

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

Amendment No. Barcode 723792

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Campbell moved the following substitute amendment to amendment 493372:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 326.003 Administration.--The department division
2 shall:

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

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

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

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

14 326.004 Licensing.--

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

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

22 (3) A license is not required for:

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

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

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

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

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

31 (4) Any person who purchases a used yacht for resale

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1 must transfer title to such yacht into his or her name and
2 maintain the title or bill of sale in his or her possession to
3 be exempt from licensure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 he or she files a new bond with the department ~~division~~.

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

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

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

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

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

23 326.006 Powers and duties of department ~~division~~.--

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

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

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

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

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

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

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1 chapter or rule adopted under this chapter has occurred, the
2 department ~~division~~ may institute enforcement proceedings in
3 its own name against any broker or salesperson or any of his
4 or her assignees or agents, or against any unlicensed person
5 or any of his or her assignees or agents, as follows:

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

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

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

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

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

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

13 1. Makes a substantial and intentional
14 misrepresentation, with respect to a transaction involving a
15 yacht, upon which any person has relied.

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

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

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

26 5. Commingles the money or other property of his or
27 her principal with his or her own.

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

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

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1 8. Violates any law governing the transactions
2 involving a yacht, including any provision relating to the
3 collection or payment of sales or use taxes.

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

6 10. Is convicted of a felony.

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

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

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

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

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

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

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

31 399.061 Inspections; correction of deficiencies.--

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

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

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

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1 as provided by rule. Each state elevator inspector shall hold
2 a certificate of competency issued by the division.

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

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

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

16 455.213 General licensing provisions.--

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

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

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

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

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

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1 divisions within the department.

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

4 455.224 Authority to issue citations.--

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

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

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

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

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

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

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

28 Section 11. Subsections (10) and (11) of section
29 468.401, Florida Statutes, are amended to read:

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

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1 pursuant hereto:

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

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

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

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

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

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

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

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

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

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1 performed by the talent agency and if the owner or operator
2 then knew, or by the exercise of reasonable care and inquiry,
3 could have known, of the falsity of the statement,
4 description, or promise.

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

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

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

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

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

29 (j) Willfully made or filed a report or record that
30 the registrant licensee knew to be false, failed to file a
31 report or record required by state or federal law, impeded or

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1 obstructed such filing, or induced another person to impede or
2 obstruct such filing. Such reports or records shall include
3 only those that are signed in the registrant's licensee's
4 capacity as a registered licensed talent agency.

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

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

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

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

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

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

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

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

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

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1 influence.

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

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

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

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

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

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

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

24 (c) ~~Impose an administrative fine, not to exceed~~
25 ~~\$5,000, for each count or separate offense.~~

26 (d) ~~Require restitution.~~

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

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

30 ~~(6) A person shall be subject to the disciplinary~~
31 ~~actions specified in subsection (5) for violations of~~

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1 ~~subsection (1) by that person's agents or employees in the~~
2 ~~course of their employment with that person.~~

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

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

9 468.403 Registration License requirements.--

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

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

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

31 ~~(b) Each owner of a talent agency that is a~~

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

8 ~~(3)(4)~~ Each application must include:

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

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

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

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

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

30 ~~(5)(7)~~ If the applicant is a corporation, the
31 application shall include the corporate name and the names,

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

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

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

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

21 468.404 Registration License; fees; renewals.--

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

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

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

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

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

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

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

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

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

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

17 468.407 Registration License; content; posting.--

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

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

31 (3) If a registrant licensee desires to cancel his or

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1 her registration license, he or she must notify the department
2 and forthwith return to the department the registration
3 license so canceled. No registration license fee may be
4 refunded upon cancellation of the registration license.

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

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

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

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

16 468.412 Talent agency requirements ~~regulations~~.--

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

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

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

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

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

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1 talent agency and the amount of compensation received by the
2 artist pursuant thereto. ~~and~~

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

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

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

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

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

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1 make any false promises or representations concerning an
2 engagement or employment to any applicant who applies for an
3 engagement or employment.

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

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

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

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

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

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

31 (1) Each of the following acts constitutes a felony of

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1 the third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084:

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

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

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

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

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

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

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

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

31 (f) Failing to give each applicant a copy of a

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

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

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

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

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

29 (5) Any person injured by a prohibited act or practice
30 in violation of this part may bring a civil action in circuit
31 court for temporary or permanent injunctive relief and may

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

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

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

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

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

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

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

31 468.609 Administration of this part; standards for

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1 certification; additional categories of certification.--

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

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

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

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

27 2. Direct supervision and the determination of
28 qualifications under this paragraph may be provided by a
29 building code administrator who holds a limited or provisional
30 certificate in any county with a population of less than
31 75,000 and in any municipality located within such a county.

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

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

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

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

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

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

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

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1 professional surveyors and mappers under this chapter the
2 ~~provisions of ss. 472.001-472.041.~~

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

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

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

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

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

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

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1 supervision meets standards adopted by rule of the board, if
2 any.

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

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

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

15 472.005 Definitions.--As used in this chapter ~~ss.~~
16 ~~472.001-472.041~~:

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

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

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

31 (4)(a) "Practice of surveying and mapping" means,

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

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

31 (5) ~~The term~~ "Surveyor and mapper intern" includes ~~the~~

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1 ~~term~~ "surveyor-mapper-in-training" and means a person who
2 complies with the requirements of this chapter ~~provided by ss.~~
3 ~~472.001-472.041~~ and who has passed an examination as provided
4 by rules adopted by the board.

