of each of these
24 businesses, which may be used to determine fees charged by the
25 division. The provisions of s. 215.20 apply to the trust fund.

26 Section 79. Paragraph (a) of subsection (2) of section
27 718.608, Florida Statutes, is amended to read:

28 718.608 Notice of intended conversion; time of
29 delivery; content.--

30 (2)(a) Each notice of intended conversion shall be
31 dated and in writing. The notice shall contain the following

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1 statement, with the phrases of the following statement which
2 appear in upper case printed in conspicuous type:

3
4 These apartments are being converted to condominium by
5 ...(name of developer)..., the developer.

6 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION
7 OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
8 AGREEMENT AS FOLLOWS:

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

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

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

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

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

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

31 a. If your rental agreement began or was extended or

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1 renewed after May 1, 1980, and your rental agreement,
2 including extensions and renewals, has an unexpired term of
3 180 days or less, you may cancel your rental agreement upon 30
4 days' written notice and move. Also, upon 30 days' written
5 notice, you may cancel any extension of the rental agreement.

6 b. If your rental agreement was not begun or was not
7 extended or renewed after May 1, 1980, you may not cancel the
8 rental agreement without the consent of the developer. If
9 your rental agreement, including extensions and renewals, has
10 an unexpired term of 180 days or less, you may, however, upon
11 30 days' written notice cancel any extension of the rental
12 agreement.

13 5. All notices must be given in writing and sent by
14 mail, return receipt requested, or delivered in person to the
15 developer at this address: ...(name and address of
16 developer)....

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

19 a. You have the right to purchase your apartment and
20 will have 45 days to decide whether to purchase. If you do
21 not buy the unit at that price and the unit is later offered
22 at a lower price, you will have the opportunity to buy the
23 unit at the lower price. However, in all events your right to
24 purchase the unit ends when the rental agreement or any
25 extension of the rental agreement ends or when you waive this
26 right in writing.

27 b. Within 90 days you will be provided purchase
28 information relating to your apartment, including the price of
29 your unit and the condition of the building. If you do not
30 receive this information within 90 days, your rental agreement
31 and any extension will be extended 1 day for each day over 90

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1 days until you are given the purchase information. If you do
2 not want this rental agreement extension, you must notify the
3 developer in writing.

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

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

11 719.103 Definitions.--As used in this chapter:

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

15 Section 81. Section 719.1255, Florida Statutes, is
16 amended to read:

17 719.1255 Alternative resolution of disputes.--The
18 ~~division of Florida Land Sales, Condominiums, and Mobile Homes~~
19 ~~of the Department of Business and Professional Regulation~~
20 shall provide for alternative dispute resolution in accordance
21 with s. 718.1255.

22 Section 82. Section 719.501, Florida Statutes, is
23 amended to read:

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

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

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1 ~~promulgated~~ pursuant hereto relating to the development,
2 construction, sale, lease, ownership, operation, and
3 management of residential cooperative units. In performing its
4 duties, the division shall have the following powers and
5 duties:

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

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

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

30 (d) Notwithstanding any remedies available to unit
31 owners and associations, if the division has reasonable cause

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1 to believe that a violation of any provision of this chapter
2 or rule promulgated pursuant hereto has occurred, the division
3 may institute enforcement proceedings in its own name against
4 a developer, association, officer, or member of the board, or
5 its assignees or agents, as follows:

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

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

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

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

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

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

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

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

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

31 (h) The division shall furnish each association which

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

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

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

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

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

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

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

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

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

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

12 Section 83. Paragraph (a) of subsection (2) of section
13 719.502, Florida Statutes, is amended to read:

14 719.502 Filing prior to sale or lease.--

15 (2)(a) Prior to filing as required by subsection (1),
16 and prior to acquiring an ownership, leasehold, or contractual
17 interest in the land upon which the cooperative is to be
18 developed, a developer shall not offer a contract for purchase
19 or lease of a unit for more than 5 years. However, the
20 developer may accept deposits for reservations upon the
21 approval of a fully executed escrow agreement and reservation
22 agreement form properly filed with the division of ~~Florida~~
23 ~~Land Sales, Condominiums, and Mobile Homes~~. Each filing of a
24 proposed reservation program shall be accompanied by a filing
25 fee of \$250. Reservations shall not be taken on a proposed
26 cooperative unless the developer has an ownership, leasehold,
27 or contractual interest in the land upon which the cooperative
28 is to be developed. The division shall notify the developer
29 within 20 days of receipt of the reservation filing of any
30 deficiencies contained therein. Such notification shall not
31 preclude the determination of reservation filing deficiencies

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1 at a later date, nor shall it relieve the developer of any
2 responsibility under the law. The escrow agreement and the
3 reservation agreement form shall include a statement of the
4 right of the prospective purchaser to an immediate unqualified
5 refund of the reservation deposit moneys upon written request
6 to the escrow agent by the prospective purchaser or the
7 developer.

8 Section 84. Section 719.504, Florida Statutes, is
9 amended to read:

10 719.504 Prospectus or offering circular.--Every
11 developer of a residential cooperative which contains more
12 than 20 residential units, or which is part of a group of
13 residential cooperatives which will be served by property to
14 be used in common by unit owners of more than 20 residential
15 units, shall prepare a prospectus or offering circular and
16 file it with the division of ~~Florida Land Sales, Condominiums,~~
17 ~~and Mobile Homes~~ prior to entering into an enforceable
18 contract of purchase and sale of any unit or lease of a unit
19 for more than 5 years and shall furnish a copy of the
20 prospectus or offering circular to each buyer. In addition to
21 the prospectus or offering circular, each buyer shall be
22 furnished a separate page entitled "Frequently Asked Questions
23 and Answers," which must be in accordance with a format
24 approved by the division. This page must, in readable
25 language: inform prospective purchasers regarding their
26 voting rights and unit use restrictions, including
27 restrictions on the leasing of a unit; indicate whether and in
28 what amount the unit owners or the association is obligated to
29 pay rent or land use fees for recreational or other commonly
30 used facilities; contain a statement identifying that amount
31 of assessment which, pursuant to the budget, would be levied

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

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

18 (a) The name of the cooperative.

19 (b) The following statements in conspicuous type:

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

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

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

31 (2) Summary: The next page must contain all

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1 statements required to be in conspicuous type in the
2 prospectus or offering circular.

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

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

9 (a) Its name and location.

10 (b) A description of the cooperative property,
11 including, without limitation:

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

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

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

29 (c) The maximum number of units that will use
30 facilities in common with the cooperative. If the maximum
31 number of units will vary, a description of the basis for

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1 variation and the minimum amount of dollars per unit to be
2 spent for additional recreational facilities or enlargement of
3 such facilities. If the addition or enlargement of facilities
4 will result in a material increase of a unit owner's
5 maintenance expense or rental expense, if any, the maximum
6 increase and limitations thereon shall be stated.

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

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

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

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

22 (b) Each swimming pool, as to its general location,
23 approximate size and depths, approximate deck size and
24 capacity, and whether heated.

25 (c) Additional facilities, as to the number of each
26 facility, its approximate location, approximate size, and
27 approximate capacity.

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

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

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

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

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

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

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

29
30 Descriptions as to locations, areas, capacities, numbers,
31 volumes, or sizes may be stated as approximations or minimums.

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1 (7) A description of the recreational and other
2 facilities that will be used in common with other
3 cooperatives, community associations, or planned developments
4 which require the payment of the maintenance and expenses of
5 such facilities, either directly or indirectly, by the unit
6 owners. The description shall include, but not be limited to,
7 the following:

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

9 (b) Facilities not committed to be built except under
10 certain conditions, and a statement of those conditions or
11 contingencies.

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

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

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

30 (f) If there are leases, a description thereof,
31 including the length of the term, the rent payable, and a

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1 description of any option to purchase.

2

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

6 (8) Recreation lease or associated club membership:

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

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

21 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
22 MANDATORY FOR UNIT OWNERS; or

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

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

30 4. A similar statement of the nature of the
31 organization or manner in which the use rights are created,

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1 and that unit owners are required to pay.

2

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

6 (c) If the developer, or any other person other than
7 the unit owners and other persons having use rights in the
8 facilities, reserves, or is entitled to receive, any rent,
9 fee, or other payment for the use of the facilities, then
10 there shall be the following statement in conspicuous type:

11 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND
12 USE FEES FOR RECREATIONAL OR OTHER COMMON AREAS. Immediately
13 following this statement, the location in the disclosure
14 materials where the rent or land use fees are described in
15 detail shall be stated.

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

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

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

31

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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 cooperative 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 WITHOUT
11 CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately
12 following this statement, the location in the disclosure
13 materials where such reserved rights are described shall be
14 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 cooperative
24 property and of other property that will serve the unit owners
25 of the cooperative 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 (d) The compensation, stated on a monthly and annual

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1 basis, and provisions for increases in the compensation.

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

5
6 Copies of all described contracts shall be attached as
7 exhibits. If there is a contract for the management of the
8 cooperative property, then a statement in conspicuous type in
9 substantially the following form shall appear, identifying the
10 proposed or existing contract manager: THERE IS (IS TO BE) A
11 CONTRACT FOR THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH
12 (NAME OF THE CONTRACT MANAGER). Immediately following this
13 statement, the location in the disclosure materials of the
14 contract for management of the cooperative property shall be
15 stated.

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

28 (13) If there are any restrictions upon the sale,
29 transfer, conveyance, or leasing of a unit, then a statement
30 in conspicuous type in substantially the following form shall
31 be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS

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1 RESTRICTED OR CONTROLLED. Immediately following this
2 statement, the location in the disclosure materials where the
3 restriction, limitation, or control on the sale, lease, or
4 transfer of units is described in detail shall be stated.

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

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

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

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

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

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1 each building, the maximum number of units, and the minimum
2 and maximum square footage of the units that may be contained
3 within each parcel of land which may be added to the
4 cooperative.

5 (15) If the cooperative is created by conversion of
6 existing improvements, the following information shall be
7 stated:

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

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

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

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

29 (18) The manner in which utility and other services,
30 including, but not limited to, sewage and waste disposal,
31 water supply, and storm drainage, will be provided and the

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1 person or entity furnishing them.

2 (19) An explanation of the manner in which the
3 apportionment of common expenses and ownership of the common
4 areas have been determined.

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

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

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

30 (c) The estimated items of expenses of the cooperative
31 and the association, except as excluded under paragraph (b),

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1 including, but not limited to, the following items, which
2 shall be stated either as an association expense collectible
3 by assessments or as unit owners' expenses payable to persons
4 other than the association:

- 5 1. Expenses for the association and cooperative:
- 6 a. Administration of the association.
- 7 b. Management fees.
- 8 c. Maintenance.
- 9 d. Rent for recreational and other commonly used
10 areas.
- 11 e. Taxes upon association property.
- 12 f. Taxes upon leased areas.
- 13 g. Insurance.
- 14 h. Security provisions.
- 15 i. Other expenses.
- 16 j. Operating capital.
- 17 k. Reserves.
- 18 l. Fee payable to the division.
- 19 2. Expenses for a unit owner:
- 20 a. Rent for the unit, if subject to a lease.
- 21 b. Rent payable by the unit owner directly to the
22 lessor or agent under any recreational lease or lease for the
23 use of commonly used areas, which use and payment are a
24 mandatory condition of ownership and are not included in the
25 common expense or assessments for common maintenance paid by
26 the unit owners to the association.

27 (d) The estimated amounts shall be stated for a period
28 of at least 12 months and may distinguish between the period
29 prior to the time unit owners other than the developer elect a
30 majority of the board of administration and the period after
31 that date.

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

5 (22) The identity of the developer and the chief
6 operating officer or principal directing the creation and sale
7 of the cooperative and a statement of its and his or her
8 experience in this field.

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

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

13 (b) The articles of incorporation creating the
14 association.

15 (c) The bylaws of the association.

16 (d) The ground lease or other underlying lease of the
17 cooperative.

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

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

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

27 (h) The lease of recreational and other facilities
28 that will be used only by unit owners of the subject
29 cooperative.

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

31 (j) The form of unit lease, if the offer is of a

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1 leasehold.

2 (k) A declaration of servitude of properties serving
3 the cooperative but not owned by unit owners or leased to them
4 or the association.

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

8 (m) The statement of inspection for termite damage and
9 treatment of the existing improvements, if the cooperative is
10 a conversion.

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

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

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

17 (24) Any prospectus or offering circular complying
18 with the provisions of former ss. 711.69 and 711.802 may
19 continue to be used without amendment, or may be amended to
20 comply with the provisions of this chapter.

21 (25) A brief narrative description of the location and
22 effect of all existing and intended easements located or to be
23 located on the cooperative property other than those in the
24 declaration.

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

31 (27) Evidence demonstrating that the developer has an

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1 ownership, leasehold, or contractual interest in the land upon
2 which the cooperative is to be developed.

3 Section 85. Section 719.508, Florida Statutes, is
4 amended to read:

5 719.508 Regulation by Division of Hotels and
6 Restaurants.--In addition to the authority, regulation, or
7 control exercised by the Division of ~~Florida Land Sales,~~
8 Condominiums, Timeshare, and Mobile Homes pursuant to this act
9 with respect to cooperatives, buildings included in a
10 cooperative property shall be subject to the authority,
11 regulation, or control of the Division of Hotels and
12 Restaurants of the Department of Business and Professional
13 Regulation, to the extent provided for in chapters 399 and
14 509.

15 Section 86. Paragraph (a) of subsection (2) of section
16 719.608, Florida Statutes, is amended to read:

17 719.608 Notice of intended conversion; time of
18 delivery; content.--

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

23
24 These apartments are being converted to cooperative by
25 ...(name of developer)..., the developer.

26 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION
27 OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
28 AGREEMENT AS FOLLOWS:

29 a. If you have continuously been a resident of these
30 apartments during the last 180 days and your rental agreement
31 expires during the next 270 days, you may extend your rental

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1 agreement for up to 270 days after the date of this notice.

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

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

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

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

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

20 a. If your rental agreement began or was extended or
21 renewed after May 1, 1980, and your rental agreement,
22 including extensions and renewals, has an unexpired term of
23 180 days or less, you may cancel your rental agreement upon 30
24 days' written notice and move. Also, upon 30 days' written
25 notice, you may cancel any extension of the rental agreement.

26 b. If your rental agreement was not begun or was not
27 extended or renewed after May 1, 1980, you may not cancel the
28 rental agreement without the consent of the developer. If
29 your rental agreement, including extensions and renewals, has
30 an unexpired term of 180 days or less, you may, however, upon
31 30 days' written notice cancel any extension of the rental

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1 agreement.

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

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

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

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

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

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

31 721.05 Definitions.--As used in this chapter, the

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1 term:

2 (10) "Division" means the Division of ~~Florida Land~~
3 ~~Sales, Condominiums, Timeshare, and Mobile Homes~~ of the
4 Department of Business and Professional Regulation.

5 Section 88. Paragraph (d) of subsection (2) of section
6 721.07, Florida Statutes, is amended to read:

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

13 (2)

14 (d) A developer shall have the authority to deliver to
15 purchasers any purchaser public offering statement that is not
16 yet approved by the division, provided that the following
17 shall apply:

18 1. At the time the developer delivers an unapproved
19 purchaser public offering statement to a purchaser pursuant to
20 this paragraph, the developer shall deliver a fully completed
21 and executed copy of the purchase contract required by s.
22 721.06 that contains the following statement in conspicuous
23 type in substantially the following form which shall replace
24 the statements required by s. 721.06(1)(g):

25

26 The developer is delivering to you a public offering statement
27 that has been filed with but not yet approved by the Division
28 of ~~Florida Land Sales, Condominiums, Timeshare, and Mobile~~
29 Homes. Any revisions to the unapproved public offering
30 statement you have received must be delivered to you, but only
31 if the revisions materially alter or modify the offering in a

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1 manner adverse to you. After the division approves the public
2 offering statement, you will receive notice of the approval
3 from the developer and the required revisions, if any.

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

10

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

18

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

28

29 3. After receipt of approval from the division and
30 prior to closing, if no revisions have been made to the
31 documents contained in the unapproved purchaser public

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1 offering statement, or if such revisions do not materially
2 alter or modify the offering in a manner adverse to a
3 purchaser, the developer shall send the purchaser a notice
4 containing a statement in conspicuous type in substantially
5 the following form:

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

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

23 721.08 Escrow accounts; nondisturbance instruments;
24 alternate security arrangements; transfer of legal title.--

25 (8) An escrow agent holding escrowed funds pursuant to
26 this chapter that have not been claimed for a period of 5
27 years after the date of deposit shall make at least one
28 reasonable attempt to deliver such unclaimed funds to the
29 purchaser who submitted such funds to escrow. In making such
30 attempt, an escrow agent is entitled to rely on a purchaser's
31 last known address as set forth in the books and records of

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1 the escrow agent and is not required to conduct any further
2 search for the purchaser. If an escrow agent's attempt to
3 deliver unclaimed funds to any purchaser is unsuccessful, the
4 escrow agent may deliver such unclaimed funds to the division
5 and the division shall deposit such unclaimed funds in the
6 Division of ~~Florida Land Sales~~, Condominiums, Timeshare, and
7 Mobile Homes Trust Fund, 30 days after giving notice in a
8 publication of general circulation in the county in which the
9 timeshare property containing the purchaser's timeshare
10 interest is located. The purchaser may claim the same at any
11 time prior to the delivery of such funds to the division.
12 After delivery of such funds to the division, the purchaser
13 shall have no more rights to the unclaimed funds. The escrow
14 agent shall not be liable for any claims from any party
15 arising out of the escrow agent's delivery of the unclaimed
16 funds to the division pursuant to this section.

17 Section 90. Section 721.26, Florida Statutes, is
18 amended to read:

19 721.26 Regulation by division.--The division has the
20 power to enforce and ensure compliance with the provisions of
21 this chapter, except for parts III and IV, using the powers
22 provided in this chapter, as well as the powers prescribed in
23 chapters 498, 718, and 719. In performing its duties, the
24 division shall have the following powers and duties:

25 (1) To aid in the enforcement of this chapter, or any
26 division rule or order promulgated or issued pursuant to this
27 chapter, the division may make necessary public or private
28 investigations within or outside this state to determine
29 whether any person has violated or is about to violate this
30 chapter, or any division rule or order promulgated or issued
31 pursuant to this chapter.

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

5 (3) For the purpose of any investigation under this
6 chapter, the director of the division or any officer or
7 employee designated by the 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 identity,
11 existence, description, nature, custody, condition, and
12 location of any books, documents, or other tangible things and
13 the identity and location of persons having knowledge of
14 relevant facts or any other matter reasonably calculated to
15 lead to the discovery of material evidence. Failure to obey a
16 subpoena or to answer questions propounded by the
17 investigating officer and upon reasonable notice to all
18 persons affected thereby shall be a violation of this chapter.
19 In addition to the other enforcement powers authorized in this
20 subsection, the division may, at its discretion, apply to the
21 circuit court for an order compelling compliance.

22 (4) The division may prepare and disseminate a
23 prospectus and other information to assist prospective
24 purchasers, sellers, and managing entities of timeshare plans
25 in assessing the rights, privileges, and duties pertaining
26 thereto.

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

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

3 (a)1. "Regulated party," for purposes of this section,
4 means any developer, exchange company, seller, managing
5 entity, association, association director, association
6 officer, manager, management firm, escrow agent, trustee, any
7 respective assignees or agents, or any other person having
8 duties or obligations pursuant to this chapter.

9 2. Any person who materially participates in any offer
10 or disposition of any interest in, or the management or
11 operation of, a timeshare plan in violation of this chapter or
12 relevant rules involving fraud, deception, false pretenses,
13 misrepresentation, or false advertising or the disbursement,
14 concealment, or diversion of any funds or assets, which
15 conduct adversely affects the interests of a purchaser, and
16 which person directly or indirectly controls a regulated party
17 or is a general partner, officer, director, agent, or employee
18 of such regulated party, shall be jointly and severally liable
19 under this subsection with such regulated party, unless such
20 person did not know, and in the exercise of reasonable care
21 could not have known, of the existence of the facts giving
22 rise to the violation of this chapter. A right of
23 contribution shall exist among jointly and severally liable
24 persons pursuant to this paragraph.

25 (b) The division may permit any person whose conduct
26 or actions may be under investigation to waive formal
27 proceedings and enter into a consent proceeding whereby an
28 order, rule, or letter of censure or warning, whether formal
29 or informal, may be entered against that person.

30 (c) The division may issue an order requiring a
31 regulated party to cease and desist from an unlawful practice

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1 under this chapter and take such affirmative action as in the
2 judgment of the division will carry out the purposes of this
3 chapter.

4 (d)1. The division may bring an action in circuit
5 court for declaratory or injunctive relief or for other
6 appropriate relief, including restitution.

7 2. The division shall have broad authority and
8 discretion to petition the circuit court to appoint a receiver
9 with respect to any managing entity which fails to perform its
10 duties and obligations under this chapter with respect to the
11 operation of a timeshare plan. The circumstances giving rise
12 to an appropriate petition for receivership under this
13 subparagraph include, but are not limited to:

14 a. Damage to or destruction of any of the
15 accommodations or facilities of a timeshare plan, where the
16 managing entity has failed to repair or reconstruct same.

17 b. A breach of fiduciary duty by the managing entity,
18 including, but not limited to, undisclosed self-dealing or
19 failure to timely assess, collect, or disburse the common
20 expenses of the timeshare plan.

21 c. Failure of the managing entity to operate the
22 timeshare plan in accordance with the timeshare instrument and
23 this chapter.

24
25 If, under the circumstances, it appears that the events giving
26 rise to the petition for receivership cannot be reasonably and
27 timely corrected in a cost-effective manner consistent with
28 the timeshare instrument, the receiver may petition the
29 circuit court to implement such amendments or revisions to the
30 timeshare instrument as may be necessary to enable the
31 managing entity to resume effective operation of the timeshare

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1 plan, or to enter an order terminating the timeshare plan, or
2 to enter such further orders regarding the disposition of the
3 timeshare property as the court deems appropriate, including
4 the disposition and sale of the timeshare property held by the
5 association or the purchasers. In the event of a receiver's
6 sale, all rights, title, and interest held by the association
7 or any purchaser shall be extinguished and title shall vest in
8 the buyer. This provision applies to timeshare estates and
9 timeshare licenses. All reasonable costs and fees of the
10 receiver relating to the receivership shall become common
11 expenses of the timeshare plan upon order of the court.

12 3. The division may revoke its approval of any filing
13 for any timeshare plan for which a petition for receivership
14 has been filed pursuant to this paragraph.

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

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

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

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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 (8) The failure of any person to comply with any order

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1 of the division is a violation of this chapter.

2 Section 91. Section 721.28, Florida Statutes, is
3 amended to read:

4 721.28 Division of ~~Florida Land Sales~~, Condominiums,
5 Timeshare, and Mobile Homes Trust Fund.--All funds collected
6 by the division and any amounts paid as fees or penalties
7 under this chapter shall be deposited in the State Treasury to
8 the credit of the Division of ~~Florida Land Sales~~,
9 Condominiums, Timeshare, and Mobile Homes Trust Fund created
10 by s. 718.509 ~~498.019~~.

11 Section 92. Paragraph (c) of subsection (1) of section
12 721.301, Florida Statutes, is amended to read:

13 721.301 Florida Timesharing, Vacation Club, and
14 Hospitality Program.--

15 (1)

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

24 Section 93. Section 721.50, Florida Statutes, is
25 amended to read:

26 721.50 Short title.--This part may be cited as the
27 "McAllister Act" in recognition and appreciation for the years
28 of extraordinary and insightful contributions by Mr. Bryan C.
29 McAllister, Examinations Supervisor, former Division of
30 Florida Land Sales, Condominiums, and Mobile Homes.

31 Section 94. Subsection (10) of section 721.82, Florida

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1 Statutes, is amended to read:

2 721.82 Definitions.--As used in this part, the term:

3 (10) "Registered agent" means an agent duly appointed
4 ~~by the obligor~~ under s. 721.84 for the purpose of accepting
5 all notices and service of process under this part for the
6 obligor. A registered agent may be an individual resident in
7 this state whose business office qualifies as a registered
8 office, or a domestic or foreign corporation or a
9 not-for-profit corporation as defined in chapter 617
10 authorized to transact business or to conduct its affairs in
11 this state, whose business office qualifies as a registered
12 office. A registered agent for any obligor may not be the
13 lienholder or the attorney for the lienholder.

14 Section 95. Subsection (5) of section 721.84, Florida
15 Statutes, is amended, present subsections (6) and (7) are
16 renumbered as subsections (9) and (10), respectively, and new
17 subsections (6), (7), and (8) are added to that section, to
18 read:

19 721.84 Appointment of a registered agent; duties.--

20 (5) A registered agent may resign his or her agency
21 appointment for any obligor for which he or she serves as
22 registered agent, provided that:

23 (a) The resigning registered agent executes a written
24 statement of resignation that identifies himself or herself
25 and the street address of his or her registered office, and
26 identifies the obligors affected by his or her resignation;

27 (b)1. A successor registered agent is appointed by the
28 resigning registered agent and such successor registered agent
29 executes an acceptance of appointment as successor registered
30 agent and satisfies all of the requirements of subsection (1);
31 or-

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1 2. The registered agent provides 120 days' prior
2 written notice to the mortgagee as to the mortgage lien and to
3 the owners' association of the timeshare plan as to the
4 assessment lien of its intent to deliver the statement of
5 resignation. Prior to the effective date of termination of the
6 resigning registered agent's agency and registered office, a
7 ~~The resigning registered agent may designate the successor~~
8 ~~registered agent; however, if the resigning registered agent~~
9 ~~fails to designate a successor registered agent or the~~
10 ~~designated successor registered agent fails to accept, the~~
11 successor registered agent for the affected obligors may be
12 designated by the mortgagee as to the mortgage lien and by the
13 owners' association of the timeshare plan as to the assessment
14 lien; and

15 (c)1. If a successor registered agent is appointed
16 under subparagraph (b)1., copies of the statement of
17 resignation and acceptance of appointment as successor
18 registered agent are promptly mailed to the affected obligors
19 at the obligors' last designated address shown on the records
20 of the resigning registered agent and to the affected
21 lienholders; or

22 2. If a resigning registered agent has previously
23 provided notice under subparagraph (b)2., a copy of the
24 statement of resignation is promptly mailed to the affected
25 obligors at the obligor's last designated address shown on the
26 records of the resigning registered agent and a copy of the
27 statement of resignation and a list of the obligors' last
28 designated addresses shown on the records of the resigning
29 registered agent are promptly mailed to the affected
30 lienholders.

31 (6) If a successor registered agent is appointed under

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1 subparagraph (5)(b)1., the agency and registered office of the
2 resigning registered agent are terminated and the agency and
3 registered office of the successor registered agent are
4 effective as of the 10th day after the date on which the
5 statement of resignation and acceptance of appointment as
6 successor registered agent are received by the lienholder,
7 unless a longer period is provided in the statement of
8 resignation and acceptance of appointment as successor
9 registered agent.

10 (7) If a resigning registered agent has previously
11 provided notice under subparagraph (5)(b)2. and a successor
12 registered agent is not designated or the designated successor
13 registered agent fails to accept the appointment as registered
14 agent, the agency and registered office of the resigning
15 registered agent are terminated effective as of the 10th day
16 after the date on which the statement of resignation and list
17 of obligors required by subparagraph (5)(c)2. are received by
18 the lienholder, unless a longer period is provided in the
19 statement of resignation. After the effective date of the
20 termination of the agency and registered office of the
21 resigning registered agent, if no successor registered agent
22 exists, the affected lienholders must mail any notice or
23 document required to be delivered by a lienholder to the
24 obligor by first class mail if the obligor's address is within
25 the United States, and by international air mail if the
26 obligor's address is outside the United States, with postage
27 fees prepaid to the obligor at the obligor's last designated
28 address as shown on the records of the resigning registered
29 agent. If such notice or document requires service of process
30 on persons outside the United States, such service of process
31 shall be accomplished by any internationally agreed means

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1 reasonably calculated to give notice. Whenever no successor
2 registered agent exists, a successor registered agent for the
3 affected obligors may be designated by the mortgagee as to the
4 mortgage lien and by the owners' association of the timeshare
5 plan as to the assessment 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 96. 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 97. 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

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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 Section 98. Section 723.0065, Florida Statutes, is

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1 amended to read:

2 723.0065 Public records exemption; findings.--The
3 Legislature, in narrowing the existing public records
4 exemption pursuant to s. 1, chapter 94-78, Laws of Florida,
5 finds that a public necessity exists to keep confidential and
6 retain the public records exemption for financial records of
7 mobile home park owners acquired by the division ~~of Florida~~
8 ~~Land Sales, Condominiums, and Mobile Homes~~ when performing its
9 duties under the Florida Mobile Home Act unless the mobile
10 home park owner has violated the provisions of this chapter.
11 In that case, only those financial records that are
12 specifically relevant to the finding of violation should be
13 released. If it were otherwise, the division would encounter
14 difficulties in procuring such proprietary information which
15 would impede the effective and efficient performance of the
16 division's public duties. Additionally, release of such
17 proprietary information would harm the business interests of
18 innocent mobile home park owners to the advantage of
19 competitors and potential purchasers. Effective monitoring of
20 the division's performance of its duties can be conducted
21 without access to these records, and these records are
22 otherwise available pursuant to a civil complaint as
23 envisioned by the act. Accordingly, the public good served by
24 access to financial records of a mobile home park owner who
25 has not violated the provisions of this chapter is outweighed
26 by the interference with division investigations and the
27 private harm that could be caused by allowing such access.

28 Section 99. Section 723.009, Florida Statutes, is
29 amended to read:

30 723.009 Division of ~~Florida Land Sales, Condominiums,~~
31 Timeshare, and Mobile Homes Trust Fund.--All proceeds from the

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1 fees, penalties, and fines imposed pursuant to this chapter
2 shall be deposited into the Division of ~~Florida Land Sales,~~
3 Condominiums, Timeshare, and Mobile Homes Trust Fund created
4 by s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated
5 by the Legislature pursuant to chapter 216, may be used to
6 defray the expenses incurred by the division in administering
7 the provisions of this chapter.

8 Section 100. Subsection (2) of section 73.073, Florida
9 Statutes, is amended to read:

10 73.073 Eminent domain procedure with respect to
11 condominium common elements.--

12 (2) With respect to the exercise of eminent domain or
13 a negotiated sale for the purchase or taking of a portion of
14 the common elements of a condominium, the condemning authority
15 shall have the responsibility of contacting the condominium
16 association and acquiring the most recent rolls indicating the
17 names of the unit owners or contacting the appropriate taxing
18 authority to obtain the names of the owners of record on the
19 tax rolls. Notification shall thereupon be sent by certified
20 mail, return receipt requested, to the unit owners of record
21 of the condominium units by the condemning authority
22 indicating the intent to purchase or take the required
23 property and requesting a response from the unit owner. The
24 condemning authority shall be responsible for the expense of
25 sending notification pursuant to this section. Such notice
26 shall, at a minimum, include:

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

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

29 (c) The public purpose for which the property is
30 needed.

31 (d) The appraisal value of the property.

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

4 (f) A clear, concise statement relating to the power
5 of the association to convey the property on behalf of the
6 unit owners if no objection to the taking or appraisal value
7 is raised, and the effects of this alternative on the unit
8 owner.

9
10 The Division of ~~Florida Land Sales~~, Condominiums, Timeshare,
11 and Mobile Homes of the Department of Business and
12 Professional Regulation may adopt, by rule, a standard form
13 for such notice and may require the notice to include any
14 additional relevant information.

15 Section 101. Paragraph (e) of subsection (6) of
16 section 192.037, Florida Statutes, is amended to read:

17 192.037 Fee timeshare real property; taxes and
18 assessments; escrow.--

19 (6)

20 (e) On or before May 1 of each year, a statement of
21 receipts and disbursements of the escrow account must be filed
22 with the Division of ~~Florida Land Sales~~, Condominiums,
23 Timeshare, and Mobile Homes of the Department of Business and
24 Professional Regulation, which may enforce this paragraph
25 pursuant to s. 721.26. This statement must appropriately show
26 the amount of principal and interest in such account.

27 Section 102. Paragraph (i) of subsection (7) of
28 section 213.053, Florida Statutes, is amended to read:

29 213.053 Confidentiality and information sharing.--

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

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1 (i) Information relative to chapters 212 and 326 to
2 the ~~Division of Florida Land Sales, Condominiums, and Mobile~~
3 ~~Homes of the~~ Department of Business and Professional
4 Regulation in the conduct of its official duties.

5
6 Disclosure of information under this subsection shall be
7 pursuant to a written agreement between the executive director
8 and the agency. Such agencies, governmental or
9 nongovernmental, shall be bound by the same requirements of
10 confidentiality as the Department of Revenue. Breach of
11 confidentiality is a misdemeanor of the first degree,
12 punishable as provided by s. 775.082 or s. 775.083.

13 Section 103. Paragraph (w) of subsection (4) of
14 section 215.20, Florida Statutes, is amended to read:

15 215.20 Certain income and certain trust funds to
16 contribute to the General Revenue Fund.--

17 (4) The income of a revenue nature deposited in the
18 following described trust funds, by whatever name designated,
19 is that from which the deductions authorized by subsection (3)
20 shall be made:

21 (w) The Division of ~~Florida Land Sales, Condominiums,~~
22 Timeshare, and Mobile Homes Trust Fund established pursuant to
23 s. 718.509 ~~498.019~~.

24
25 The enumeration of the foregoing moneys or trust funds shall
26 not prohibit the applicability thereto of s. 215.24 should the
27 Governor determine that for the reasons mentioned in s. 215.24
28 the money or trust funds should be exempt herefrom, as it is
29 the purpose of this law to exempt income from its force and
30 effect when, by the operation of this law, federal matching
31 funds or contributions or private grants to any trust fund

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1 would be lost to the state.

2 Section 104. Paragraph (a) of subsection (4) of
3 section 380.0651, Florida Statutes, is amended to read:

4 380.0651 Statewide guidelines and standards.--

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

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

13 1.a. The same person has retained or shared control of
14 the developments;

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

17 c. There is common management of the developments
18 controlling the form of physical development or disposition of
19 parcels of the development.

20 2. There is a reasonable closeness in time between the
21 completion of 80 percent or less of one development and the
22 submission to a governmental agency of a master plan or series
23 of plans or drawings for the other development which is
24 indicative of a common development effort.

25 3. A master plan or series of plans or drawings exists
26 covering the developments sought to be aggregated which have
27 been submitted to a local general-purpose government, water
28 management district, the Florida Department of Environmental
29 Protection, or the Division of ~~Florida Land Sales,~~
30 Condominiums, Timeshare, and Mobile Homes for authorization to
31 commence development. The existence or implementation of a

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1 utility's master utility plan required by the Public Service
2 Commission or general-purpose local government or a master
3 drainage plan shall not be the sole determinant of the
4 existence of a master plan.

5 4. The voluntary sharing of infrastructure that is
6 indicative of a common development effort or is designated
7 specifically to accommodate the developments sought to be
8 aggregated, except that which was implemented because it was
9 required by a local general-purpose government; water
10 management district; the Department of Environmental
11 Protection; the Division of ~~Florida Land Sales~~, Condominiums,
12 Timeshare, and Mobile Homes; or the Public Service Commission.

13 5. There is a common advertising scheme or promotional
14 plan in effect for the developments sought to be aggregated.

15 Section 105. Subsection (5) of section 455.116,
16 Florida Statutes, is amended to read:

17 455.116 Regulation trust funds.--The following trust
18 funds shall be placed in the department:

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

21 Section 106. Section 475.455, Florida Statutes, is
22 amended to read:

23 475.455 Exchange of disciplinary information.--The
24 commission shall inform the Division of ~~Florida Land Sales~~,
25 Condominiums, Timeshare, and Mobile Homes of the Department of
26 Business and Professional Regulation of any disciplinary
27 action the commission has taken against any of its licensees.
28 The division shall inform the commission of any disciplinary
29 action the division has taken against any broker or
30 salesperson registered with the division.

31 Section 107. Section 509.512, Florida Statutes, is

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1 amended to read:

2 509.512 Timeshare plan developer and exchange company
3 exemption.--Sections 509.501-509.511 do not apply to a
4 developer of a timeshare plan or an exchange company approved
5 by the Division of ~~Florida Land Sales~~, Condominiums,
6 Timeshare, and Mobile Homes pursuant to chapter 721, but only
7 to the extent that the developer or exchange company engages
8 in conduct regulated under chapter 721.