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

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

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

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

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

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

31 (12) "Legal entity" means a corporation, partnership,

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1 association, or person practicing under a fictitious name who
2 is certified under s. 472.021.

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

5 472.011 Fees.--

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

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

19 472.015 Licensure.--

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

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

28 472.021 Certification of partnerships and
29 corporations.--

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

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

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

31 472.027 Minimum technical standards for surveying and

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

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

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

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

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

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

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

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

26 472.031 Prohibitions; penalties.--

27 (1) No person shall:

28 (a) Practice surveying and mapping unless such person
 29 is registered under this chapter ~~pursuant to ss.~~
 30 ~~472.001-472.041;~~

31 (b) Use the name or title "registered surveyor and

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1 mapper" when such person has not registered under this chapter
 2 ~~pursuant to ss. 472.001-472.041;~~

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

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

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

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

11 472.037 Application of chapter ~~ss. 472.001-472.041.--~~

12 (1) Nothing contained in this chapter ~~ss.~~
 13 ~~472.001-472.041~~ shall be construed to repeal, amend, limit, or
 14 otherwise affect any local building code or zoning law or
 15 ordinance, now or hereafter enacted, which is more restrictive
 16 with respect to the services of registered surveyors and
 17 mappers than the provisions of this chapter ~~ss.~~
 18 ~~472.001-472.041~~.

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

26 Section 37. A new subsection (4) is added to section
 27 475.01, Florida Statutes, to read:

28 475.01 Definitions.--

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

31 Section 38. Section 476.014, Florida Statutes, is

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1 amended to read:

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

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

6 476.034 Definitions.--As used in this chapter act:

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

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

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

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

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

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

26 476.054 ~~Barbers~~ Board of Barbering and Cosmetology.--

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

31 (2) Two ~~Five~~ members of the board must ~~shall~~ be

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

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

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

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

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

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

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

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

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

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

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

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

30 ~~(3) The board shall hold an annual meeting and such~~
31 ~~other meetings during the year as it may determine to be~~

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1 ~~necessary. The chair of the board may call other meetings at~~
2 ~~her or his discretion. A quorum of the board shall consist of~~
3 ~~not less than four members.~~

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

7 Section 42. Subsections (1) and (2) of section
8 476.074, Florida Statutes, are amended to read:

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

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

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

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

18 476.154 Biennial renewal of licenses.--

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

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

27 476.194 Prohibited acts.--

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

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

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

3 Section 45. Subsections (1) and (3) of section
4 476.214, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

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

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1 Section 47. Subsection (1) of section 477.013, Florida
2 Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

31 (d) The board shall approve all continuing education

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

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

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

18 477.026 Fees; disposition.--

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

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

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

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

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

31 (e) For specialists, fees for initial registration,

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1 registration renewal, and delinquent renewal shall not exceed
2 \$50.

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

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

8 481.209 Examinations.--

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

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

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

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

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

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

5 481.223 Prohibitions; penalties; injunctive relief.--

6 (1) A person may not knowingly:

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

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

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

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

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

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

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

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

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

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

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1 prevent a person from violating paragraph (1)(a), paragraph
2 (1)(b), or paragraph (1)(c). The prevailing party shall be
3 entitled to actual costs and attorney's fees.

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

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

16 489.107 Construction Industry Licensing Board.--

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

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

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

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

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

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

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

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1 (g) One is primarily engaged in business as a pool
2 contractor;

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

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

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

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

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

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

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

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

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1 pursuant to paragraph (2)(j) ~~and one of the members appointed~~
2 ~~pursuant to paragraph (2)(k)~~. Division II has jurisdiction
3 over the regulation of contractors defined in s.
4 489.105(3)(d)-(p).

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

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

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

22 Section 58. Paragraph (b) of subsection (4) of section
23 489.115, Florida Statutes, as amended by chapters 98-287 and
24 2000-141, Laws of Florida, is amended to read:

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

27 (4)

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

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

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

30 3. Each certificateholder or registrant shall provide
31 to the board proof of completion of the core curriculum

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

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

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

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

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

31 Section 60. Subsection (6) of section 489.507, Florida

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1 Statutes, is repealed.

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

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

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

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

16 ~~(a) meets the requirements for certification as set~~
17 ~~forth in this section; has passed a national, regional, state,~~
18 ~~or United States territorial licensing examination that is~~
19 ~~substantially equivalent to the examination required by this~~
20 ~~part; and has satisfied the requirements set forth in s.~~
21 ~~489.521.7 or~~

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

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

30 489.537 Application of this part.--

31 (3) Nothing in this act limits the power of a

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1 municipality or county:

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

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

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

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

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

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

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

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

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

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

19 498.049 Suspension; revocation; civil penalties.--

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

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

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

18 190.009 Disclosure of public financing.--

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

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

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1 for the purpose of this regulation shall be deposited in an
2 account created within the Professional Regulation Trust Fund
3 for this same purpose.