9 Section 108. Subsection (1) of section 559.935,
10 Florida Statutes, is amended to read:

11 559.935 Exemptions.--

12 (1) This part does not apply to:

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

15 (b) Any direct common carrier of passengers or
16 property regulated by an agency of the Federal Government or
17 employees of such carrier when engaged solely in the
18 transportation business of the carrier as identified in the
19 carrier's certificate;

20 (c) An intrastate common carrier of passengers or
21 property selling only transportation as defined in the
22 applicable state or local registration or certification, or
23 employees of such carrier when engaged solely in the
24 transportation business of the carrier;

25 (d) Hotels, motels, or other places of public
26 accommodation selling public accommodations, or employees of
27 such hotels, motels, or other places of public accommodation,
28 when engaged solely in making arrangements for lodging,
29 accommodations, or sightseeing tours within the state, or
30 taking reservations for the traveler with times, dates,
31 locations, and accommodations certain at the time the

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1 reservations are made, provided that hotels and motels
 2 registered with the Department of Business and Professional
 3 Regulation pursuant to chapter 509 are excluded from the
 4 provisions of this chapter;

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

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

9 (g) Persons who make travel arrangements for
 10 themselves; for their employees or agents; for distributors,
 11 franchisees, or dealers of the persons' products or services;
 12 for entities which are financially related to the persons; or
 13 for the employees or agents of the distributor, franchisee, or
 14 dealer or financially related entity;

15 (h) A developer of a timeshare plan or an exchange
 16 company approved by the Division of ~~Florida Land Sales,~~
 17 Condominiums, Timeshare, and Mobile Homes pursuant to chapter
 18 721, but only to the extent that the developer or exchange
 19 company engages in conduct regulated under chapter 721; or

20 (i) Persons or entities engaged solely in offering
 21 diving services, including classes and sales or rentals of
 22 equipment, when engaged in making any prearranged
 23 travel-related or tourist-related services in conjunction with
 24 a primarily dive-related event.

25 Section 109. Effective July 1, 2001, subsection (2) of
 26 section 468.452, Florida Statutes, is amended to read:

27 468.452 Definitions.--For purposes of this part, the
 28 term:

29 (2) "Athlete agent" means a person who, directly or
 30 indirectly, recruits or solicits a student athlete to enter
 31 into an agent contract, or who, for any type of financial

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1 gain, procures, offers, promises, or attempts to obtain
2 employment or promotional fees or benefits for a student
3 athlete with a professional sports team or as a professional
4 athlete, or with any promoter who markets or attempts to
5 market the student athlete's athletic ability or athletic
6 reputation. This term includes all employees and other persons
7 acting on behalf of an athlete agent who participate in the
8 activities included under this subsection. The term does not
9 include a spouse, parent, sibling, grandparent, or guardian of
10 the student-athlete or an individual acting solely on behalf
11 of a professional sports team or professional sports
12 organization.

13 Section 110. Effective July 1, 2001, section 468.453,
14 Florida Statutes, is amended to read:

15 468.453 Licensure required; qualifications;
16 examination; bond; exception; license nontransferable.--

17 (1) Any person who practices as an athlete agent in
18 this state must be licensed pursuant to this part.

19 (2) A person shall be licensed as an athlete agent if
20 the applicant:

21 (a) Is at least 18 years of age.

22 (b) Is of good moral character.

23 ~~(c) Passes an examination provided by the department~~
24 ~~which tests the applicant's proficiency to practice as an~~
25 ~~athlete agent, including, but not limited to, knowledge of the~~
26 ~~laws and rules of this state relating to athlete agents, this~~
27 ~~part, and chapter 455.~~

28 ~~(c)(d)~~ Has completed the application form and remitted
29 an application fee not to exceed \$500, ~~an examination fee not~~
30 ~~to exceed the actual cost for the examination plus \$500, an~~
31 active licensure fee not to exceed \$2,000, and all other

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1 applicable fees provided for in this part or in chapter 455.

2 (d)~~(e)~~ Has submitted to the department a fingerprint
3 card for a criminal history records check. The fingerprint
4 card shall be forwarded to the Division of Criminal Justice
5 Information Systems within the Department of Law Enforcement
6 for purposes of processing the fingerprint card to determine
7 if the applicant has a criminal history record. The
8 fingerprint card shall also be forwarded to the Federal Bureau
9 of Investigation for purposes of processing the fingerprint
10 card to determine if the applicant has a criminal history
11 record. The information obtained by the processing of the
12 fingerprint card by the Florida Department of Law Enforcement
13 and the Federal Bureau of Investigation shall be sent to the
14 department for the purpose of determining if the applicant is
15 statutorily qualified for licensure.

16 (e)~~(f)~~ Has not in any jurisdiction, within the
17 preceding 5 years, been convicted or found guilty of or
18 entered a plea of nolo contendere for, regardless of
19 adjudication, a crime which relates to the applicant's
20 practice or ability to practice as an athlete agent.

21 ~~(g) Has posted with the department a \$15,000 surety~~
22 ~~bond issued by an insurance company authorized to do business~~
23 ~~in this state. The bond shall be in favor of the State of~~
24 ~~Florida, Department of Business and Professional Regulation,~~
25 ~~for the use and benefit of any student athlete or college or~~
26 ~~university within Florida who or which is injured or damaged,~~
27 ~~including reasonable costs and attorney's fees, as a result of~~
28 ~~acts or omissions by the athlete agent pursuant to a license~~
29 ~~issued under this part. The bond shall be written in the form~~
30 ~~determined by the department. The bond shall provide that the~~
31 ~~athlete agent is responsible for the acts or omissions of any~~

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1 ~~representatives acting under the athlete agent's supervision~~
2 ~~or authority. The bond shall be in effect for and cover all~~
3 ~~times that the athlete agent has an active license and~~
4 ~~conducts business pursuant to that license in this or any~~
5 ~~other state.~~

6 (3) An unlicensed individual may act as an athlete
7 agent if:

8 (a) A student-athlete or person acting on the
9 athlete's behalf initiates communication with the individual;
10 and

11 (b) Within 7 days after an initial act as an athlete
12 agent, the individual submits an application for licensure.

13 ~~Members of The Florida Bar are exempt from the state laws and~~
14 ~~rules component, and the fee for such, of the examination~~
15 ~~required by this section.~~

16 (4) A license issued to an athlete agent is not
17 transferable.

18 (5) By acting as an athlete agent in this state, a
19 nonresident individual appoints the department as the
20 individual's agent for service of process in any civil action
21 related to the individual's acting as an athlete agent.

22 (6) The department may issue a temporary license while
23 an application for licensure is pending. If the department
24 issues a notice of intent to deny the license application, the
25 initial temporary license expires and may not be extended
26 during any proceeding or administrative or judicial review.

27 (7)(a) An individual who has submitted an application
28 and holds a certificate, registration or license as an athlete
29 agent in another state may submit a copy of the application
30 and certificate, registration or license from the other state
31 in lieu of submitting an application in the form prescribed

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1 pursuant to this section. The department shall accept the
2 application and the certificate from the other state as an
3 application for registration in this state if the application
4 in the other state:

5 1. Was submitted in the other state within 6 months
6 next preceding the submission of the application in this state
7 and the applicant certifies that the information contained in
8 the application is current;

9 2. Contains information substantially similar to or
10 more comprehensive than that required in an application
11 submitted in this state; and

12 3. Was signed by the applicant under penalty of
13 perjury.

14 (b) An applicant applying under this subsection must
15 meet all other requirements for licensure as provided by this
16 part.

17 Section 111. Effective July 1, 2001, section 468.454,
18 Florida Statutes, is amended to read:

19 468.454 Contracts.--

20 (1) An agent contract must be in a record, signed, or
21 otherwise authenticated by the parties.

22 (2) An agent contract must state:

23 (a) The amount and method of calculating the
24 consideration to be paid by the student-athlete for services
25 to be provided by the athlete agent and any other
26 consideration the agent has received or will receive from any
27 other source under the contract;

28 (b) The name of any person not listed in the licensure
29 application who will be compensated because the
30 student-athlete signed the agent contract;

31 (c) A description of any expenses that the

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1 student-athlete agrees to reimburse;

2 (d) A description of the services to be provided to
3 the student-athlete;

4 (e) The duration of the contract; and

5 (f) The date of execution.

6 (3) An agent contract must contain, in close proximity
7 to the signature of the student-athlete, a conspicuous notice
8 in boldface type in capital letters stating:

9

10 WARNING TO STUDENT-ATHLETE

11

12 IF YOU SIGN THE CONTRACT:

13 1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS
14 A STUDENT-ATHLETE IN YOUR SPORT;

15 2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72
16 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND
17 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
18 DIRECTOR; AND

19 3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS
20 AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS
21 CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

22

23 (4) An agent contract that does not conform to this
24 section is voidable by the student-athlete. If a
25 student-athlete voids an agent contract, the student-athlete
26 is not required to pay any consideration or return any
27 consideration received from the athlete agent to induce the
28 student-athlete to enter into the contract.

29 (5) The athlete agent shall give a record of the
30 signed or authenticated agent contract to the student-athlete
31 at the time of execution.

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1 (6) Within 72 hours after entering into an agent
2 contract or before the next scheduled athletic event in which
3 the student-athlete may participate, whichever occurs first,
4 the athlete agent must give notice in a record of the
5 existence of the contract to the athletic director of the
6 educational institution at which the student-athlete is
7 enrolled or the athlete agent has reasonable grounds to
8 believe the student-athlete intends to enroll.

9 (7) Within 72 hours after entering into an agent
10 contract or before the next athletic event in which the
11 student-athlete may participate, whichever occurs first, the
12 student-athlete must inform the athletic director of the
13 educational institution at which the student-athlete is
14 enrolled that he or she has entered into an agent contract.

15 (8) A student-athlete may cancel an agent contract by
16 giving notice of the cancellation to the athlete agent in a
17 record within 14 days after the contract is signed.

18 (9) A student-athlete may not waive the right to
19 cancel an agent contract.

20 (10) If a student-athlete cancels an agent contract,
21 the student-athlete is not required to pay any consideration
22 or return any consideration received from the athlete agent to
23 induce the student-athlete to enter into the contract.

24 ~~(1) An athlete agent and a student athlete who enter~~
25 ~~into an agent contract must provide written notice of the~~
26 ~~contract to the athletic director or the president of the~~
27 ~~college or university in which the student athlete is~~
28 ~~enrolled. The athlete agent and the student must give the~~
29 ~~notice before the contracting student athlete practices or~~
30 ~~participates in any intercollegiate athletic event or within~~
31 ~~72 hours after entering into said contract, whichever comes~~

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1 ~~first. Failure of the athlete agent to provide this~~
2 ~~notification is a felony of the third degree, punishable as~~
3 ~~provided in ss. 775.082, 775.083, 775.084, 775.089, and~~
4 ~~775.091.~~

5 ~~(2) A written contract between a student athlete and~~
6 ~~an athlete agent must state the fees and percentages to be~~
7 ~~paid by the student athlete to the agent and must have a~~
8 ~~notice printed near the student athlete's signature containing~~
9 ~~the following statement in 10-point boldfaced type:~~

10 ~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS~~
11 ~~CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO~~
12 ~~COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL~~
13 ~~PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED~~
14 ~~INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF~~
15 ~~YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO~~
16 ~~THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE~~
17 ~~ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS~~
18 ~~NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL~~
19 ~~YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY~~
20 ~~CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING~~
21 ~~OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE~~
22 ~~DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS~~
23 ~~CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR~~
24 ~~CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT~~
25 ~~RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE~~
26 ~~ATHLETICS."~~

27 ~~(3) An agent contract which does not meet the~~
28 ~~requirements of this section is void and unenforceable.~~

29 ~~(4) Within 15 days after the date the athletic~~
30 ~~director or president of the college or university of the~~
31 ~~student athlete receives the notice required by this section~~

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1 ~~that a student athlete has entered into an athlete agent~~
2 ~~contract, the student athlete shall have the right to rescind~~
3 ~~the contract with the athlete agent by giving written notice~~
4 ~~to the athlete agent of the student athlete's rescission of~~
5 ~~the contract. The student athlete may not under any~~
6 ~~circumstances waive the student athlete's right to rescind the~~
7 ~~agent contract.~~

8 ~~(5) A postdated agent contract is void and~~
9 ~~unenforceable.~~

10 (11)~~(6)~~ An athlete agent shall not enter into an agent
11 contract that purports to or takes effect at a future time
12 after the student athlete no longer has remaining eligibility
13 to participate in intercollegiate athletics. Such a contract
14 is void and unenforceable.

15 (12)~~(7)~~ An agent contract between a student athlete
16 and a person not licensed under this part is void and
17 unenforceable.

18 Section 112. Effective July 1, 2001, subsection (3) of
19 section 468.456, Florida Statutes, is amended to read:

20 468.456 Prohibited acts.--

21 (3) When the department finds any person guilty of any
22 of the prohibited acts set forth in subsection (1), the
23 department may enter an order imposing one or more of the
24 penalties provided for in s. 455.227, and an administrative
25 fine not to exceed \$25,000 for each separate offense. In
26 addition to any other penalties or disciplinary actions
27 provided for in this part, the department shall suspend or
28 revoke the license of any athlete agent licensed under this
29 part who violates paragraph (1)(f) or paragraph (1)(o) or s.
30 468.45615.

31 Section 113. Effective July 1, 2001, subsection (4) is

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1 added to section 468.45615, Florida Statutes, to read:

2 468.45615 Provision of illegal inducements to athletes
3 prohibited; penalties; license suspension.--

4 (4)(a) An athlete agent, with the intent to induce a
5 student-athlete to enter into an agent contract, may not:

6 1. Give any materially false or misleading information
7 or make a materially false promise or representation;

8 2. Furnish anything of value to a student-athlete
9 before the student-athlete enters into the agent contract; or

10 3. Furnish anything of value to any individual other
11 than the student-athlete or another athlete agent.

12 (b) An athlete agent may not intentionally:

13 1. Initiate contact with a student-athlete unless
14 licensed under this part;

15 2. Refuse or fail to retain or permit inspection of
16 the records required to be retained by s. 468.4565;

17 3. Provide materially false or misleading information
18 in an application for licensure;

19 4. Predate or postdate an agent contract;

20 5. Fail to give notice of the existence of an agent
21 contract as required by s. 468.454(6); or

22 6. Fail to notify a student-athlete before the
23 student-athlete signs or otherwise authenticates an agent
24 contract for a sport that the signing or authentication may
25 make the student-athlete ineligible to participate as a
26 student-athlete in that sport.

27 (c) An athlete agent who violates this subsection
28 commits a felony of the second degree, punishable as provided
29 in s. 775.082, s. 775.083, or s. 775.084.

30 Section 114. Effective July 1, 2001, section 468.4562,
31 Florida Statutes, is amended to read:

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1 468.4562 Civil action by institution.--

2 (1) A college or university may sue for damages, as
3 provided by this section, any person who violates this part.
4 A college or university may seek equitable relief to prevent
5 or minimize harm arising from acts or omissions which are or
6 would be a violation of this part.

7 (2) For purposes of this section, a college or
8 university is damaged if, because of activities of the person,
9 the college or university is penalized, or is disqualified, or
10 suspended from participation in intercollegiate athletics by a
11 national association for the promotion and regulation of
12 intercollegiate athletics, or by an intercollegiate athletic
13 conference or by reasonable self-imposed disciplinary action
14 taken to mitigate sanctions likely to be imposed by such
15 organization and, because of that penalty, disqualification,
16 or suspension, or action the institution:

17 (a) Loses revenue from media coverage of a sports
18 contest;

19 (b) Loses the right to grant an athletic scholarship;

20 (c) Loses the right to recruit an athlete;

21 (d) Is prohibited from participating in postseason
22 athletic competition;

23 (e) Forfeits an athletic contest; or

24 (f) Otherwise suffers an adverse financial impact.

25 (3) An institution that prevails in a suit brought
26 under this section may recover:

27 (a) Actual damages;

28 (b) Punitive damages;

29 (c) Treble damages;

30 (d) Court costs; and

31 (e) Reasonable attorney's fees.

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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 115. 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 116. Effective July 1, 2001, sections 468.4563
26 and 468.4564, Florida Statutes, are repealed.

27 Section 117. Section 702.09, Florida Statutes, is
28 amended to read:

29 702.09 Definitions.--For the purposes of ss. 702.07
30 and 702.08 the words "decree of foreclosure" shall include a
31 judgment or order rendered or passed in the foreclosure

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1 proceedings in which the decree of foreclosure shall be
2 rescinded, vacated, and set aside; the word "mortgage" shall
3 mean any written instrument securing the payment of money or
4 advances and shall include liens to secure payment of
5 assessments arising under chapters 718, 719, and 720; the word
6 "debt" shall include promissory notes, bonds, and all other
7 written obligations given for the payment of money; the words
8 "foreclosure proceedings" shall embrace every action in the
9 circuit or county courts of this state wherein it is sought to
10 foreclose a mortgage and sell the property covered by the
11 same; and the word "property" shall mean and include both real
12 and personal property.

13 Section 118. Paragraph (h) of subsection (4) and
14 subsection (5) of section 718.104, Florida Statutes, are
15 amended to read:

16 718.104 Creation of condominiums; contents of
17 declaration.--Every condominium created in this state shall be
18 created pursuant to this chapter.

19 (4) The declaration must contain or provide for the
20 following matters:

21 (h) If a developer reserves the right, in a
22 declaration recorded on or after July 1, 2000, to create a
23 multicondominium, the declaration must state, or provide a
24 specific formula for determining, the fractional or percentage
25 shares of liability for the common expenses of the association
26 and of ownership of the common surplus of the association to
27 be allocated to the units in each condominium to be operated
28 by the association. If a ~~the~~ declaration recorded on or after
29 July 1, 2000, for a condominium operated by a multicondominium
30 association, as originally recorded, fails to so provide, the
31 share of liability for the common expenses of the association

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1 and of ownership of the common surplus of the association
2 allocated to each unit in each condominium operated by the
3 association shall be a fraction of the whole, the numerator of
4 which is the number "one" and the denominator of which is the
5 total number of units in all condominiums operated by the
6 association.

7 (5) The declaration as originally recorded, or as
8 amended pursuant to the procedures provided therein, may
9 include covenants and restrictions concerning the use,
10 occupancy, and transfer of the units permitted by law with
11 reference to real property. With the exception of amendments
12 that materially modify unit appurtenances as provided in s.
13 718.110(4), amendments may be applied to owners of units
14 existing as of the effective date of the amendment. This
15 section is intended to clarify existing law and applies to
16 associations existing on the effective date of this act.
17 However, the rule against perpetuities shall not defeat a
18 right given any person or entity by the declaration for the
19 purpose of allowing unit owners to retain reasonable control
20 over the use, occupancy, and transfer of units.