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

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

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

11 Section 70. Paragraph (c) of subsection (4) of section
12 718.105, Florida Statutes, is amended to read:

13 718.105 Recording of declaration.--

14 (4)

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

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

30 718.1255 Alternative dispute resolution; ~~voluntary~~
31 ~~mediation;~~ mandatory nonbinding arbitration and mediation;

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1 local resolution; exemptions; legislative findings.--

2 (1) APPLICABILITY DEFINITIONS.--

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

6 ~~(a) The authority of the board of directors, under~~
7 ~~this chapter or association document to:~~

8 ~~1. Require any owner to take any action, or not to~~
9 ~~take any action, involving that owner's unit or the~~
10 ~~appurtenances thereto.~~

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

12 ~~(b) the failure of a governing body, when required by~~
13 ~~this chapter or an association document, to:~~

14 ~~1. properly conduct elections or to recall a board~~
15 ~~member.~~

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

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

20 a. Require any owner to take any action, or not to
21 take any action, involving that owner's unit or the
22 appurtenances thereto; or

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

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

26 a.2. Give adequate notice of meetings or other
27 actions; or

28 b.3. Properly conduct meetings; or

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

30

31 ~~"Dispute" does not include any disagreement that primarily~~

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

9 ~~(2) VOLUNTARY MEDIATION.--Voluntary mediation through~~
10 ~~Citizen Dispute Settlement Centers as provided for in s.~~
11 ~~44.201 is encouraged.~~

12 (2)~~(3)~~ LEGISLATIVE FINDINGS.--

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

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

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

31 (d) The high cost and significant delay of circuit

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

6 (3)~~(4)~~ MANDATORY NONBINDING ARBITRATION AND MEDIATION
7 OF DISPUTES.--The division of ~~Florida Land Sales,~~

8 ~~Condominiums, and Mobile Homes of the Department of Business~~

9 ~~and Professional Regulation shall provide employ full-time~~

10 ~~attorneys to act as arbitrators to conduct the arbitration~~

11 ~~hearings as required ~~provided~~ by this chapter. The department~~

12 may employ attorneys to act as arbitrators, and the division

13 may also certify attorneys who are not employed by the

14 division to act as arbitrators to conduct the arbitration

15 hearings provided by this chapter ~~section~~. No person may be

16 employed by the department as an ~~a full-time~~ arbitrator unless

17 he or she is a member in good standing of The Florida Bar. The

18 department shall promulgate rules of procedure to govern such

19 arbitration hearings including mediation incident thereto.

20 The decision of an arbitrator shall be final; however, such a

21 decision shall not be deemed final agency action. Nothing in

22 this provision shall be construed to foreclose parties from

23 proceeding in a trial de novo unless the parties have agreed

24 that the arbitration is binding. If such judicial proceedings

25 are initiated, the final decision of the arbitrator shall be

26 admissible in evidence in the trial de novo.

27 (a) Prior to the institution of court litigation, a

28 party to a dispute shall petition the division for nonbinding

29 arbitration. The petition must be accompanied by a filing fee

30 in the amount of \$50. Filing fees collected under this

31 section must be used to defray the expenses of the alternative

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1 dispute resolution program.

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

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

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

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

12

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

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

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

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

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

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

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

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

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

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

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

31 (k) The arbitration decision shall be presented to the

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

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

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

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

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

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

15 | (a) Title to any unit or common element;

16 | (b) The interpretation or enforcement of any warranty;

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

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

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

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

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

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1 Section 72. The Division of Condominiums, Timeshare,
2 and Mobile Homes of the Department of Business and
3 Professional Regulation shall continue the arbitration of any
4 cases which qualified for arbitration on the date the case was
5 filed with the division and which were filed with the division
6 prior to the date on which this act becomes law.

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

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

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

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

31 (a) The division may make necessary public or private

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

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

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

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

31 1. The division may permit a person whose conduct or

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

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

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

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

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

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

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

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

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

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

31 (i) The division shall annually provide each

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1 association with a summary of declaratory statements and
2 formal legal opinions relating to the operations of
3 condominiums which were rendered by the division during the
4 previous year.

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

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

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

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

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

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

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

31 Section 75. Paragraph (a) of subsection (2) of section

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1 718.502, Florida Statutes, is amended to read:

2 718.502 Filing prior to sale or lease.--

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

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

29 718.504 Prospectus or offering circular.--Every
30 developer of a residential condominium which contains more
31 than 20 residential units, or which is part of a group of

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

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1 offering circular may include more than one condominium,
2 although not all such units are being offered for sale as of
3 the date of the prospectus or offering circular. The
4 prospectus or offering circular must contain the following
5 information:

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

8 (a) The name of the condominium.

9 (b) The following statements in conspicuous type:

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

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

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

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

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

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

30 (a) Its name and location.

31 (b) A description of the condominium property,

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1 including, without limitation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 2. A reference to the location in the disclosure

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1 materials of the lease or other agreements providing for the
2 use of those facilities; and

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

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

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

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

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

31 (b) Facilities not committed to be built except under

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1 certain conditions, and a statement of those conditions or
2 contingencies.

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

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

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

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

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

28 (8) Recreation lease or associated club membership:
29 (a) If any recreational facilities or other facilities
30 offered by the developer and available to, or to be used by,
31 unit owners are to be leased or have club membership

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (a) A statement in conspicuous type in substantially
31 the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL

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1 LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately
2 following this statement, the location in the disclosure
3 materials where the phasing is described shall be stated.

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

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

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

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

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

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1 following this statement, the location in the prospectus or
2 offering circular and its exhibits where the multicondominium
3 aspects of the offering are described must be stated.

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

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

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

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

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

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

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

30 (17) A summary of the restrictions, if any, to be
31 imposed on units concerning the use of any of the condominium

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

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

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

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

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

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

31 (b) The estimated monthly and annual expenses of each

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

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

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

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

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- 1 (a) The declaration of condominium, or the proposed
2 declaration if the declaration has not been recorded.
- 3 (b) The articles of incorporation creating the
4 association.
- 5 (c) The bylaws of the association.
- 6 (d) The ground lease or other underlying lease of the
7 condominium.
- 8 (e) The management agreement and all maintenance and
9 other contracts for management of the association and
10 operation of the condominium and facilities used by the unit
11 owners having a service term in excess of 1 year.
- 12 (f) The estimated operating budget for the condominium
13 and the required schedule of unit owners' expenses.
- 14 (g) A copy of the floor plan of the unit and the plot
15 plan showing the location of the residential buildings and the
16 recreation and other common areas.
- 17 (h) The lease of recreational and other facilities
18 that will be used only by unit owners of the subject
19 condominium.
- 20 (i) The lease of facilities used by owners and others.
- 21 (j) The form of unit lease, if the offer is of a
22 leasehold.
- 23 (k) A declaration of servitude of properties serving
24 the condominium but not owned by unit owners or leased to them
25 or the association.
- 26 (l) The statement of condition of the existing
27 building or buildings, if the offering is of units in an
28 operation being converted to condominium ownership.
- 29 (m) The statement of inspection for termite damage and
30 treatment of the existing improvements, if the condominium is
31 a conversion.

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

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

4 (p) A copy of the documents containing any
5 restrictions on use of the property required by subsection
6 (16).

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

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

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

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

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

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

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1 condominium property shall be subject to the authority,
 2 regulation, or control of the Division of Hotels and
 3 Restaurants of the Department of Business and Professional
 4 Regulation, to the extent provided for in chapter 399.

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

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

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

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

27 Section 79. Paragraph (a) of subsection (2) of section
 28 718.608, Florida Statutes, is amended to read:

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

31 (2)(a) Each notice of intended conversion shall be

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1 dated and in writing. The notice shall contain the following
2 statement, with the phrases of the following statement which
3 appear in upper case printed in conspicuous type:
4

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 and any extension will be extended 1 day for each day over 90
2 days until you are given the purchase information. If you do
3 not want this rental agreement extension, you must notify the
4 developer in writing.

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

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

12 719.103 Definitions.--As used in this chapter:

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

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

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

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

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

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

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

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

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

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

31 (d) Notwithstanding any remedies available to unit

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 rules adopted by the division.

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

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

13 Section 83. Paragraph (a) of subsection (2) of section
14 719.502, Florida Statutes, is amended to read:

15 719.502 Filing prior to sale or lease.--

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

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

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

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

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

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

19 (a) The name of the cooperative.

20 (b) The following statements in conspicuous type:

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

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

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

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

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

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

10 (a) Its name and location.

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

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

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

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

30 (c) The maximum number of units that will use
31 facilities in common with the cooperative. If the maximum

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

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

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

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

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

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

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

29 (d) A general description of the items of personal
30 property and the approximate number of each item of personal
31 property that the developer is committing to furnish for each

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1 room or other facility or, in the alternative, a
2 representation as to the minimum amount of expenditure that
3 will be made to purchase the personal property for the
4 facility.

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

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

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

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

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

30

31 Descriptions as to locations, areas, capacities, numbers,

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1 volumes, or sizes may be stated as approximations or minimums.

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

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

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

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

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

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

31 (f) If there are leases, a description thereof,

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1 including the length of the term, the rent payable, and a
2 description of any option to purchase.

3

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

7 (8) Recreation lease or associated club membership:

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

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

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

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

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

31 4. A similar statement of the nature of the

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1 organization or manner in which the use rights are created,
2 and that unit owners are required to pay.

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

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

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

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

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

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1

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

5 (9) If the developer or any other person has the right
6 to increase or add to the recreational facilities at any time
7 after the establishment of the cooperative whose unit owners
8 have use rights therein, without the consent of the unit
9 owners or associations being required, there shall appear a
10 statement in conspicuous type in substantially the following
11 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT
12 CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately
13 following this statement, the location in the disclosure
14 materials where such reserved rights are described shall be
15 stated.

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

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

29 (a) The names of contracting parties.

30 (b) The term of the contract.

31 (c) The nature of the services included.

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

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

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

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

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

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

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

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

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

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

31 (d) A statement of the maximum number of buildings

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

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

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

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

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

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

30 (18) The manner in which utility and other services,
31 including, but not limited to, sewage and waste disposal,

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1 water supply, and storm drainage, will be provided and the
2 person or entity furnishing them.

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

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

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

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

31 (c) The estimated items of expenses of the cooperative

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

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

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

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1 that date.

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

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

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

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

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

16 (c) The bylaws of the association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 719.508 Regulation by Division of Hotels and
7 Restaurants.--In addition to the authority, regulation, or
8 control exercised by the Division of ~~Florida Land Sales,~~
9 Condominiums, Timeshare, and Mobile Homes pursuant to this act
10 with respect to cooperatives, buildings included in a
11 cooperative property shall be subject to the authority,
12 regulation, or control of the Division of Hotels and
13 Restaurants of the Department of Business and Professional
14 Regulation, to the extent provided for in chapters 399 and
15 509.