21 Section 119. Paragraph (b) of subsection (2) of
22 section 718.106, Florida Statutes, is amended to read:

23 718.106 Condominium parcels; appurtenances; possession
24 and enjoyment.--

25 (2) There shall pass with a unit, as appurtenances
26 thereto:

27 (b) The exclusive right to use such portion of the
28 common elements as may be provided by the declaration,
29 including the right to transfer such right to other units or
30 unit owners to the extent authorized by the declaration as
31 originally recorded, or amendments to the declaration adopted

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1 pursuant to the provisions contained therein under s.
2 718.110(2). Amendments to declarations of condominium
3 providing for the transfer of use rights with respect to
4 limited common elements are not amendments which materially
5 modify unit appurtenances as described in s. 718.110(4).
6 However, in order to be effective, the transfer of use rights
7 with respect to limited common elements must be effectuated in
8 conformity with the procedures set forth in the declaration as
9 originally recorded or as amended. Further, such transfers
10 must be evidenced by a written instrument which must be
11 executed with the formalities of a deed and recorded in the
12 land records of the county in which the condominium is located
13 in order to be effective. Such instrument of transfer must
14 also specify the legal description of the unit which is
15 transferring use rights, as well as the legal description of
16 the unit obtaining the transfer of such rights. This section
17 is intended to clarify existing law and applies to
18 associations existing on the effective date of this act.

19 Section 120. Subsection (4) of section 718.110,
20 Florida Statutes, is amended to read:

21 718.110 Amendment of declaration; correction of error
22 or omission in declaration by circuit court.--

23 (4) Unless otherwise provided in the declaration as
24 originally recorded, no amendment may change the configuration
25 or size of any unit in any material fashion, materially alter
26 or modify the appurtenances to the unit, or change the
27 proportion or percentage by which the unit owner shares the
28 common expenses of the condominium and owns the common surplus
29 of the condominium unless the record owner of the unit and all
30 record owners of liens on the unit join in the execution of
31 the amendment and unless all the record owners of all other

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1 units in the same condominium approve the amendment. The
2 acquisition of property by the association, and material
3 alterations or substantial additions to such property or the
4 common elements by the association in accordance with s.
5 718.111(7) or s. 718.113, amendments providing for the
6 transfer of use rights in limited common elements pursuant to
7 s. 718.106(2)(b), and amendments restricting or modifying the
8 right to lease condominium units shall not be deemed to
9 constitute a material alteration or modification of the
10 appurtenances to the units. With the exception of amendments
11 that materially modify unit appurtenances as provided in this
12 section, amendments may be applied to owners of units existing
13 as of the effective date of the amendment. This section is
14 intended to clarify existing law and applies to associations
15 existing on the effective date of this act.A declaration
16 recorded after April 1, 1992, may not require the approval of
17 less than a majority of total voting interests of the
18 condominium for amendments under this subsection, unless
19 otherwise required by a governmental entity.

20 Section 121. Subsection (4), paragraph (a) of
21 subsection (7), and subsection (13) of section 718.111,
22 Florida Statutes, are amended to read:

23 718.111 The association.--

24 (4) ASSESSMENTS; MANAGEMENT OF COMMON ELEMENTS.--The
25 association has the power to make and collect assessments and
26 to lease, maintain, repair, and replace the common elements or
27 association property; however, the association may not charge
28 a use fee against a unit owner for the use of common elements
29 or association property unless otherwise provided for in the
30 declaration of condominium or by a majority vote of the
31 association or unless the charges relate to ~~expenses incurred~~

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1 by an owner having exclusive use of the common elements or
2 association property.

3 (7) TITLE TO PROPERTY.--

4 (a) The association has the power to acquire title to
5 property or otherwise hold, convey, lease, and mortgage
6 association property for the use and benefit of its members.
7 The power to acquire personal property shall be exercised by
8 the board of administration. Except as otherwise permitted in
9 subsections (8) and (9) and in s. 718.114, no association may
10 acquire, convey, ~~lease~~, or mortgage association real property
11 except in the manner provided in the declaration, and if the
12 declaration does not specify the procedure, then approval of
13 75 percent of the total voting interests shall be required.

14 (13) FINANCIAL REPORTING.--Within 90 days after the
15 end of the fiscal year, or annually on a date provided in the
16 bylaws, the association shall prepare and complete, or
17 contract for the preparation and completion of ~~cause to be~~
18 ~~prepared and completed by a third party~~, a financial report
19 for the preceding fiscal year. Within 21 days after the final
20 financial report is completed by the association or received
21 by the association from the third party, but in no event later
22 than 120 days after the end of the fiscal year, or such other
23 date as is provided in the bylaws, the association shall mail
24 to each unit owner at the address last furnished to the
25 association by the unit owner, or hand deliver to each unit
26 owner, a copy of the financial report or a notice that a copy
27 of the financial report will be mailed or hand delivered to
28 the unit owner, without charge, upon receipt of a written
29 request from the unit owner. The division shall adopt rules
30 setting forth uniform accounting principles and standards to
31 be used by all associations and shall adopt rules addressing

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1 financial reporting requirements for multicondominium
2 associations. In adopting such rules, the division shall
3 consider the number of members and annual revenues of an
4 association. Financial reports shall be prepared as follows:
5 (a) An association that meets the criteria of this
6 paragraph shall prepare or cause to be prepared a complete set
7 of financial statements in accordance with generally accepted
8 accounting principles. The financial statements shall be
9 based upon the association's total annual revenues, as
10 follows:
11 1. An association with total annual revenues of
12 \$100,000 or more, but less than \$200,000, shall prepare
13 compiled financial statements.
14 2. An association with total annual revenues of at
15 least \$200,000, but less than \$400,000, shall prepare reviewed
16 financial statements.
17 3. An association with total annual revenues of
18 \$400,000 or more shall prepare audited financial statements.
19 (b)1. An association with total annual revenues of
20 less than \$100,000 shall prepare a report of cash receipts and
21 expenditures.
22 2. An association which operates less than 50 units,
23 regardless of the association's annual revenues, shall prepare
24 a report of cash receipts and expenditures in lieu of
25 financial statements required by paragraph (a).
26 3. A report of cash receipts and disbursements must
27 disclose the amount of receipts by accounts and receipt
28 classifications and the amount of expenses by accounts and
29 expense classifications, including, but not limited to, the
30 following, as applicable: costs for security, professional and
31 management fees and expenses, taxes, costs for recreation

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1 facilities, expenses for refuse collection and utility
2 services, expenses for lawn care, costs for building
3 maintenance and repair, insurance costs, administration and
4 salary expenses, and reserves accumulated and expended for
5 capital expenditures, deferred maintenance, and any other
6 category for which the association maintains reserves.

7 (c) An association may prepare or cause to be
8 prepared, without a meeting of or approval by the unit owners:

9 1. Compiled, reviewed, or audited financial
10 statements, if the association is required to prepare a report
11 of cash receipts and expenditures;

12 2. Reviewed or audited financial statements, if the
13 association is required to prepare compiled financial
14 statements; or

15 3. Audited financial statements if the association is
16 required to prepare reviewed financial statements.

17 (d) If approved by a majority of the voting interests
18 present at a properly called meeting of the association, an
19 association may prepare or cause to be prepared:

20 1. A report of cash receipts and expenditures in lieu
21 of a compiled, reviewed, or audited financial statement;

22 2. A report of cash receipts and expenditures or a
23 compiled financial statement in lieu of a reviewed or audited
24 financial statement; or

25 3. A report of cash receipts and expenditures, a
26 compiled financial statement, or a reviewed financial
27 statement in lieu of an audited financial statement.

28

29 Such meeting and approval must occur prior to the end of the
30 fiscal year and is effective only for the fiscal year in which
31 the vote is taken. With respect to an association to which the

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1 developer has not turned over control of the association, all
2 unit owners, including the developer, may vote on issues
3 related to the preparation of financial reports for the first
4 2 fiscal years of the association's operation, beginning with
5 the fiscal year in which the declaration is recorded.
6 Thereafter, all unit owners except the developer may vote on
7 such issues until control is turned over to the association by
8 the developer.

9 Section 122. Subsection (3) of section 718.112,
10 Florida Statutes, is amended to read:

11 718.112 Bylaws.--

12 (3) OPTIONAL PROVISIONS.--The bylaws as originally
13 recorded, or as amended pursuant to the procedure provided
14 therein, may provide for the following:

15 (a) A method of adopting and amending administrative
16 rules and regulations governing the details of the operation
17 and use of the common elements.

18 (b) Restrictions on and requirements for the use,
19 maintenance, and appearance of the units and the use of the
20 common elements.

21 (c) Other provisions which are not inconsistent with
22 this chapter or with the declaration, as may be desired. This
23 subsection is intended to clarify existing law and applies to
24 associations existing on the effective date of this act.

25 Section 123. Subsection (2) of section 718.113,
26 Florida Statutes, is amended to read:

27 718.113 Maintenance; limitation upon improvement;
28 display of flag; hurricane shutters.--

29 (2)(a) Except as otherwise provided in this section,
30 there shall be no material alteration or substantial additions
31 to the common elements or to real property which is

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1 association property, except in a manner provided in the
2 declaration as originally recorded or as amended pursuant to
3 the procedures provided therein. If the declaration as
4 originally recorded or amended does not specify the procedure
5 for approval of material alterations or substantial additions,
6 75 percent of the total voting interests of the association
7 must approve the alterations or additions. This paragraph is
8 intended to clarify existing law and applies to associations
9 existing on the effective date of this act.

10 (b) There shall not be any material alteration of, or
11 substantial addition to, the common elements of any
12 condominium operated by a multicondominium association unless
13 approved in the manner provided in the declaration of the
14 affected condominium or condominiums as originally recorded,
15 or as amended pursuant to the procedures provided therein. If
16 a declaration as originally recorded or amended does not
17 specify a procedure for approving such an alteration or
18 addition, the approval of 75 percent of the total voting
19 interests of each affected condominium is required. This
20 subsection does not prohibit a provision in any declaration,
21 articles of incorporation, or bylaws as originally recorded or
22 amended requiring the approval of unit owners in any
23 condominium operated by the same association or requiring
24 board approval before a material alteration or substantial
25 addition to the common elements is permitted. This paragraph
26 is intended to clarify existing law and applies to
27 associations existing on the effective date of this act.

28 (c) There shall not be any material alteration or
29 substantial addition made to association real property
30 operated by a multicondominium association, except as provided
31 in the declaration, articles of incorporation, or bylaws as

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1 said documents are originally recorded or amended pursuant to
2 the procedures provided therein. If the declaration, articles
3 of incorporation, or bylaws do not specify the procedure for
4 approving an alteration or addition to association real
5 property, the approval of 75 percent of the total voting
6 interests of the association is required. This paragraph is
7 intended to clarify existing law and applies to associations
8 existing on the effective date of this act.

9 Section 124. Paragraphs (b) and (c) of subsection (1)
10 of section 718.115, Florida Statutes, are amended to read:

11 718.115 Common expenses and common surplus.--

12 (1)

13 (b) The common expenses of a condominium within a
14 multicondominium are the common expenses directly attributable
15 to the operation of that condominium. The common expenses of a
16 multicondominium association do not include the common
17 expenses directly attributable to the operation of any
18 specific condominium or condominiums within the
19 multicondominium. This paragraph is intended to clarify
20 existing law and applies to associations existing on the
21 effective date of this act.

22 (c) The common expenses of a multicondominium
23 association may include categories of expenses related to the
24 property or common elements within a specific condominium in
25 the multicondominium if such property or common elements are
26 areas in which all members of the multicondominium association
27 have use rights or from which all members receive tangible
28 economic benefits. Such common expenses of the association
29 shall be identified in the declaration or bylaws of each
30 condominium within the multicondominium association. This
31 paragraph is intended to clarify existing law and applies to

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1 associations existing on the effective date of this act.

2 Section 125. Subsections (1) and (4) of section
3 718.405, Florida Statutes, are amended to read:

4 718.405 Multicondominiums; multicondominium
5 associations.--

6 (1) An association may operate more than one
7 condominium. For multicondominiums created on or after July 1,
8 2000, if the declaration for each condominium to be operated
9 by that association shall provide ~~provides~~ for participation
10 in a multicondominium, in conformity with this section, and
11 disclose ~~discloses~~ or describe ~~describes~~:

12 (a) The manner or formula by which the assets,
13 liabilities, common surplus, and common expenses of the
14 association will be apportioned among the units within the
15 condominiums operated by the association, in accordance with
16 s. 718.104(4)(g) or (h), as applicable.

17 (b) Whether unit owners in any other condominium, or
18 any other persons, will or may have the right to use
19 recreational areas or any other facilities or amenities that
20 are common elements of the condominium, and, if so, the
21 specific formula by which the other users will share the
22 common expenses related to those facilities or amenities.

23 (c) Recreational and other commonly used facilities or
24 amenities which the developer has committed to provide that
25 will be owned, leased by, or dedicated by a recorded plat to
26 the association but which are not included within any
27 condominium operated by the association. The developer may
28 reserve the right to add additional facilities or amenities if
29 the declaration and prospectus for each condominium to be
30 operated by the association contains the following statement
31 in conspicuous type and in substantially the following form:

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1 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT
2 CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

3 (d) The voting rights of the unit owners in the
4 election of directors and in other multicondominium
5 association affairs when a vote of the owners is taken,
6 including, but not limited to, a statement as to whether each
7 unit owner will have a right to personally cast his or her own
8 vote in all matters voted upon.

9 (4) This section does not prevent or restrict the
10 formation of a multicondominium by the merger or consolidation
11 of two or more condominium associations. Mergers or
12 consolidations of associations shall be accomplished in
13 accordance with this chapter, the declarations of the
14 condominiums being merged or consolidated, and chapter 617.
15 Section 718.110(4) does not apply to amendments to
16 declarations necessary to effect a merger or consolidation.
17 This section is intended to clarify existing law and applies
18 to associations existing on the effective date of this act.

19 Section 126. Subsection (2) of section 718.503,
20 Florida Statutes, is amended to read:

21 718.503 Developer disclosure prior to sale;
22 nondeveloper unit owner disclosure prior to sale;
23 voidability.--

24 (2) NONDEVELOPER DISCLOSURE.--

25 (a) Each unit owner who is not a developer as defined
26 by this chapter shall comply with the provisions of this
27 subsection prior to the sale of his or her unit. Each
28 prospective purchaser who has entered into a contract for the
29 purchase of a condominium unit is entitled, at the seller's
30 expense, to a current copy of the declaration of condominium,
31 articles of incorporation of the association, bylaws, and

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1 rules of the association, ~~as well as a copy of the question~~
2 ~~and answer sheet provided for by s. 718.504~~ and a copy of the
3 financial information required by s. 718.111.

4 (b) If a person licensed under part I of chapter 475
5 provides to or otherwise obtains for a prospective purchaser
6 the documents described in this subsection, the person is not
7 liable for any error or inaccuracy contained in the documents.

8 (c) Each contract entered into after July 1, 1992, for
9 the resale of a residential unit shall contain in conspicuous
10 type either:

11 1. A clause which states: THE BUYER HEREBY
12 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF
13 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF
14 THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, AND A COPY
15 OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION ~~AND THE~~
16 ~~QUESTION AND ANSWER SHEET~~ MORE THAN 3 DAYS, EXCLUDING
17 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF
18 THIS CONTRACT; or

19 2. A clause which states: THIS AGREEMENT IS VOIDABLE
20 BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION
21 TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND
22 LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT
23 BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE
24 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS,
25 ~~AND~~ RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT
26 YEAR-END FINANCIAL INFORMATION ~~AND QUESTION AND ANSWER SHEET~~
27 IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE
28 VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND
29 THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS,
30 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE
31 BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION,

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1 BYLAWS, AND RULES, ~~AND QUESTION AND ANSWER SHEET~~ IF REQUESTED
2 IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL
3 TERMINATE AT CLOSING.

4
5 A contract that does not conform to the requirements of this
6 paragraph is voidable at the option of the purchaser prior to
7 closing.

8 Section 127. Subsection (15) of section 718.504,
9 Florida Statutes, is amended to read:

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

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

18 (15) If a the condominium created on or after July 1,
19 2000, is or may become part of a multicondominium, the
20 following information must be provided:

21 (a) A statement in conspicuous type in substantially
22 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
23 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
24 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately
25 following this statement, the location in the prospectus or
26 offering circular and its exhibits where the multicondominium
27 aspects of the offering are described must be stated.

28 (b) A summary of the provisions in the declaration,
29 articles of incorporation, and bylaws which establish and
30 provide for the operation of the multicondominium, including a
31 statement as to whether unit owners in the condominium will

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1 have the right to use recreational or other facilities located
2 or planned to be located in other condominiums operated by the
3 same association, and the manner of sharing the common
4 expenses related to such facilities.

5 (c) A statement of the minimum and maximum number of
6 condominiums, and the minimum and maximum number of units in
7 each of those condominiums, which will or may be operated by
8 the association, and the latest date by which the exact number
9 will be finally determined.

10 (d) A statement as to whether any of the condominiums
11 in the multicondominium may include units intended to be used
12 for nonresidential purposes and the purpose or purposes
13 permitted for such use.

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

17 Section 128. Subsections (4) through (17) of section
18 548.002, Florida Statutes, are renumbered as subsections (5)
19 through (17), respectively, present subsection (18) is
20 renumbered as subsection (19), and new subsections (4) and
21 (18) are added to said section to read:

22 548.002 Definitions.--As used in this act, the term:

23 (4) "Concessionaire" means any person or business
24 entity not licensed as a promoter which receives revenues or
25 other compensation from the sale of tickets or from the sale
26 of souvenirs, programs, broadcast rights, or any other
27 concessions in conjunction with the promotion of a match.

28 (18) "Second" or "cornerman" means a person who
29 assists the fight participant between rounds and maintains the
30 corner of the participant during the match.

31 Section 129. Section 548.015, Florida Statutes, is

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1 created to read:

2 548.015 Concessionaires; security.--The commission may
3 require that before any license is issued or renewed to a
4 concessionaire, or before the holding of a match, the
5 concessionaire must file a surety bond, a cash deposit, or
6 some other form of security with the commission in such
7 reasonable amount as the commission determines.