16 Section 86. Paragraph (a) of subsection (2) of section
17 719.608, Florida Statutes, is amended to read:

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

20 (2)(a) Each notice of intended conversion shall be
21 dated and in writing. The notice shall contain the following
22 statement, with the phrases of the following statement which
23 appear in upper case printed in conspicuous type:
24

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

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

30 a. If you have continuously been a resident of these
31 apartments during the last 180 days and your rental agreement

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1 expires during the next 270 days, you may extend your rental
2 agreement for up to 270 days after the date of this notice.

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

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

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

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

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

21 a. If your rental agreement began or was extended or
22 renewed after May 1, 1980, and your rental agreement,
23 including extensions and renewals, has an unexpired term of
24 180 days or less, you may cancel your rental agreement upon 30
25 days' written notice and move. Also, upon 30 days' written
26 notice, you may cancel any extension of the rental agreement.

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

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1 30 days' written notice cancel any extension of the rental
2 agreement.

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

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

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

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

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

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

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1 721.05 Definitions.--As used in this chapter, the
2 term:

3 (10) "Division" means the Division of ~~Florida Land~~
4 ~~Sales, Condominiums, Timeshare,~~ and Mobile Homes of the
5 Department of Business and Professional Regulation.

6 Section 88. Paragraph (d) of subsection (2) of section
7 721.07, Florida Statutes, is amended to read:

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

14 (2)

15 (d) A developer shall have the authority to deliver to
16 purchasers any purchaser public offering statement that is not
17 yet approved by the division, provided that the following
18 shall apply:

19 1. At the time the developer delivers an unapproved
20 purchaser public offering statement to a purchaser pursuant to
21 this paragraph, the developer shall deliver a fully completed
22 and executed copy of the purchase contract required by s.
23 721.06 that contains the following statement in conspicuous
24 type in substantially the following form which shall replace
25 the statements required by s. 721.06(1)(g):

26

27 The developer is delivering to you a public offering statement
28 that has been filed with but not yet approved by the Division
29 of ~~Florida Land Sales, Condominiums, Timeshare,~~ and Mobile
30 Homes. Any revisions to the unapproved public offering
31 statement you have received must be delivered to you, but only

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1 if the revisions materially alter or modify the offering in a
2 manner adverse to you. After the division approves the public
3 offering statement, you will receive notice of the approval
4 from the developer and the required revisions, if any.

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

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

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

29
30 3. After receipt of approval from the division and
31 prior to closing, if no revisions have been made to the

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1 documents contained in the unapproved purchaser public
2 offering statement, or if such revisions do not materially
3 alter or modify the offering in a manner adverse to a
4 purchaser, the developer shall send the purchaser a notice
5 containing a statement in conspicuous type in substantially
6 the following form:

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

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

24 721.08 Escrow accounts; nondisturbance instruments;
25 alternate security arrangements; transfer of legal title.--

26 (8) An escrow agent holding escrowed funds pursuant to
27 this chapter that have not been claimed for a period of 5
28 years after the date of deposit shall make at least one
29 reasonable attempt to deliver such unclaimed funds to the
30 purchaser who submitted such funds to escrow. In making such
31 attempt, an escrow agent is entitled to rely on a purchaser's

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1 last known address as set forth in the books and records of
2 the escrow agent and is not required to conduct any further
3 search for the purchaser. If an escrow agent's attempt to
4 deliver unclaimed funds to any purchaser is unsuccessful, the
5 escrow agent may deliver such unclaimed funds to the division
6 and the division shall deposit such unclaimed funds in the
7 Division of ~~Florida Land Sales~~, Condominiums, Timeshare, and
8 Mobile Homes Trust Fund, 30 days after giving notice in a
9 publication of general circulation in the county in which the
10 timeshare property containing the purchaser's timeshare
11 interest is located. The purchaser may claim the same at any
12 time prior to the delivery of such funds to the division.
13 After delivery of such funds to the division, the purchaser
14 shall have no more rights to the unclaimed funds. The escrow
15 agent shall not be liable for any claims from any party
16 arising out of the escrow agent's delivery of the unclaimed
17 funds to the division pursuant to this section.

18 Section 90. Section 721.26, Florida Statutes, is
19 amended to read:

20 721.26 Regulation by division.--The division has the
21 power to enforce and ensure compliance with the provisions of
22 this chapter, except for parts III and IV, using the powers
23 provided in this chapter, as well as the powers prescribed in
24 chapters 498, 718, and 719. In performing its duties, the
25 division shall have the following powers and duties:

26 (1) To aid in the enforcement of this chapter, or any
27 division rule or order promulgated or issued pursuant to this
28 chapter, the division may make necessary public or private
29 investigations within or outside this state to determine
30 whether any person has violated or is about to violate this
31 chapter, or any division rule or order promulgated or issued

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1 pursuant to this chapter.

2 (2) The division may require or permit any person to
3 file a written statement under oath or otherwise, as the
4 division determines, as to the facts and circumstances
5 concerning a matter under investigation.

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

23 (4) The division may prepare and disseminate a
24 prospectus and other information to assist prospective
25 purchasers, sellers, and managing entities of timeshare plans
26 in assessing the rights, privileges, and duties pertaining
27 thereto.

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

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1 occurred, the division may institute enforcement proceedings
2 in its own name against any regulated party, as such term is
3 defined in this subsection:

4 (a)1. "Regulated party," for purposes of this section,
5 means any developer, exchange company, seller, managing
6 entity, association, association director, association
7 officer, manager, management firm, escrow agent, trustee, any
8 respective assignees or agents, or any other person having
9 duties or obligations pursuant to this chapter.

10 2. Any person who materially participates in any offer
11 or disposition of any interest in, or the management or
12 operation of, a timeshare plan in violation of this chapter or
13 relevant rules involving fraud, deception, false pretenses,
14 misrepresentation, or false advertising or the disbursement,
15 concealment, or diversion of any funds or assets, which
16 conduct adversely affects the interests of a purchaser, and
17 which person directly or indirectly controls a regulated party
18 or is a general partner, officer, director, agent, or employee
19 of such regulated party, shall be jointly and severally liable
20 under this subsection with such regulated party, unless such
21 person did not know, and in the exercise of reasonable care
22 could not have known, of the existence of the facts giving
23 rise to the violation of this chapter. A right of
24 contribution shall exist among jointly and severally liable
25 persons pursuant to this paragraph.

26 (b) The division may permit any person whose conduct
27 or actions may be under investigation to waive formal
28 proceedings and enter into a consent proceeding whereby an
29 order, rule, or letter of censure or warning, whether formal
30 or informal, may be entered against that person.

31 (c) The division may issue an order requiring a

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1 regulated party to cease and desist from an unlawful practice
2 under this chapter and take such affirmative action as in the
3 judgment of the division will carry out the purposes of this
4 chapter.

5 (d)1. The division may bring an action in circuit
6 court for declaratory or injunctive relief or for other
7 appropriate relief, including restitution.

8 2. The division shall have broad authority and
9 discretion to petition the circuit court to appoint a receiver
10 with respect to any managing entity which fails to perform its
11 duties and obligations under this chapter with respect to the
12 operation of a timeshare plan. The circumstances giving rise
13 to an appropriate petition for receivership under this
14 subparagraph include, but are not limited to:

15 a. Damage to or destruction of any of the
16 accommodations or facilities of a timeshare plan, where the
17 managing entity has failed to repair or reconstruct same.

18 b. A breach of fiduciary duty by the managing entity,
19 including, but not limited to, undisclosed self-dealing or
20 failure to timely assess, collect, or disburse the common
21 expenses of the timeshare plan.

22 c. Failure of the managing entity to operate the
23 timeshare plan in accordance with the timeshare instrument and
24 this chapter.

25
26 If, under the circumstances, it appears that the events giving
27 rise to the petition for receivership cannot be reasonably and
28 timely corrected in a cost-effective manner consistent with
29 the timeshare instrument, the receiver may petition the
30 circuit court to implement such amendments or revisions to the
31 timeshare instrument as may be necessary to enable the

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1 managing entity to resume effective operation of the timeshare
2 plan, or to enter an order terminating the timeshare plan, or
3 to enter such further orders regarding the disposition of the
4 timeshare property as the court deems appropriate, including
5 the disposition and sale of the timeshare property held by the
6 association or the purchasers. In the event of a receiver's
7 sale, all rights, title, and interest held by the association
8 or any purchaser shall be extinguished and title shall vest in
9 the buyer. This provision applies to timeshare estates and
10 timeshare licenses. All reasonable costs and fees of the
11 receiver relating to the receivership shall become common
12 expenses of the timeshare plan upon order of the court.

13 3. The division may revoke its approval of any filing
14 for any timeshare plan for which a petition for receivership
15 has been filed pursuant to this paragraph.

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

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

30 b. If an association or managing entity fails to pay a
31 civil penalty, the division may pursue enforcement in a court

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1 of competent jurisdiction.

2 (f) In order to permit the regulated party an
3 opportunity either to appeal such decision administratively or
4 to seek relief in a court of competent jurisdiction, the order
5 imposing the penalty or the cease and desist order shall not
6 become effective until 20 days after the date of such order.

7 (g) Any action commenced by the division shall be
8 brought in the county in which the division has its executive
9 offices or in the county where the violation occurred.

10 (h) Notice to any regulated party shall be complete
11 when delivered by United States mail, return receipt
12 requested, to the party's address currently on file with the
13 division or to such other address at which the division is
14 able to locate the party. Every regulated party has an
15 affirmative duty to notify the division of any change of
16 address at least 5 business days prior to such change.

17 (6) The division has authority to adopt rules pursuant
18 to ss. 120.536(1) and 120.54 to implement and enforce the
19 provisions of this chapter.

20 (7)(a) The use of any unfair or deceptive act or
21 practice by any person in connection with the sales or other
22 operations of an exchange program or timeshare plan is a
23 violation of this chapter.

24 (b) Any violation of the Florida Deceptive and Unfair
25 Trade Practices Act, ss. 501.201 et seq., relating to the
26 creation, promotion, sale, operation, or management of any
27 timeshare plan shall also be a violation of this chapter.

28 (c) The division is authorized to institute
29 proceedings against any such person and take any appropriate
30 action authorized in this section in connection therewith,
31 notwithstanding any remedies available to purchasers.

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1 (8) The failure of any person to comply with any order
2 of the division is a violation of this chapter.