8 Section 130. Subsections (1) and (2) of section
9 548.003, Florida Statutes, are amended to read:

10 548.003 Florida State Boxing Commission; powers;
11 organization; meetings; accountability of commission members;
12 compensation and travel expenses; association membership and
13 participation.--

14 (1) The Florida State Boxing Commission is created and
15 is assigned to the Department of Business and Professional
16 Regulation for administrative and fiscal accountability
17 purposes only. The Florida State Boxing Commission shall
18 consist of five members appointed by the Governor, subject to
19 confirmation by the Senate. One member must be a physician
20 licensed pursuant to chapter 458 or chapter 459, who must
21 maintain an unencumbered license in good standing, and who
22 must, at the time of her or his appointment, have practiced
23 medicine for at least 5 years. Upon the expiration of the term
24 of a commissioner, the Governor shall appoint a successor to
25 serve for a 4-year term. A commissioner whose term has expired
26 shall continue to serve on the commission until such time as a
27 replacement is appointed. If a vacancy on the commission
28 occurs prior to the expiration of the term, it shall be filled
29 for the unexpired portion of the term in the same manner as
30 the original appointment.

31 (2) The Florida State Boxing Commission, as created by

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1 subsection (1), shall administer the provisions of this
2 chapter. The commission has authority to adopt rules pursuant
3 to ss. 120.536(1) and 120.54 to implement the provisions of
4 this chapter and to implement each of the duties and
5 responsibilities conferred upon the commission, including, but
6 not limited to:

7 (a) Development of an ethical code of conduct for
8 commissioners, commission staff, and commission officials;

9 (b) Facility and safety requirements relating to the
10 ring, floor plan and apron seating, emergency medical
11 equipment and services, and other equipment and services
12 necessary for the conduct of a program of matches;

13 (c) Requirements regarding a participant's apparel,
14 bandages, handwraps, gloves, mouthpiece, and appearance during
15 a match;

16 (d) Requirements relating to a manager's
17 participation, presence, and conduct during a match;

18 (e) Duties and responsibilities of all licensees under
19 this chapter;

20 (f) Procedures for hearings and resolution of
21 disputes;

22 (g) Qualifications for appointment of referees and
23 judges;

24 (h) Qualifications for and appointment of chief
25 inspectors and inspectors, and duties and responsibilities of
26 chief inspectors and inspectors with respect to oversight and
27 coordination of activities for each program of matches
28 regulated under this chapter;

29 (i) Designation and duties of a knockdown timekeeper;
30 and

31 (j) Setting fee and reimbursement schedules for

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1 referees and other officials appointed by the commission or
2 the representative of the commission.

3 Section 131. The Florida State Boxing Commission shall
4 conduct a review and analysis of boxing competitions not now
5 regulated or sanctioned and shall provide recommendations to
6 the Department of Business and Professional Regulation and the
7 Legislature regarding any rules or legislation necessary to
8 achieve effective regulation.

9 Section 132. Section 548.017, Florida Statutes, is
10 amended to read:

11 548.017 Boxers, managers, and other persons required
12 to have licenses.--

13 (1) A professional participant, manager, trainer,
14 second, timekeeper, referee, judge, announcer, physician,
15 matchmaker, concessionaire, or booking agent or representative
16 of a booking agent shall be licensed before directly or
17 indirectly acting in such capacity in connection with any
18 match involving a professional. A physician must be licensed
19 pursuant to chapter 458 or chapter 459, must maintain an
20 unencumbered license in good standing, and must demonstrate
21 satisfactory medical training or experience in boxing, or a
22 combination of both, to the executive director prior to
23 working as the ringside physician.

24 (2) A violation of this section is a misdemeanor of
25 the second degree, punishable as provided in s. 775.082 or s.
26 775.083.

27 Section 133. Section 548.021, Florida Statutes, is
28 amended to read:

29 548.021 Applications for licenses and permits.--

30 (1) An application for a license or a permit must:

31 (a) ~~(1)~~ Be in writing on a form supplied by the

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1 commission which shall contain the applicant's social security
2 number.

3 (b)(2) Be verified by the applicant.

4 (c)(3) Be complete and have attached to the
5 application any photographs and other exhibits required.

6 (2)(4) Pursuant to the federal Personal Responsibility
7 and Work Opportunity Reconciliation Act of 1996, each party is
8 required to provide his or her social security number in
9 accordance with this section. Disclosure of social security
10 numbers obtained through this requirement shall be limited to
11 the purpose of administration of the Title IV-D program for
12 child support enforcement.

13 (3) Any person who seeks to obtain a license by means
14 of a knowingly false or fraudulent representation made in any
15 application or who otherwise knowingly makes false statements
16 concerning her or his medical history, boxing record, or other
17 personal information commits a misdemeanor of the second
18 degree, punishable as provided in s. 775.082 or s. 775.083.

19 Section 134. Section 548.024, Florida Statutes, is
20 created to read:

21 548.024 Background investigation of applicants for
22 licensure.--

23 (1) The commission is authorized to adopt rules
24 pursuant to ss. 120.536(1) and 120.54 which provide for
25 background investigations of applicants for licensure under
26 this chapter for the purpose of ensuring the accuracy of the
27 information provided in the application; ensuring that there
28 are no active or pending criminal or civil indictments against
29 the applicant; and ensuring satisfaction of all other
30 requirements of this chapter. The background investigation may
31 include, but is not limited to, the criminal and financial

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1 history of the applicant.

2 (2) If the commission requires a background criminal
3 history investigation of any applicant, it shall require the
4 applicant to submit to the department a fingerprint card for
5 this purpose. The fingerprint card shall be forwarded to the
6 Division of Criminal Justice Information Systems within the
7 Department of Law Enforcement and the Federal Bureau of
8 Investigation for purposes of processing the fingerprint card
9 to determine if the applicant has a criminal history record.
10 The information obtained by the processing of the fingerprint
11 card by the Department of Law Enforcement and the Federal
12 Bureau of Investigation shall be sent to the department for
13 the purpose of determining if the applicant is statutorily
14 qualified for licensure.

15 Section 135. Section 548.028, Florida Statutes, is
16 amended to read:

17 548.028 Refusal to issue license.--The commission
18 shall not issue a license to:

19 (1) Any person or business entity that ~~who in any~~
20 ~~jurisdiction~~ has been convicted of any act, or who has a
21 trustee, partner, officer, director, or owner that has been
22 convicted of any act, which would constitute a violation of
23 this chapter or which would constitute any of the grounds set
24 forth in this chapter for suspension or revocation of a
25 license or against whom such charges are pending before any
26 regulatory body; or

27 (2) Any person or business entity that ~~who~~ has been
28 named in any an information or indictment, or who has a
29 trustee, partner, officer, director, or owner that has been
30 named in an information or indictment, for any act which would
31 constitute a violation of this chapter or a ground for

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1 suspension or revocation of a license.

2 Section 136. Section 548.041, Florida Statutes, is
3 amended to read:

4 (Substantial rewording of section. See

5 s. 548.041, F.S., for present text.)

6 548.041 Age, condition, and suspension of boxers.--

7 (1) A person shall not be licensed as a participant,

8 and the license of any participant shall be suspended or

9 revoked, if such person:

10 (a) Is under the age of 18;

11 (b) Has participated in a match in this state which

12 was not sanctioned by the commission or sanctioned by a Native

13 American commission properly constituted under federal law; or

14 (c) Does not meet certain health and medical

15 examination conditions as required by rule of the commission.

16 (2)(a) A participant losing by knockout as a result of

17 being counted out in any jurisdiction shall be automatically

18 suspended for a period of time as determined by the attending

19 physician or commission representative, or 60 calendar days

20 from the date of the knockout, whichever is longer. A

21 participant shall not engage in any match, contact exhibition,

22 or contact sparring for training purposes during the

23 suspension period. After the suspension period and prior to

24 engaging in any match, contact exhibition, or contact sparring

25 for training purposes, the participant shall be examined by a

26 physician. The participant shall advise the physician of the

27 previous knockout or technical draw and shall provide medical

28 records or his or her permission for the physician to consult

29 with the treating physician at the time of the previous

30 knockout or technical draw. The results of this examination

31 shall be filed with the commission prior to any further

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1 matches being approved for the participant.

2 (b) A participant losing by technical knockout,
3 technical draw, or disqualification shall be automatically
4 suspended for a period of time to be determined by the
5 physician or commission representative, or 30 calendar days
6 from the date of the technical knockout, technical draw, or
7 disqualification, whichever is longer. A participant shall not
8 engage in any match, contact exhibition, or contact sparring
9 for training purposes during the suspension period without the
10 approval of the physician. After the suspension period and
11 prior to engaging in any match, contact exhibition, or contact
12 sparring for training purposes, the participant shall be
13 examined by a physician. The participant shall advise the
14 physician of the previous knockout or technical draw and shall
15 provide medical records or his or her permission for the
16 physician to consult with the treating physician at the time
17 of the previous knockout or technical draw. The results of
18 this examination shall be filed with the commission prior to
19 any further matches being approved for the participant. In the
20 case of a disqualification, the commission representative
21 shall determine whether a medical clearance shall be required
22 following suspension.

23 (c) Any participant who has been suspended by any
24 state as a result of a recent knockout or series of
25 consecutive losses, an injury, requirement for a medical
26 procedure, physician denial of certification, failure of a
27 drug test, the use of false aliases, or the falsifying or
28 attempting to falsify official identification cards or
29 documents shall not be permitted to participate in this state
30 until such time as the state in which the participant is
31 suspended removes his or her name from the suspension list or

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1 until the requirements of such suspension have been fulfilled
2 and proof of such has been provided to this state. If a
3 participant has been suspended in another state for any reason
4 other than those stated in this paragraph, the participant may
5 be permitted to participate if the state in which the
6 participant is suspended is notified and consulted with by
7 this state prior to the granting of approval to participate or
8 the participant appeals to the Association of Boxing
9 Commissions and the association determines that the suspension
10 of such participant was without sufficient grounds, for an
11 improper purpose, or not related to the health and safety of
12 the participant.

13 (d) Any participant who fails to appear at a match or
14 fails to appear at a match at the designated time for which
15 the participant or the participant's manager has contracted
16 and does not provide a valid reason or, in the case of
17 physical disability, furnish a physician's certificate, shall
18 be suspended for a period to be determined by the commission
19 or shall be fined or both, as determined by the commission.

20 (e) The license of any participant shall be revoked
21 and shall not be reinstated if such participant intentionally
22 strikes, strikes at, or touches in any way or threatens to
23 touch in any way, any official.

24 Section 137. Subsection (4) is added to section
25 548.043, Florida Statutes, to read:

26 548.043 Weights and classes, limitations; gloves.--

27 (4) Participants in a match shall be weighed on the
28 same scale at a time and place to be determined by the
29 commission or a commission representative. The weigh-in shall
30 be conducted in the presence of the opponent of the
31 participant and a commission representative. If a participant

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1 fails to arrive at the weigh-in at the scheduled time and
2 place, the opponent of the late-arriving participant will be
3 permitted to be weighed without the late-arriving participant
4 present. The participant who arrived at the weigh-in on time
5 shall not lose his right of observing the weighing in of his
6 opponent. The weigh-in shall occur no sooner than 4:00 p.m.
7 on the day preceding the date of the program of matches or at
8 such other time as designated by the commission or commission
9 representative.

10 Section 138. Section 548.046, Florida Statutes, is
11 amended to read:

12 548.046 Physician's attendance at match; examinations;
13 cancellation of match.--

14 (1) The commission, or the commission representative,
15 shall assign to each match at least one a physician who shall
16 observe the physical condition of the participants and advise
17 the commissioner or commission representative ~~deputy~~ in charge
18 and the referee of the participants' conditions before, ~~and~~
19 during, and after the match. The commission shall establish a
20 schedule of fees for the physician's services. The
21 physician's fee shall be paid by the promoter of the match
22 attended by the physician. The physician shall be considered
23 an agent of the commission in determining the state insurance
24 coverage and sovereign immunity protection applicability of
25 ss. 284.31 and 768.28.

26 (2)(a) In addition to any other required examination,
27 each participant shall be examined by the attending physician
28 at the time of weigh-in. If the physician determines that a
29 participant is physically or mentally unfit to proceed, the
30 physician shall notify any commissioner or the commission
31 representative who shall immediately cancel the match. The

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1 examination shall conform to rules adopted by the commission
2 ~~based on the advice of the medical advisory council.~~ The
3 result of the examination shall be reported in a writing
4 signed by the physician and filed with the commission prior to
5 completion of the weigh-in.

6 (b) The commission may require, by rule, each
7 participant to present to the commission representative at the
8 time of the weigh-in an original copy of blood test results
9 which demonstrate whether the participant is free from any
10 communicable disease. If the rules of the commission require
11 the presentation of such results and the blood test results
12 are not presented as required by commission rule or reveal the
13 participant has a communicable disease, the commission
14 representative shall immediately cancel the match. The
15 commission may adopt, by rule, protocols and procedures for
16 the blood tests and the cancellation of a match, a list of
17 communicable diseases covered by this paragraph, and a time
18 period within which the blood test must be taken prior to the
19 match.

20 (3)(a) In a match which is a sanctioned championship
21 title fight, or whenever the commission representative has
22 reason to believe that a participant has ingested or used a
23 prohibited drug or foreign substance, the commission
24 representative shall request and the participant shall
25 provide, under the supervision of the attending physician,
26 commission representative, or inspector, a sample or samples
27 of his or her urine taken not less than 1 hour before the
28 commencement of the match nor more than 1 hour after the
29 conclusion of the match. No participant shall use substances
30 or methods which could alter the integrity of the urine
31 sample. Urine samples shall be taken in accordance with the

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1 protocol as agreed upon in writing between the commission and
2 the laboratory used for processing the urine samples.

3 (b) The commission may require urine samples, as
4 provided in paragraph (a), to be conducted randomly. In the
5 event one participant in a match is tested randomly, then the
6 other participant in the match shall be tested also.

7 (c) Failure or refusal to provide a urine sample
8 immediately upon request shall result in the revocation of the
9 participant's license. Any participant who has been adjudged
10 the loser of a match and who subsequently refuses to or is
11 unable to provide a urine sample shall forfeit his or her
12 share of the purse to the commission. Any participant who is
13 adjudged the winner of a match and who subsequently refuses to
14 or is unable to provide a urine sample shall forfeit the win
15 and shall not be allowed to engage in any future match in
16 Florida. A no decision result shall be entered into the
17 official record as the result of the match. The purse shall be
18 redistributed as though the participant found to be in
19 violation of this subsection had lost the match. If
20 redistribution of the purse is not necessary or after
21 redistribution of the purse is completed, the participant
22 found to be in violation of this subsection shall forfeit his
23 or her share of the purse to the commission.

24 (4) The attending physician or physicians shall
25 provide medical assistance at the facility, to the commission
26 representative, and medical advice to the referee during the
27 match, and shall be accorded the cooperation of all commission
28 representatives and licensees present for the purpose of
29 performing his or her medical duties. If, in the opinion of
30 the attending physician, the referee has received an injury
31 which prohibits the referee from continuing to officiate, the

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1 physician shall notify the commission representative who shall
2 temporarily halt the match. The injured referee shall be
3 attended to by the physician until the referee is no longer in
4 danger or has been transferred to the care of another
5 qualified person. The commission representative shall then
6 direct the match to continue under the supervision of the
7 referee or under the supervision of another referee, if the
8 referee is unable to continue.

9 Section 139. Section 548.049, Florida Statutes, is
10 amended to read:

11 548.049 Medical, surgical, and hospital insurance;
12 life insurance.--

13 (1) The commission shall, by rule, require
14 participants to be covered by not less than ~~\$20,000~~^{\$2,500} of
15 insurance for medical, surgical, and hospital care required as
16 a result of injuries sustained while engaged in matches. The
17 insured shall be the beneficiary of such policies. Any
18 deductible associated with the insurance policy shall be paid
19 by the promoter and shall not be paid by or charged to the
20 participant.

21 (2) The commission may also require participants to be
22 covered by not less than ~~\$20,000~~^{\$5,000} of life insurance
23 covering deaths caused by injuries received while engaged in
24 matches.

25 Section 140. Subsection (1) of section 548.05, Florida
26 Statutes, is amended to read:

27 548.05 Control of contracts.--

28 (1) The commission shall adopt rules governing the
29 form and content of contracts executed in this state between
30 managers between promoters, foreign copromoters, and
31 professionals. All such contracts shall be in writing and

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1 shall contain all provisions specifically worded as required
2 by rules of the commission. Contracts which do not contain all
3 provisions specifically worded as required by rules of the
4 commission shall be deemed to contain such provisions. A copy
5 of all such contracts shall be filed with the commission
6 within 7 calendar days of execution.

7 Section 141. Subsections (6) through (11) are added to
8 section 548.057, Florida Statutes, to read:

9 548.057 ~~Attendance of Referee and judges; attendance~~
10 at match; scoring; seconds.--

11 (6) No judge licensed in this state shall act as a
12 judge at any match in a state, territory, commonwealth, or
13 Native American Reservation that is not regulated by a state
14 boxing commission unless the match is supervised by a state
15 boxing commission or a Native American commission properly
16 constituted under federal law.

17 (7) No judge shall also serve as a supervisor or on
18 the ratings committee or recommend boxers to the ratings
19 committee for a sanctioning body.

20 (8) Any person whose application for a judge's license
21 has been denied shall not be permitted to reapply for a
22 judge's license for a period of 6 months. Any person whose
23 application for a judge's license has been denied on three
24 occasions shall not be permitted to reapply.

25 (9) The number of judges shall be assigned in
26 accordance with rules of the commission. The number of
27 unofficial judges at each event shall be limited to three by
28 the commission.

29 (10) The judges shall be located in seats designated
30 for them by the commission representative.

31 (11) In the event that sufficient judges are not

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1 available, a referee shall be selected to act as a judge for
2 that specific program of matches.

3 Section 142. Present subsections (2) and (3) of
4 section 548.06, Florida Statutes, are renumbered as
5 subsections (5) and (6), respectively, and new subsections
6 (2), (3), and (4) are added to said section to read:

7 548.06 Payments to state; exemptions.--

8 (2) Where the rights to telecast a match or matches
9 held in Florida to be viewed in Florida or outside of Florida
10 are in whole owned by, sold to, acquired by, or held by any
11 person who intends to sell, subsequently sells, or, in some
12 other manner, extends such rights in part to another, such
13 person is deemed to be a promoter and must be licensed as such
14 in this state. Such person shall, within 72 hours after the
15 match, file with the commission a written report that includes
16 the number of tickets sold, the amount of gross receipts, and
17 any other facts the commission may require.

18 (3) A concessionaire shall, within 72 hours after the
19 match, file with the commission a written report that includes
20 the number of tickets sold, the amount of gross receipts, and
21 any other facts the commission may require.

22 (4) Any written report required to be filed with the
23 commission under this section shall be postmarked within 72
24 hours after the conclusion of the match, and an additional 5
25 days shall be allowed for mailing.

26 Section 143. Section 548.074, Florida Statutes, is
27 amended to read:

28 548.074 Power to administer oaths, take depositions,
29 and issue subpoenas.--For the purpose of any investigation or
30 proceeding conducted pursuant to this chapter, the department
31 shall have the power to administer oaths, take depositions,

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1 make inspections when authorized by statute, issue subpoenas
 2 which shall be supported by affidavit, serve subpoenas and
 3 other process, and compel the attendance of witnesses and the
 4 production of books, papers, documents, and other evidence.
 5 The department shall exercise this power on its own initiative
 6 or whenever requested by the commission. Challenges to, and
 7 enforcement of, subpoenas and orders shall be handled as
 8 provided in s. 120.569.~~In addition to the powers of subpoena~~
 9 ~~in chapter 120, each member of the commission may issue~~
 10 ~~subpoenas requiring the attendance and testimony of, or the~~
 11 ~~production of books and papers by, any person whom the~~
 12 ~~commission believes to have information or documents of~~
 13 ~~importance to any commission investigation.~~

14 Section 144. Section 548.075, Florida Statutes, is
 15 amended to read:

16 548.075 Administrative fines; citations.--

17 (1) The commission may impose a fine of not more than
 18 \$5,000 for any violation of this chapter in lieu of or in
 19 addition to any other punishment provided for such violation.

20 (2) The commission may adopt rules pursuant to ss.
 21 120.54 and 120.536(1) to permit the issuance of citations for
 22 any violation of this chapter in lieu of or in addition to any
 23 other punishment provided for such violation.

24 Section 145. Section 548.045, Florida Statutes, is
 25 repealed.

26 Section 146. Section 455.2281, Florida Statutes, is
 27 amended to read:

28 455.2281 Unlicensed activities; fees; disposition.--In
 29 order to protect the public and to ensure a consumer-oriented
 30 department, it is the intent of the Legislature that vigorous
 31 enforcement of regulation for all professional activities is a

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1 state priority. All enforcement costs should be covered by
2 professions regulated by the department. Therefore, the
3 department shall impose, upon initial licensure and each
4 renewal thereof, a special fee of \$5 per licensee. Such fee
5 shall be in addition to all other fees collected from each
6 licensee and shall fund efforts to combat unlicensed activity.
7 Any profession regulated by the department which offers
8 services that are not subject to regulation when provided by
9 an unlicensed person may use funds in its unlicensed activity
10 account to inform the public of such situation.The board with
11 concurrence of the department, or the department when there is
12 no board, may earmark \$5 of the current licensure fee for this
13 purpose, if such board, or profession regulated by the
14 department, is not in a deficit and has a reasonable cash
15 balance. A board or profession regulated by the department may
16 authorize the transfer of funds from the operating fund
17 account to the unlicensed activity account of that profession
18 if the operating fund account is not in a deficit and has a
19 reasonable cash balance.The department shall make direct
20 charges to this fund by profession and shall not allocate
21 indirect overhead. The department shall seek board advice
22 regarding enforcement methods and strategies prior to
23 expenditure of funds; however, the department may, without
24 board advice, allocate funds to cover the costs of continuing
25 education compliance monitoring under s. 455.2177. The
26 department shall directly credit, by profession, revenues
27 received from the department's efforts to enforce licensure
28 provisions, including revenues received from fines collected
29 under s. 455.2177. The department shall include all financial
30 and statistical data resulting from unlicensed activity
31 enforcement and from continuing education compliance

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1 monitoring as separate categories in the quarterly management
2 report provided for in s. 455.219. The department shall not
3 charge the account of any profession for the costs incurred on
4 behalf of any other profession. For an unlicensed activity
5 account, a balance which remains at the end of a renewal cycle
6 may, with concurrence of the applicable board and the
7 department, be transferred to the operating fund account of
8 that profession.

9 Section 147. Subsection (4) is added to section
10 473.313, Florida Statutes, to read:

11 473.313 Inactive status.--

12 (4) Notwithstanding the provisions of s. 455.271, the
13 board may, at its discretion, reinstate the license of an
14 individual whose license has become null and void if the
15 individual has made a good-faith effort to comply with this
16 section but has failed to comply because of illness or unusual
17 hardship. The individual shall apply to the board for
18 reinstatement in a manner prescribed by rules of the board and
19 shall pay an application fee in an amount determined by rule
20 of the board. The board shall require that such an individual
21 meet all continuing education requirements as provided in s.
22 473.312, pay appropriate licensing fees, and otherwise be
23 eligible for renewal of licensure under this chapter.

24 Section 148. Section 399.001, Florida Statutes, is
25 created to read:

26 399.001 Short title and purpose.--This chapter may be
27 cited as the "Elevator Safety Act." The purpose of this
28 chapter is to provide for the safety of life and limb and to
29 promote public safety awareness. The use of unsafe and
30 defective lifting devices imposes a substantial probability of
31 serious and preventable injury and exposes employees and the

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1 public to unsafe conditions. The prevention of these injuries
2 and the protection of employees and the public from unsafe
3 conditions is in the best interest of the public. Elevator
4 personnel performing work covered by the Florida Building Code
5 must possess documented training or experience or both and be
6 familiar with the operation and safety functions of the
7 components and equipment. Training and experience includes,
8 but is not limited to, recognizing the safety hazards and
9 performing the procedures to which they are assigned in
10 conformance with the requirements of the Florida Building
11 Code. This chapter establishes the minimum standards for
12 elevator personnel.

13 Section 149. Section 399.01, Florida Statutes, is
14 amended to read:

15 399.01 Definitions.--As used in this chapter, the
16 term:

17 (1) "Alteration" means any change or addition to the
18 vertical conveyance equipment other than maintenance, repair,
19 or replacement.

20 (2) "Certificate of competency" means a document
21 issued by the division which evidences the competency of a
22 person to construct, install, inspect, maintain, or repair any
23 vertical conveyance elevator.

24 (3) "Certificate of operation" means a document issued
25 by the department which indicates that the conveyance has had
26 the required safety inspection and tests and that fees have
27 been paid as provided in this chapter.

28 (4) "Conveyance" means an elevator, dumbwaiter,
29 escalator, moving sidewalk, platform lift, and stairway
30 chairlift.

31 (5) "Department" means the Department of Business and

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1 ~~Professional Regulation that authorizes an elevator owner to~~
2 ~~operate the elevator and that is issued to the elevator owner~~
3 ~~when the division finds that the elevator complies with the~~
4 ~~requirements of this chapter.~~

5 (6)(4) "Division" means the Division of Hotels and
6 Restaurants of the Department of Business and Professional
7 Regulation.

8 (7)(5) "Elevator" means one of the following
9 mechanical devices:

10 (a) A hoisting and lowering mechanism, equipped with a
11 car and platform that moves in guide rails and serves two or
12 more landings to transport material or passengers or both.

13 (b) An escalator, which is a power-driven, inclined
14 continuous stairway used for raising or lowering passengers.

15 (c) A dumbwaiter, which is a hoisting and lowering
16 mechanism equipped with a car of limited size which moves in
17 guide rails and serves two or more landings.

18 (d) A moving walk, which is a type of
19 passenger-carrying device on which passengers stand or walk
20 and in which the passenger-carrying surface remains parallel
21 to its direction of motion and is uninterrupted.

22 (e) An inclined stairway chairlift, which is a device
23 used to transport physically handicapped persons over
24 architectural barriers.

25 (f) An inclined or vertical wheelchair lift, which is
26 a device used to transport wheelchair handicapped persons over
27 architectural barriers.

28 (8) "Escalator" means an installation defined as an
29 escalator in the Florida Building Code.

30 (9) "Existing installation" means an installation
31 defined as an "installation, existing" in the Florida Building

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1 Code.

2 (10) "Elevator Safety Technical Advisory Committee"
3 means the committee appointed by the Secretary of the
4 Department of Business and Professional Regulation.

5 (11) "Private residence" means a separate dwelling or
6 a separate apartment in a multiple dwelling which is occupied
7 by members of a single-family unit.

8 ~~(6) "Elevator company" means any person that~~
9 ~~constructs, installs, inspects, maintains, or repairs any~~
10 ~~elevator.~~

11 (12)(7) "Service maintenance contract" means a
12 contract that provides for routine examination, lubrication,
13 cleaning, adjustment, replacement of parts, and performance of
14 applicable code-required safety tests such as on a traction
15 elevator and annual relief pressure test on a hydraulic
16 elevator and any other service, repair, and maintenance
17 sufficient to ensure the safe operation of the elevator.

18 (13) "Temporarily dormant conveyance" means a
19 conveyance whose power supply has been disconnected by
20 removing fuses and placing a padlock on the mainline
21 disconnect switch in the "OFF" position. The car is parked and
22 the hoistway doors are in the closed and latched position. A
23 wire seal is installed on the mainline disconnect switch by a
24 certificate of competency elevator inspector. This
25 installation may not be used again until it has been put in
26 safe running order and is in condition for use. Annual
27 inspections shall continue for the duration of the temporarily
28 dormant status by a certificate of competency elevator
29 inspector. The temporarily dormant status is renewable on an
30 annual basis and may not exceed a 5-year period. The inspector
31 shall file a report with the chief elevator inspector

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1 describing the current conditions. The wire seal and padlock
2 may not be removed for any purpose without permission from the
3 elevator inspector.

4 (14) "Temporary operation permit" means a document
5 issued by the department which permits the temporary use of a
6 noncompliant vertical conveyance as provided by rule.

7 (15) "Registered elevator company" means an entity
8 registered with and authorized by the division employing
9 persons to construct, install, inspect, maintain, or repair
10 any vertical conveyance. Each registered elevator company must
11 annually register with the division and maintain general
12 liability insurance coverage in the minimum amounts set by the
13 division.

14 (16) "Certified elevator inspector" is a natural
15 person registered with and authorized by the division to
16 construct, install, inspect, maintain, or repair any vertical
17 conveyance, after having properly acquired the qualified
18 elevator inspector credential from the National Association of
19 Elevator Safety Authorities. Such person shall remain so
20 authorized by the division only upon providing annual proof of
21 completion of 8 hours of continuing education and the
22 qualified elevator inspector credential remains in good
23 standing with the National Association of Elevator Safety
24 Authorities. A licensed mechanical engineer whose license is
25 in good standing may be authorized as a certified elevator
26 inspector by the division. Each certified elevator inspector
27 must annually register with the division and maintain general
28 liability insurance coverage in the minimum amounts set by the
29 division.

30 (17) "Certified elevator technician" means a natural
31 person authorized by the division to construct, install,

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1 maintain, or repair any vertical conveyance, after having been
2 issued an elevator certificate of competency by the division.
3 Each certified elevator technician must annually register with
4 the division and maintain general liability insurance coverage
5 in the minimum amounts set by the division.

6 (18) "Elevator helper" means a natural person
7 performing work under the direct supervision of a certified
8 elevator inspector or an elevator technician to construct,
9 install, maintain, or repair any vertical conveyance.

10 (19) "Elevator certificate of competency" means a
11 credential issued by the division to any individual natural
12 person successfully completing an examination as prescribed by
13 rule and paying a fee of \$50. Such credential shall be valid
14 for and expire at the end of 1 year, and may be renewed by the
15 division when the division receives proof of the elevator
16 certificate of competency holder's completion of 8 hours of
17 continuing education and a renewal fee of \$50.

18
19 All other building transportation terms are defined in the
20 current Florida Building Code.

21 Section 150. Section 399.02, Florida Statutes, is
22 amended to read:

23 399.02 General requirements.--

24 (1) The Elevator Safety Technical Advisory Committee
25 division shall develop and submit to the Division of Hotels
26 and Restaurants recommendations regarding revisions to the
27 elevator safety code so that it is the same as or similar to
28 the latest versions of ASME A17.1, ASME A17.3, and ASME A18.1.
29 Florida Building Commission for consideration an elevator
30 safety code, which, when adopted within the Florida Building
31 Code, applies to the installation, relocation, or alteration

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1 of an elevator for which a permit has been issued after
2 October 1, 1990, and which must be the same as or similar to
3 the latest revision of "The Safety Code for Elevators and
4 Escalators ASME A17.1."

5 (2) This chapter covers the design, construction,
6 operation, inspection, testing, maintenance, alteration, and
7 repair of the following equipment and its associated parts and
8 hoistways:

9 (a) Hoisting and lowering mechanisms equipped with a
10 car or platform which move between two or more landings. This
11 equipment includes, but is not limited to, elevators, platform
12 lifts, and stairway chairlifts.

13 (b) Power-driven stairways and walkways for carrying
14 persons between landings. This equipment includes, but is not
15 limited to, escalators and moving walks.

16 (c) Hoisting and lowering mechanisms equipped with a
17 car which serves two or more landings and is restricted to the
18 carrying of material by its limited size or limited access to
19 the car. This equipment includes, but is not limited to,
20 dumbwaiters, material lifts, and dumbwaiters with
21 automatic-transfer devices.

22 (3) Equipment not covered by this chapter includes,
23 but is not limited to:

24 (a) Personnel hoists and material hoists within the
25 scope of ASME A10, as adopted by the Florida Building Code.

26 (b) Man lifts within the scope of ASME A90.1, as
27 adopted by the Florida Building Code.

28 (c) Mobile scaffolds, towers, and platforms within the
29 scope of ANSI A92, as adopted by the Florida Building Code.

30 (d) Powered platforms and equipment for exterior and
31 interior maintenance within the scope of ASME A120.1, as

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1 adopted by the Florida Building Code.

2 (e) Conveyors and related equipment within the scope
3 of ASME B20.1, as adopted by the Florida Building Code.

4 (f) Cranes, derricks, hoists, hooks, jacks, and slings
5 within the scope of ASME B30, as adopted by the Florida
6 Building Code.

7 (g) Industrial trucks within the scope of ASME B56, as
8 adopted by the Florida Building Code.

9 (h) Portable equipment, except for portable escalators
10 that are covered by the Florida Building Code.

11 (i) Tiered or piling machines used to move materials
12 to and from storage located and operating entirely within one
13 story.

14 (j) Equipment for feeding or positioning materials at
15 machine tools and printing presses.

16 (k) Skip or furnace hoists.

17 (l) Wharf ramps.

18 (m) Railroad car lifts or dumpers.

19 (n) Line jacks, false cars, shafters, moving
20 platforms, and similar equipment used for installing an
21 elevator by a contractor licensed in this state.

22 (o) Automated people movers at airports.

23 (p) Elevators in television and radio towers.

24 (q) Hand-operated dumbwaiters.

25 (r) Sewage pump station lifts.

26 (s) Automobile parking lifts.

27 (t) Equipment covered in s. 1.2 of the Elevator Safety
28 Code.

29 (u) Elevators, inclined stairway chairlifts, and
30 inclined or vertical wheelchair lifts located in private
31 residences.

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1 ~~(2)(a) The requirements of this chapter apply to~~
2 ~~equipment covered by s. 1.1 of the Elevator Safety Code.~~

3 ~~(b) The equipment not covered by this chapter~~
4 ~~includes, but is not limited to, the following: elevators,~~
5 ~~inclined stairway chairlifts, and inclined or vertical~~
6 ~~wheelchair lifts located in private residences; elevators in~~
7 ~~television and radio towers; hand-operated dumbwaiters; sewage~~
8 ~~pump station lifts; automobile parking lifts; and equipment~~
9 ~~covered in s. 1.2 of the Elevator Safety Code.~~

10 ~~(4)(3)~~ Each elevator shall have a serial number
11 assigned by the department ~~division~~ painted on or attached to
12 the elevator car in plain view and also to the driving
13 mechanism. This serial number shall be shown on all required
14 certificates and permits.

15 ~~(5)(4)~~(a) The construction permitholder is responsible
16 for the correction of violations and deficiencies until the
17 elevator has been inspected and a certificate of operation has
18 been issued by the department ~~division~~. The construction
19 permitholder is responsible for all tests of new and altered
20 equipment until the elevator has been inspected and a
21 certificate of operation has been issued by the department
22 ~~division~~.

23 (b) The elevator owner is responsible for the safe
24 operation and proper maintenance of the elevator after it has
25 been inspected and a certificate of operation has been issued
26 by the department ~~division~~. The responsibilities of the
27 elevator owner may be assigned by lease.

28 (c) The elevator owner shall report to the department
29 ~~division~~ 60 days before the expiration of the certificate of
30 operation whether there exists a service maintenance contract,
31 with whom the contract exists, and the details concerning the

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1 provisions and implementation of the contract which the
2 department division requires. The department division shall
3 keep the names of companies with whom the contract exists
4 confidential pursuant to the public records exemption provided
5 in s. 119.14(4)(b)3. This annual contract report must be made
6 on forms supplied by the department division. The elevator
7 owner must report any material change in the service
8 maintenance contract no fewer than 30 days before the
9 effective date of the change. The department division shall
10 determine whether the provisions of the service maintenance
11 contract and its implementation ensure the safe operation of
12 the elevator.

13 ~~(d) Each elevator company must register and have on~~
14 ~~file with the division a certificate of comprehensive general~~
15 ~~liability insurance evidencing coverage limits in the minimum~~
16 ~~amounts of \$100,000 per person and \$300,000 per occurrence and~~
17 ~~the name of at least one employee who holds a current~~
18 ~~certificate of competency issued under s. 399.045.~~

19 ~~(6)(5)~~ The department division is empowered to carry
20 out all of the provisions of this chapter relating to the
21 inspection and regulation of elevators and to enforce the
22 provisions of the Florida Building Code ~~which govern elevators~~
23 ~~and conveying systems in conducting the inspections authorized~~
24 ~~under this part to provide for the protection of the public~~
25 ~~health, welfare, and safety.~~

26 ~~(7)(6)~~ The Elevator Safety Technical Advisory
27 Committee division shall annually review the provisions of the
28 Safety Code for Elevators and Escalators ASME A17.1, ASME
29 A18.1, or other related model codes and amendments thereto,
30 concurrent with the update of the Florida Building Code and
31 recommend to the Florida Building Commission revisions to the

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1 Florida Building Code to maintain the protection of the public
2 health, safety, and welfare.