3 Section 91. Section 721.28, Florida Statutes, is
4 amended to read:

5 721.28 Division of ~~Florida Land Sales~~, Condominiums,
6 Timeshare, and Mobile Homes Trust Fund.--All funds collected
7 by the division and any amounts paid as fees or penalties
8 under this chapter shall be deposited in the State Treasury to
9 the credit of the Division of ~~Florida Land Sales~~,
10 Condominiums, Timeshare, and Mobile Homes Trust Fund created
11 by s. 718.509 ~~498.019~~.

12 Section 92. Paragraph (c) of subsection (1) of section
13 721.301, Florida Statutes, is amended to read:

14 721.301 Florida Timesharing, Vacation Club, and
15 Hospitality Program.--

16 (1)

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

25 Section 93. Section 721.50, Florida Statutes, is
26 amended to read:

27 721.50 Short title.--This part may be cited as the
28 "McAllister Act" in recognition and appreciation for the years
29 of extraordinary and insightful contributions by Mr. Bryan C.
30 McAllister, Examinations Supervisor, former Division of
31 Florida Land Sales, Condominiums, and Mobile Homes.

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1 Section 94. Subsection (10) of section 721.82, Florida
2 Statutes, is amended to read:

3 721.82 Definitions.--As used in this part, the term:

4 (10) "Registered agent" means an agent duly appointed
5 ~~by the obligor~~ under s. 721.84 for the purpose of accepting
6 all notices and service of process under this part for the
7 obligor. A registered agent may be an individual resident in
8 this state whose business office qualifies as a registered
9 office, or a domestic or foreign corporation or a
10 not-for-profit corporation as defined in chapter 617
11 authorized to transact business or to conduct its affairs in
12 this state, whose business office qualifies as a registered
13 office. A registered agent for any obligor may not be the
14 lienholder or the attorney for the lienholder.

15 Section 95. Subsection (5) of section 721.84, Florida
16 Statutes, is amended, present subsections (6) and (7) are
17 renumbered as subsections (9) and (10), respectively, and new
18 subsections (6), (7), and (8) are added to that section, to
19 read:

20 721.84 Appointment of a registered agent; duties.--

21 (5) A registered agent may resign his or her agency
22 appointment for any obligor for which he or she serves as
23 registered agent, provided that:

24 (a) The resigning registered agent executes a written
25 statement of resignation that identifies himself or herself
26 and the street address of his or her registered office, and
27 identifies the obligors affected by his or her resignation;

28 (b)1. A successor registered agent is appointed by the
29 resigning registered agent and such successor registered agent
30 executes an acceptance of appointment as successor registered
31 agent and satisfies all of the requirements of subsection (1);

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1 or-

2 2. The registered agent provides 120 days' prior
3 written notice to the mortgagee as to the mortgage lien and to
4 the owners' association of the timeshare plan as to the
5 assessment lien of its intent to deliver the statement of
6 resignation. Prior to the effective date of termination of the
7 resigning registered agent's agency and registered office, a
8 ~~The resigning registered agent may designate the successor~~
9 ~~registered agent; however, if the resigning registered agent~~
10 ~~fails to designate a successor registered agent or the~~
11 ~~designated successor registered agent fails to accept, the~~
12 ~~successor registered agent for the affected obligors may be~~
13 ~~designated by the mortgagee as to the mortgage lien and by the~~
14 ~~owners' association of the timeshare plan as to the assessment~~
15 ~~lien; and~~

16 (c)1. If a successor registered agent is appointed
17 under subparagraph (b)1., copies of the statement of
18 resignation and acceptance of appointment as successor
19 registered agent are promptly mailed to the affected obligors
20 at the obligors' last designated address shown on the records
21 of the resigning registered agent and to the affected
22 lienholders; or-

23 2. If a resigning registered agent has previously
24 provided notice under subparagraph (b)2., a copy of the
25 statement of resignation is promptly mailed to the affected
26 obligors at the obligor's last designated address shown on the
27 records of the resigning registered agent and a copy of the
28 statement of resignation and a list of the obligors' last
29 designated addresses shown on the records of the resigning
30 registered agent are promptly mailed to the affected
31 lienholders.

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1 (6) If a successor registered agent is appointed under
2 subparagraph (5)(b)1., the agency and registered office of the
3 resigning registered agent are terminated and the agency and
4 registered office of the successor registered agent are
5 effective as of the 10th day after the date on which the
6 statement of resignation and acceptance of appointment as
7 successor registered agent are received by the lienholder,
8 unless a longer period is provided in the statement of
9 resignation and acceptance of appointment as successor
10 registered agent.

11 (7) If a resigning registered agent has previously
12 provided notice under subparagraph (5)(b)2. and a successor
13 registered agent is not designated or the designated successor
14 registered agent fails to accept the appointment as registered
15 agent, the agency and registered office of the resigning
16 registered agent are terminated effective as of the 10th day
17 after the date on which the statement of resignation and list
18 of obligors required by subparagraph (5)(c)2. are received by
19 the lienholder, unless a longer period is provided in the
20 statement of resignation. After the effective date of the
21 termination of the agency and registered office of the
22 resigning registered agent, if no successor registered agent
23 exists, the affected lienholders must mail any notice or
24 document required to be delivered by a lienholder to the
25 obligor by first class mail if the obligor's address is within
26 the United States, and by international air mail if the
27 obligor's address is outside the United States, with postage
28 fees prepaid to the obligor at the obligor's last designated
29 address as shown on the records of the resigning registered
30 agent. If such notice or document requires service of process
31 on persons outside the United States, such service of process

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1 shall be accomplished by any internationally agreed means
2 reasonably calculated to give notice. Whenever no successor
3 registered agent exists, a successor registered agent for the
4 affected obligors may be designated by the mortgagee as to the
5 mortgage lien and by the owners' association of the timeshare
6 plan as to the assessment lien.