3 Section 151. Section 399.03, Florida Statutes, is
4 amended to read:

5 399.03 Design, installation, and alteration of
6 conveyances elevators.--

7 (1) A conveyance covered by this chapter may not be
8 erected, constructed, installed, or altered within buildings
9 or structures unless a permit has been obtained from the
10 department before the work is commenced. When any material
11 alteration is made, the device must conform to applicable
12 requirements of the Florida Building Code for the alteration.
13 A permit required hereunder may not be issued except to a
14 person, firm, or corporation holding a current elevator
15 contractor's license issued under this chapter. A copy of the
16 permit must be kept at the construction site at all times
17 while the work is in progress.

18 (2) The department shall provide by rule for permit
19 application requirements and permit fees.

20 (3) Permits may be revoked for the following reasons:

21 (a) There are any false statements or
22 misrepresentations as to the material facts in the
23 application, plans, or specifications on which the permit was
24 based.

25 (b) The permit was issued in error and not in
26 accordance with the code or rules.

27 (c) The work detailed under the permit is not being
28 performed in accordance with the provisions of the
29 application, plans, or specifications or with the code or
30 conditions of the permit.

31 (d) The construction permitholder to whom the permit

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1 was issued fails or refuses to comply with a stop work order.

2 (4) A permit expires if:

3 (a) The work authorized by the permit is not commenced
4 within 6 months after the date of issuance, or within a
5 shorter period of time as the department may specify at the
6 time the permit is issued.

7 (b) The work is suspended or abandoned for a period of
8 60 days, or such shorter period of time as the department may
9 specify at the time the permit is issued, after the work has
10 been started. For good cause, the department may allow a
11 discretionary extension for the foregoing period.

12 (5) All new conveyance installations must be performed
13 by a person to whom a license to install or service a
14 conveyance has been issued. Subsequent to installation, the
15 licensed person, firm, or company must certify compliance with
16 the applicable sections of this chapter and the Florida
17 Building Code. Before any vertical conveyance is used, except
18 those in a private residence it must be inspected by a
19 licensed inspector not employed or associated with the
20 elevator construction permitholder and certified as meeting
21 the safety provisions of the Florida Building Code. Upon
22 successful inspection, the owner or lessee must apply to the
23 department for a certificate of operation from the department.
24 A fee as prescribed in this chapter must be paid for the
25 certificate of operation. It is the responsibility of the
26 licensed elevator construction permitholder to complete and
27 submit a first-time registration for a new installation.
28 Vertical conveyances, including stairway chairlifts, and
29 inclined or vertical wheelchair lifts located in private
30 residences are not required to obtain a certificate of
31 operation under this chapter.

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1 (6) A certificate of operation expires July 31 of each
2 year and must be renewed prior to continued use of the
3 conveyance. A certificate of operation must be clearly
4 displayed on or in each conveyance or in the machine room for
5 use by and for the benefit of inspectors and code enforcement
6 personnel. Certificates of operation may only be renewed for
7 vertical conveyances having a current satisfactory inspection.

8 (7) The permitholder shall notify the department, in
9 writing, at least 7 days before completion of the work and
10 shall, in the presence of a licensed elevator inspector not
11 associated with or employed by the installing company or
12 contractor, subject the newly installed, relocated, or altered
13 portions of the elevator to tests required to show that the
14 elevator meets the applicable provisions of the Florida
15 Building Code.

16 (8)(1) Each elevator shall comply with the edition of
17 the Florida Building Code or Elevator Safety Code that was in
18 effect at the time of receipt of application for the
19 construction permit for the elevator.

20 (9)(2) Each alteration to, or relocation of, an
21 elevator shall comply with the edition of the Florida Building
22 Code or Elevator Safety Code that was in effect at the time of
23 receipt of the application for the construction permit for the
24 alteration or relocation.

25 (10)(3) When any change is made in the classification
26 of an elevator, the elevator shall comply with all of the
27 requirements of the version of the Florida Building Code or
28 Elevator Safety Code that were in effect at the time of
29 receipt of the application for the construction permit for the
30 change in classification.

31 Section 152. Section 399.049, Florida Statutes, is

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1 created to read:

2 399.049 Certificate of competency.--

3 (1) SUSPENSION OR REVOCATION OF LICENSE OR CERTIFICATE
 4 OF COMPETENCY.--The department may suspend or revoke a license
 5 or certificate of competency issued under this chapter or
 6 impose an administrative penalty of up to \$1,000 per violation
 7 upon any licensee or certificateholder who commits any one or
 8 more of the following violations:

9 (a) Any false statement as to a material matter in the
 10 application.

11 (b) Fraud, misrepresentation, or bribery in securing a
 12 license or certificate of competency.

13 (c) Failure to notify the department and the
 14 certificate-of-operation holder of a conveyance covered by
 15 this chapter that is not in compliance with the provisions of
 16 the elevator safety code incorporated into the Florida
 17 Building Code.

18 (d) Violation of any provision of this chapter.

19 (2) DISCIPLINARY ACTION.--Any disciplinary action
 20 taken under this chapter must comply with chapter 120 and any
 21 rules adopted thereunder.

22 Section 153. Section 399.061, Florida Statutes, is
 23 amended to read:

24 399.061 Inspections; correction of deficiencies.--

25 (1)(a) All elevators or other conveyances subject to
 26 this chapter must be annually inspected by a certified
 27 elevator inspector through a third-party inspection service,
 28 or by a municipality or county under contract with the
 29 division, pursuant to s. 399.13. If the elevator or other
 30 conveyance is by a third-party inspection service certified as
 31 a qualified elevator inspector or maintained pursuant to a

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1 service maintenance contract continuously in force, it shall
2 be inspected at least once every 2 years by a certified
3 elevator inspector who is not employed by or otherwise
4 associated with the maintenance company; however, if the
5 elevator is not an escalator or a dumbwaiter, serves only two
6 adjacent floors, and is covered by a service maintenance
7 contract, an inspection is not required so long as the service
8 contract remains in effect. A statement verifying the
9 existence, performance, and cancellation of each service
10 maintenance contract must be filed annually with the division
11 as prescribed by rule. All elevators covered by a service
12 maintenance contract shall be inspected by a
13 certificate-of-competency holder at least once every 2 years;
14 however, if the elevator is not an escalator or a dumbwaiter
15 and the elevator serves only two adjacent floors and is
16 covered by a service maintenance contract, no inspection shall
17 be required so long as the service contract remains in effect.

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

21 (2) The division may shall employ state elevator
22 inspectors to conduct the inspections as required by
23 subsection (1) and may charge an inspection fee for each
24 inspection in an amount sufficient to cover the costs of that
25 inspection, as provided by rule. Each state elevator inspector
26 shall hold a certificate of competency issued by the division.

27 (3) Whenever the division determines from the results
28 of any inspection that, in the interest of the public safety,
29 an elevator is in an unsafe condition, the division may seal
30 the elevator or order the discontinuance of the use of the
31 elevator until the division determines by inspection that such

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1 elevator has been satisfactorily repaired or replaced so that
2 the elevator may be operated in a safe manner.

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

6 Section 154. Section 399.07, Florida Statutes, is
7 amended to read:

8 399.07 Certificates of operation; temporary operation
9 permits; fees.--

10 (1)(a) A certificate of operation may not be issued
11 until the elevator company supervisor signs an affidavit
12 stating that the elevator company supervisor directly
13 supervised construction or installation of the elevator.

14 (b) The certificate of operation is valid for a period
15 of 1 year unless sooner suspended or revoked. The department
16 ~~division~~ shall by rule adopt a fee schedule for the renewal of
17 certificates of operation. The renewal period commences on
18 August 1 of each year.

19 (c) The certificate of operation must be posted in a
20 conspicuous location on the elevator and must be framed with a
21 transparent cover.

22 (d) The department ~~division~~ shall charge an annual fee
23 for issuance of a certificate of operation in amount to be set
24 by rule. ~~The fee must be set by rule in an amount not to~~
25 ~~exceed \$100 for an elevator not covered by a service~~
26 ~~maintenance contract or \$50 for an elevator covered by a~~
27 ~~service maintenance contract.~~ However, a renewal application
28 for a certificate of operation filed with the department after
29 expiration date of the certificate must be accompanied by a
30 delinquency fee of \$50 in addition to the annual renewal fee
31 and any other fees required by law. The fees must be deposited

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1 into the Hotel and Restaurant Trust Fund.

2 (2)(a) The department ~~division~~ may issue a temporary
3 operation permit authorizing the temporary use of an elevator
4 during installation or alteration to an elevator company or
5 general contractor acting as a general agent of an elevator
6 company. A temporary operation permit may not be issued until
7 the elevator has been inspected by a state elevator inspector
8 and tested under contract load; the hoistway is fully
9 enclosed; the hoistway doors and interlocks are installed; the
10 car is completely enclosed, including door or gate and top;
11 all electrical safety devices are installed and properly
12 functioning; and terminal stopping equipment is in place for a
13 safe runby and proper clearance. When a car is provided with
14 a temporary enclosure, the operating means must be by constant
15 pressure push-button or lever-type switch. The car may not
16 exceed the minimum safe operating speed of the elevator, and
17 the governor tripping speed must be set in accordance with the
18 operating speed of the elevator.

19 (b) A temporary operation permit must be issued for a
20 period not to exceed 30 days. The permit may be renewed at
21 the discretion of the department ~~division~~.

22 (c) When a temporary operation permit is issued, the
23 permit, together with a notice bearing a statement that the
24 elevator has not been finally approved by a state elevator
25 inspector, must be conspicuously posted in the elevator.

26 (d) The department ~~division~~ shall charge a fee, set by
27 rule in an amount not greater than \$100, for each temporary
28 operation permit. The fee must be deposited in the Hotel and
29 Restaurant Trust Fund.

30 (3) The certificate of operation shall contain the
31 text of s. 823.12, relating to the prohibition against smoking

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1 in elevators.

2 (4) In addition to subsection (3), the designation "NO
3 SMOKING" along with the international symbol for no smoking
4 shall be conspicuously displayed within the interior of the
5 elevator in the plain view of the public.

6 (5) Except as authorized by a temporary operation
7 permit, the operation or use of any newly installed,
8 relocated, or altered elevator is prohibited until the
9 elevator has passed the tests and inspections required by this
10 chapter and a certificate of operation has been issued.

11 (6) The department ~~division~~ may suspend any
12 certificate of operation if it finds that the elevator is not
13 in compliance with this chapter or of rules adopted under this
14 chapter. The suspension remains in effect until the
15 department ~~division~~ determines, by inspection, that the
16 elevator has been brought into compliance.

17 Section 155. Section 399.10, Florida Statutes, is
18 amended to read:

19 399.10 Enforcement of law.--It shall be the duty of
20 the department ~~division~~ to enforce the provisions of this
21 chapter. The department ~~division~~ shall have rulemaking
22 authority to carry out the provisions of this chapter.

23 Section 156. Section 399.105, Florida Statutes, is
24 amended to read:

25 399.105 Administrative fines.--

26 (1) Any person who fails to comply with the reporting
27 requirements of s. 399.02 or with the reasonable requests of
28 the department ~~division~~ to determine whether the provisions of
29 a service maintenance contract and its implementation assure
30 safe elevator operation is subject to an administrative fine
31 not greater than \$1,000 ~~\$500~~ in addition to any other penalty

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1 provided by law.

2 (2) Any person who commences the operation,
3 installation, relocation, or alteration of any elevator for
4 which a permit or certificate is required by this chapter
5 without having obtained from the department ~~division~~ the
6 permit or certificate is subject to an administrative fine not
7 greater than \$1,000 ~~\$500~~ in addition to any other penalty
8 provided by law. No fine may be imposed under this subsection
9 for commencing installation without a construction permit if
10 such permit is issued within 60 days after the actual
11 commencement of installation.

12 (3) An elevator owner who continues to operate an
13 elevator after notice to discontinue its use is subject to an
14 administrative fine not greater than \$1,000 ~~\$500~~ for each day
15 the elevator has been operated after the service of the
16 notice, in addition to any other penalty provided by law.

17 (4) An elevator owner who fails to comply with an
18 order issued under s. 399.061(4) within 60 days after its
19 issuance is subject, in addition to any other penalty provided
20 by law, to an administrative fine set by the department
21 ~~division~~ in an amount not to exceed \$1,000 ~~\$500~~.

22 (5) All administrative fines collected shall be
23 deposited into the Hotel and Restaurant Trust Fund.

24 Section 157. Section 399.106, Florida Statutes, is
25 created to read:

26 399.106 Elevator Safety Technical Advisory
27 Committee.--

28 (1) The Elevator Safety Technical Advisory Committee
29 is created within the Department of Business and Professional
30 Regulation, Division of Hotels and Restaurants, consisting of
31 seven members to be appointed by the Secretary of the

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1 Department of Business and Professional Regulation as follows:
2 one representative from a major elevator manufacturing company
3 or its authorized representative; one representative from an
4 elevator servicing company; one representative from a building
5 design profession; one representative of the general public;
6 one representative of a local government in this state; one
7 representative of a building owner or manager; and one
8 representative of labor involved in the installation,
9 maintenance, and repair of elevators. The purpose of the
10 Committee is to provide technical assistance to the division
11 in support of protecting the health, safety, and welfare of
12 the public; to give the division the benefit of the committee
13 members' knowledge and experience concerning the industries
14 and individual businesses affected by the laws and rules
15 administered by the division.

16 (2) The committee members shall serve staggered terms
17 of 4 years to be set by rule without salary, but may receive
18 from the state expenses for per diem and travel. The
19 commission shall appoint one of the members to serve as chair.

20 (3) The committee shall meet and organize not later
21 than 45 days prior to the convening of the 2002 Legislature.
22 This committee terminates December 31, 2003.

23 (4) The committee may consult with engineering
24 authorities and organizations concerned with standard safety
25 codes for recommendations to the department regarding rules
26 and regulations governing the operation, maintenance,
27 servicing, construction, alteration, installation, or
28 inspection of vertical conveyances subject to this chapter.

29 Section 158. Section 399.11, Florida Statutes, is
30 amended to read:

31 399.11 Penalties.--

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1 (1) Any person who violates any of the provisions of
2 this chapter or the rules of the department ~~division~~ is guilty
3 of a misdemeanor of the second degree, punishable as provided
4 in s. 775.082 or s. 775.083.

5 (2) Any person who falsely represents himself or
6 herself as credentialed under this chapter ~~a holder of a~~
7 ~~certificate of competency issued pursuant to s. 399.045~~ is
8 guilty of a misdemeanor of the second degree, punishable as
9 provided in s. 775.082 or s. 775.083.

10 Section 159. Section 399.125, Florida Statutes, is
11 amended to read:

12 399.125 Reporting of elevator accidents or incidents;
13 penalties.--Within 5 working days after any accident or
14 incident occurring in or upon any elevator, the certificate of
15 operation holder shall report the accident or incident to the
16 division on a forum prescribed by the division. Failure to
17 timely file this report is a violation of this chapter and
18 will subject the certificate of operation holder which
19 ~~accident results in bodily injury or death to any person and~~
20 ~~which is presumptively caused by the malfunction of the~~
21 ~~equipment or misuse by a passenger of the equipment, the~~
22 ~~elevator owner shall report to the division the date and time~~
23 ~~of the accident, the location of the elevator involved in the~~
24 ~~accident, whether there exists a service maintenance contract,~~
25 ~~and, if so, with whom. Any elevator owner who fails to file~~
26 ~~such report within 5 working days after an accident is subject~~
27 to an administrative fine, to be imposed by the division, in
28 an amount not to exceed \$1,000~~\$500~~.

29 Section 160. Section 399.13, Florida Statutes, is
30 amended to read:

31 399.13 Delegation of authority to municipalities or

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1 counties.--

2 (1) The department ~~division~~ may enter into contracts
3 with municipalities or counties under which such
4 municipalities or counties will issue construction permits,
5 temporary operation permits, and certificates of operation;
6 will provide inspection of elevators; and will enforce the
7 applicable provisions of the Florida Building Code, as
8 required by this chapter. Each such agreement shall include a
9 provision that the municipality or county shall maintain for
10 inspection by the department ~~division~~ copies of all
11 applications for permits issued, a copy of each inspection
12 report issued, and proper records showing the number of
13 certificates of operation issued; shall include a provision
14 that each required inspection be conducted by the holder of a
15 certificate of competency issued by the department ~~division~~;
16 and may include such other provisions as the department
17 ~~division~~ deems necessary.

18 (2) The department ~~division~~ may make inspections of
19 elevators in such municipality or county for the purpose of
20 determining that the provisions of this chapter are being met
21 and may cancel the contract with any municipality or county
22 which the department ~~division~~ finds has failed to comply with
23 such contract or the provisions of this chapter. The
24 amendments to chapter 399 by this act shall apply only to the
25 installation, relocation, or alteration of an elevator for
26 which a permit has been issued after October 1, 1990.

27 Section 161. Sections 399.045 and 399.05, Florida
28 Statutes, are repealed.

29 Section 162. Sections 162-164 of this act may be cited
30 as the "Debbie Wasserman Schultz Act."

31 Section 163. Greyhound adoptions.--

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1 (1) Each dogracing permitholder operating a dogracing
2 facility in this state shall provide for a greyhound-adoption
3 booth to be located at the facility. The greyhound-adoption
4 booth must be operated on weekends by personnel or volunteers
5 from a bona fide organization that promotes or encourages the
6 adoption of greyhounds pursuant to section 550.1647, Florida
7 Statutes. As used in this section, the term "weekend" includes
8 the hours during which live greyhound racing is conducted on
9 Friday, Saturday, or Sunday. Information pamphlets and
10 application forms shall be provided to the public upon
11 request. In addition, the kennel operator or owner shall
12 notify the permitholder that a greyhound is available for
13 adoption and the permitholder shall provide information
14 concerning the adoption of a greyhound in each race program
15 and shall post adoption information at conspicuous locations
16 throughout the dogracing facility. Any greyhound that is
17 participating in a race and that will be available for future
18 adoption must be noted in the race program. The permitholder
19 shall allow greyhounds to be walked through the track facility
20 to publicize the greyhound-adoption program.

21 (2) In addition to the charity days authorized under
22 section 550.0351, Florida Statutes, a greyhound permitholder
23 may fund the greyhound-adoption program by holding a charity
24 racing day designated as "Greyhound Adopt-A-Pet Day." All
25 profits derived from the operation of the charity day must be
26 placed into a fund used to support activities at the racing
27 facility which promote the adoption of greyhounds. The
28 division may adopt rules for administering the fund. Proceeds
29 from the charity day authorized in this subsection may not be
30 used as a source of funds for the purposes set forth in
31 section 550.1647, Florida Statutes.

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1 (3)(a) Upon a violation of this section by a
2 permitholder or licensee, the division may impose a penalty as
3 provided in section 550.0251(10), Florida Statutes, and
4 require the permitholder to take corrective action.

5 (b) A penalty imposed under section 550.0251(10),
6 Florida Statutes, does not exclude a prosecution for cruelty
7 to animals or for any other criminal act.

8 Section 164. Section 550.1647, Florida Statutes, is
9 amended to read:

10 550.1647 Greyhound permitholders; unclaimed tickets;
11 breaks.--All money or other property represented by any
12 unclaimed, uncashed, or abandoned pari-mutuel ticket which has
13 remained in the custody of or under the control of any
14 permitholder authorized to conduct greyhound racing
15 pari-mutuel pools in this state for a period of 1 year after
16 the date the pari-mutuel ticket was issued, if the rightful
17 owner or owners thereof have made no claim or demand for such
18 money or other property within that period of time, shall,
19 with respect to live races conducted by the permitholder, be
20 remitted to the state pursuant to s. 550.1645; however, such
21 permitholder shall be entitled to a credit in each state
22 fiscal year in an amount equal to the actual amount remitted
23 in the prior state fiscal year which may be applied against
24 any taxes imposed pursuant to this chapter. In addition, each
25 permitholder shall pay, from any source, including the
26 proceeds from performances conducted pursuant to s. 550.0351,
27 an amount not less than 10 percent of the amount of the credit
28 provided by this section to any bona fide organization that
29 promotes or encourages the adoption of greyhounds. As used in
30 this section, the term "bona fide organization that promotes
31 or encourages the adoption of greyhounds" means any

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1 organization that provides evidence of compliance with chapter
 2 496 and possesses a valid exemption from federal taxation
 3 issued by the Internal Revenue Service. Such bona fide
 4 organization, as a condition of adoption, must provide
 5 sterilization of greyhounds by a licensed veterinarian before
 6 relinquishing custody of the greyhound to the adoptor. The fee
 7 for sterilization may be included in the cost of adoption.

8 Section 165. Except as otherwise expressly provided in
 9 this act, this act shall take effect October 1, 2001.

10

11

12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 Delete everything before the enacting clause

15

16 and insert:

17

A bill to be entitled

18

An act relating to the Department of Business
and Professional Regulation; amending s.

19

20

20.165, F.S.; renaming the Division of Florida

21

Land Sales, Condominiums, and Mobile Homes as

22

the Division of Condominiums, Timeshare, and

23

Mobile Homes; including reference to the Board

24

of Barbering and Cosmetology; revising minimum

25

requirements for the number of consumer members

26

on professional licensing boards; repealing

27

provisions relating to the transfer of board

28

locations; amending ss. 326.001, 326.002,

29

326.003, 326.004, 326.006, F.S.; transferring

30

the regulation of yacht and ship brokers and

31

salespersons from the Division of Florida Land

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1 Sales, Condominiums, and Mobile Homes to the
2 Division of Professions; revising provisions
3 relating to criminal history checks and
4 administrative and civil penalties; requiring
5 that all funds collected pursuant to such
6 regulation be deposited into the Professional
7 Regulation Trust Fund; revising references;
8 amending s. 399.061, F.S.; revising provisions
9 relating to the inspection of elevators;
10 amending s. 455.213, F.S.; providing for the
11 content of licensure and renewal documents;
12 providing for the electronic submission of
13 information to the department; providing that
14 all legal obligations must be met before the
15 issuance or renewal of a license; amending s.
16 455.224, F.S.; authorizing any division of the
17 department to issue citations in the
18 enforcement of its regulatory provisions in
19 accordance with the provisions established for
20 such purposes for the regulation of
21 professions; amending ss. 468.401, 468.402,
22 468.403, 468.404, 468.406, 468.407, 468.410,
23 468.412, 468.413, 468.414, 468.415, F.S.;
24 providing for registration of talent agencies
25 in lieu of licensure; conforming provisions;
26 providing penalties; repealing ss. 468.405 and
27 468.408, F.S., relating to qualification for
28 talent agency license and bonding requirements;
29 amending s. 468.609, F.S.; authorizing direct
30 supervision by building code administrators by
31 telecommunications devices in certain

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1 localities and under specified circumstances;
2 amending s. 468.627, F.S.; requiring the
3 payment of costs for certain building code
4 enforcement applicants who fail to appear for
5 scheduled examinations, subject to waiver in
6 case of hardship; amending s. 471.025, F.S.;
7 allowing for more than one type of seal to be
8 used by professional engineers; amending s.
9 472.003, F.S.; providing exemption from ch.
10 472, F.S., relating to land surveying and
11 mapping, for certain subordinate employees;
12 revising cross-references; amending s. 472.005,
13 F.S.; revising and providing definitions;
14 revising cross-references; amending s. 472.029,
15 F.S.; revising provisions relating to access to
16 lands of others for surveying or mapping
17 purposes; providing applicability to
18 subordinates; requiring certain notice;
19 amending s. 810.12, F.S.; revising provisions
20 relating to trespass, to conform; amending ss.
21 472.001, 472.011, 472.015, 472.021, 472.027,
22 472.031, 472.037, F.S.; revising
23 cross-references; amending s. 475.01, F.S.;
24 clarifying that chapter 475 is applicable to
25 brokers acting as trustees or fiduciaries;
26 amending s. 476.034, F.S.; redefining the term
27 "board"; amending s. 476.054, F.S.; creating
28 the Board of Barbering and Cosmetology;
29 providing certain compensation; requiring an
30 oath and providing for a certificate of
31 appointment; providing for officers, meetings,

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1 and quorum; amending s. 476.064, F.S.;

2 conforming provisions; amending ss. 476.014,

3 476.074, 476.154, 476.194, 476.214, 476.234,

4 F.S.; revising references; amending s. 477.013,

5 F.S.; defining the term "board"; repealing s.

6 477.015, F.S., relating to the Board of

7 Cosmetology; abolishing the Barbers' Board and

8 the Board of Cosmetology; providing for

9 appointment of all members of the Board of

10 Barbering and Cosmetology to staggered terms;

11 providing savings clauses for rules and legal

12 actions; amending s. 477.019, F.S.; revising

13 requirements related to continuing education

14 providers and courses; eliminating a

15 requirement for refresher courses and

16 examinations for failure of cosmetology

17 licensees to comply with continuing education

18 requirements; amending s. 477.026, F.S.;

19 providing authority for registration renewal

20 and delinquent fees for hair braiders, hair

21 wrappers, and body wrappers; amending s.

22 481.209, F.S.; revising requirements relating

23 to education for licensure as an architect;

24 amending s. 481.223, F.S.; providing for

25 injunctive relief for certain violations

26 relating to architecture and interior design;

27 amending s. 489.107, F.S.; reducing the number

28 of members on the Construction Industry

29 Licensing Board; creating s. 489.1133, F.S.;

30 providing for temporary certificates and

31 registrations; amending s. 489.115, F.S.;

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1 eliminating references to divisions of the
2 Construction Industry Licensing Board; amending
3 s. 489.118, F.S.; revising grandfathering
4 provisions for certification of registered
5 contractors to qualify persons holding certain
6 registered local specialty licenses; repealing
7 s. 489.507(6), F.S., to delete a duplicate
8 provision relating to appointment of committees
9 of the Construction Industry Licensing Board
10 and the Electrical Contractors' Licensing Board
11 for the purpose of meeting jointly twice each
12 year; requiring the Electrical Contractors'
13 Licensing Board to develop a plan to reduce its
14 annual operating budget by a specified amount
15 and submit such plan to the department by a
16 specified date; amending s. 489.511, F.S.;
17 revising provisions relating to licensure as an
18 electrical or alarm system contractor by
19 endorsement; amending s. 489.537, F.S.;
20 revising the power of municipalities and
21 counties with respect to regulating electrical
22 journeymen; amending ss. 498.005, 498.019,
23 498.049, F.S.; reassigning the regulation of
24 land sales from the Division of Florida Land
25 Sales, Condominiums, and Mobile Homes to the
26 Division of Real Estate; requiring all funds
27 collected by the department pursuant to the
28 regulation of land sales to be deposited in the
29 Professional Regulation Trust Fund; amending s.
30 190.009, F.S.; conforming terminology; amending
31 ss. 718.103, 718.105, 718.112, 718.1255,

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1 718.501, 718.502, 718.504, 718.508, 718.509,
2 718.608, 719.103, 719.1255, 719.501, 719.502,
3 719.504, 719.508, 719.608, 721.05, 721.07,
4 721.08, 721.26, 721.28, 721.301, 721.50,
5 721.82, 721.84, 723.003, 723.006, 723.0065,
6 723.009, F.S.; renaming the Division of Florida
7 Land Sales, Condominiums, and Mobile Homes as
8 the Division of Condominiums, Timeshare, and
9 Mobile Homes; renaming the Division of Florida
10 Land Sales, Condominiums, and Mobile Homes
11 Trust Fund as the Division of Condominiums,
12 Timeshare, and Mobile Homes Trust Fund;
13 conforming provisions; revising language with
14 respect to condominium association bylaws;
15 revising language with respect to the annual
16 budget; providing for reserves under certain
17 circumstances; providing and limiting
18 arbitration of disputes by the division to
19 those regarding elections and the recall of
20 board members; deleting reference to voluntary
21 mediation; providing for the resolution of
22 certain other complaints at the local level;
23 providing exemptions; providing for expedited
24 handling of election disputes; requiring the
25 continuation of arbitration of cases filed by a
26 certain date; providing a contingent
27 appropriation; providing division enforcement
28 powers and duties; providing for injunction,
29 restitution, and civil penalties; providing
30 certain immunity; providing for use of certain
31 documents as evidence; providing for certain

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1 notice; providing for intervention in suits;
2 locating the executive offices of the division
3 in Tallahassee; authorizing branch offices;
4 providing for adoption and use of a seal;
5 providing applicability to specified chapters
6 of the Florida Statutes; amending s. 721.82,
7 F.S.; redefining the term "registered agent";
8 amending s. 721.84, F.S.; providing for
9 appointment of a successor registered agent;
10 amending ss. 73.073, 192.037, 213.053, 215.20,
11 380.0651, 455.116, 475.455, 509.512, 559.935,
12 F.S.; conforming terminology; amending s.
13 468.452, F.S.; revising definitions; amending
14 s. 468.453, F.S.; revising licensure
15 requirements; providing for service of process
16 on nonresident agents; providing for temporary
17 licenses; deleting a bond requirement;
18 providing for reciprocity; amending s. 468.454,
19 F.S.; revising contract requirements; providing
20 for cancellation of contracts; amending s.
21 468.456, F.S.; providing for increased
22 administrative fines; amending s. 468.45615,
23 F.S.; providing additional criminal penalties
24 for certain acts; amending s. 468.4562, F.S.;
25 revising provisions relating to civil remedies
26 available to colleges and universities for
27 violations of athlete agent regulations;
28 amending s. 468.4565, F.S.; revising business
29 record requirements; repealing s. 468.4563,
30 F.S., relating to authority to require
31 continuing education by athlete agents;

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1 repealing s. 468.4564, relating to license
2 display requirements; amending s. 702.09, F.S.;
3 revising the definitions of the terms
4 "mortgage" and "foreclosure proceedings";
5 amending s. 718.104, F.S., revising language
6 with respect to declarations for the creation
7 of a condominium; amending s. 718.106, F.S.;
8 revising language with respect to appurtenances
9 that pass with a condominium unit; amending s.
10 718.110, F.S.; revising language with respect
11 to amendments to a declaration of condominium;
12 amending s. 718.111, F.S.; revising language
13 with respect to the association; amending s.
14 718.112, F.S.; revising language with respect
15 to bylaws; amending s. 718.113, F.S.; revising
16 language with respect to material alterations
17 of common elements or association real property
18 operated by a multicondominium association;
19 amending s. 718.115, F.S.; revising language
20 with respect to common expenses; amending s.
21 718.405, F.S.; revising language with respect
22 to multicondominiums and multicondominium
23 associations; amending s. 718.503, F.S.,
24 relating to disclosure requirements for the
25 sale of certain condominiums; removing the
26 requirement that question and answer sheets be
27 part of the closing documents; amending s.
28 718.504, F.S.; revising language with respect
29 to the prospectus or offering circular;
30 amending s. 548.002, F.S.; providing
31 definitions; authorizing the Florida State

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1 Boxing Commission to require the posting of a
2 bond or other form of security by
3 concessionaires; amending s. 548.015, F.S.;
4 authorizing the Florida State Boxing Commission
5 to require surety bonds or other forms of
6 security; amending s. 548.003, F.S.; requiring
7 one member of the Florida State Boxing
8 Commission to be a licensed physician;
9 providing additional duties and
10 responsibilities of the Florida State Boxing
11 Commission; requiring the Florida State Boxing
12 Commission to make recommendations with respect
13 to unregulated and unsanctioned boxing
14 competition; amending s. 548.017, F.S.;
15 providing requirements for ringside physicians;
16 requiring concessionaires to be licensed;
17 amending s. 548.021, F.S.; providing a criminal
18 penalty for attempting to obtain a license by
19 means of fraudulent information; creating s.
20 548.024, F.S.; authorizing the Florida State
21 Boxing Commission to adopt rules which provide
22 for background investigations of applicants for
23 licensure; providing for the submission of
24 fingerprint cards; providing procedure for
25 processing fingerprint cards; amending s.
26 548.028, F.S.; expanding provisions with
27 respect to persons whom the Florida State
28 Boxing Commission shall not license; amending
29 s. 548.041, F.S.; providing requirements and
30 restrictions with respect to age, condition,
31 and suspension of boxers; providing for

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1 revocation of license under specified
2 circumstances; amending s. 548.043, F.S.;
3 providing requirements and procedure for the
4 weighing of participants in a boxing match;
5 amending s. 548.046, F.S.; revising provisions
6 with respect to physicians' attendance at
7 boxing matches; providing state insurance
8 coverage and sovereign immunity protection for
9 assigned physicians; requiring the provision of
10 urine samples by participants under specified
11 circumstances; providing for revocation of
12 license for failure or refusal to provide a
13 required urine sample; providing conditions
14 with respect to forfeiture and redistribution
15 of purse upon failure or refusal to provide a
16 required urine sample; specifying authority of
17 physicians at boxing matches; providing
18 procedure in the event of injury of a referee;
19 authorizing blood tests of participants prior
20 to a match; providing for cancellation of the
21 match for a test showing the presence of a
22 communicable disease or for failure to present
23 blood test results, if required; authorizing
24 the Florida State Boxing Commission to adopt
25 rules relating to blood tests; amending s.
26 548.049, F.S.; increasing the minimum coverage
27 amount of required insurance for participants
28 in boxing matches; requiring promoters to pay
29 any deductible for such insurance policy;
30 amending s. 548.05, F.S.; providing additional
31 requirements with respect to contracts between

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1 managers and professionals; amending s.
2 548.057, F.S.; placing specified restrictions
3 on judges of boxing matches; providing
4 requirements with respect to number and
5 location of judges; amending s. 548.06, F.S.;
6 revising provisions relating to promoters and
7 payments to the state; amending s. 548.074,
8 F.S.; providing that the department shall have
9 the power to administer oaths, take
10 depositions, make inspections, serve subpoenas,
11 and compel the attendance of witnesses and
12 other evidence; amending s. 548.075, F.S.;
13 authorizing the Florida State Boxing Commission
14 to adopt rules to permit the issuance of
15 citations; repealing s. 548.045, F.S., relating
16 to the creation, qualifications, compensation,
17 and powers and duties of the medical advisory
18 council; amending s. 455.2281, F.S.;
19 authorizing any profession regulated by the
20 department which offers services that are not
21 subject to regulation when provided by an
22 unlicensed person to use funds in its
23 unlicensed activity account to inform the
24 public of such situation; authorizing a board
25 or profession regulated by the department to
26 transfer funds in its operating fund account to
27 its unlicensed activity account under certain
28 circumstances; amending s. 473.313, F.S.;
29 providing authority for the reinstatement of
30 certain licensees in public accountancy whose
31 licenses have become void; creating s. 399.001,

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1 F.S.; creating the "Elevator Safety Act";
2 amending s. 399.01, F.S.; defining terms;
3 amending ss. 399.02, 399.03, F.S.; providing
4 regulatory standards for elevators and similar
5 conveyances; providing for permits for
6 construction or alteration of elevators and
7 similar conveyances; creating s. 399.049, F.S.;
8 providing for licenses and certificates of
9 competency; providing for disciplinary action;
10 amending s. 399.061, F.S.; providing for annual
11 inspections and fees; amending ss. 399.07,
12 399.10, 399.105, F.S.; revising administrative
13 fines and fee-setting procedures; conforming
14 provisions; creating s. 399.106, F.S.; creating
15 the Elevator Safety Technical Advisory
16 Committee; providing for its membership and
17 authority; amending s. 399.11, 399.125, 399.13,
18 F.S.; conforming provisions; repealing s.
19 399.045, F.S., which provides for a certificate
20 of competency; repealing s. 399.05, F.S., which
21 provides for construction permits; providing a
22 title; requiring dogracing permitholders to
23 provide a greyhound-adoption booth at each
24 dogracing facility in the state; requiring that
25 the booth be operated by certain qualified
26 persons on weekends; requiring that information
27 concerning the adoption of a greyhound be made
28 available to the public at the facility;
29 requiring the permitholder to provide adoption
30 information in racing programs and to identify
31 greyhounds that will become available for

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1 adoption; authorizing the permitholder to hold
2 an additional charity day that is designated as
3 "Greyhound Adopt-A-Pet Day"; requiring that
4 profits derived from the charity day be used to
5 fund activities promoting the adoption of
6 greyhounds; authorizing the Division of
7 Pari-mutuel Wagering within the Department of
8 Business and Professional Regulation to adopt
9 rules; providing penalties; amending s.
10 550.1647, F.S., relating to unclaimed tickets
11 and breaks with respect to greyhound racing;
12 defining the term "bona fide organization that
13 promotes or encourages the adoption of
14 greyhounds"; providing effective dates.

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