7 (8) If a successor registered agent is appointed under
8 subparagraph (5)(b)2. or under subsection (7), copies of the
9 acceptance of appointment as successor registered agent must
10 be promptly mailed, by the mortgagee as to a registered agent
11 appointed by the mortgagee as to the mortgage lien, and by the
12 owners' association of the timeshare plan as to the assessment
13 lien, to the affected obligors at the obligor's last address
14 shown on the records of the resigning registered agent. The
15 agency and registered office of the successor registered agent
16 are effective as of the date provided in the acceptance of
17 appointment.

18 Section 96. Subsection (1) of section 723.003, Florida
19 Statutes, is amended to read:

20 723.003 Definitions.--As used in this chapter, the
21 following words and terms have the following meanings unless
22 clearly indicated otherwise:

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

26 Section 97. Paragraph (e) of subsection (5) of section
27 723.006, Florida Statutes, is amended to read:

28 723.006 Powers and duties of division.--In performing
29 its duties, the division has the following powers and duties:

30 (5) Notwithstanding any remedies available to mobile
31 home owners, mobile home park owners, and homeowners'

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1 associations, if the division has reasonable cause to believe
2 that a violation of any provision of this chapter or any rule
3 promulgated pursuant hereto has occurred, the division may
4 institute enforcement proceedings in its own name against a
5 developer, mobile home park owner, or homeowners' association,
6 or its assignee or agent, as follows:

7 (e)1. The division may impose a civil penalty against
8 a mobile home park owner or homeowners' association, or its
9 assignee or agent, for any violation of this chapter, a
10 properly promulgated park rule or regulation, or a rule or
11 regulation promulgated pursuant hereto. A penalty may be
12 imposed on the basis of each separate violation and, if the
13 violation is a continuing one, for each day of continuing
14 violation, but in no event may the penalty for each separate
15 violation or for each day of continuing violation exceed
16 \$5,000. All amounts collected shall be deposited with the
17 Treasurer to the credit of the Division of ~~Florida Land Sales,~~
18 Condominiums, Timeshare, and Mobile Homes Trust Fund.

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

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1 Section 98. Section 723.0065, Florida Statutes, is
2 amended to read:

3 723.0065 Public records exemption; findings.--The
4 Legislature, in narrowing the existing public records
5 exemption pursuant to s. 1, chapter 94-78, Laws of Florida,
6 finds that a public necessity exists to keep confidential and
7 retain the public records exemption for financial records of
8 mobile home park owners acquired by the division of ~~Florida~~
9 ~~Land Sales, Condominiums, and Mobile Homes~~ when performing its
10 duties under the Florida Mobile Home Act unless the mobile
11 home park owner has violated the provisions of this chapter.
12 In that case, only those financial records that are
13 specifically relevant to the finding of violation should be
14 released. If it were otherwise, the division would encounter
15 difficulties in procuring such proprietary information which
16 would impede the effective and efficient performance of the
17 division's public duties. Additionally, release of such
18 proprietary information would harm the business interests of
19 innocent mobile home park owners to the advantage of
20 competitors and potential purchasers. Effective monitoring of
21 the division's performance of its duties can be conducted
22 without access to these records, and these records are
23 otherwise available pursuant to a civil complaint as
24 envisioned by the act. Accordingly, the public good served by
25 access to financial records of a mobile home park owner who
26 has not violated the provisions of this chapter is outweighed
27 by the interference with division investigations and the
28 private harm that could be caused by allowing such access.

29 Section 99. Section 723.009, Florida Statutes, is
30 amended to read:

31 723.009 Division of ~~Florida Land Sales, Condominiums,~~

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1 Timeshare, and Mobile Homes Trust Fund.--All proceeds from the
2 fees, penalties, and fines imposed pursuant to this chapter
3 shall be deposited into the Division of ~~Florida Land Sales,~~
4 Condominiums, Timeshare, and Mobile Homes Trust Fund created
5 by s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated
6 by the Legislature pursuant to chapter 216, may be used to
7 defray the expenses incurred by the division in administering
8 the provisions of this chapter.

9 Section 100. Subsection (2) of section 73.073, Florida
10 Statutes, is amended to read:

11 73.073 Eminent domain procedure with respect to
12 condominium common elements.--

13 (2) With respect to the exercise of eminent domain or
14 a negotiated sale for the purchase or taking of a portion of
15 the common elements of a condominium, the condemning authority
16 shall have the responsibility of contacting the condominium
17 association and acquiring the most recent rolls indicating the
18 names of the unit owners or contacting the appropriate taxing
19 authority to obtain the names of the owners of record on the
20 tax rolls. Notification shall thereupon be sent by certified
21 mail, return receipt requested, to the unit owners of record
22 of the condominium units by the condemning authority
23 indicating the intent to purchase or take the required
24 property and requesting a response from the unit owner. The
25 condemning authority shall be responsible for the expense of
26 sending notification pursuant to this section. Such notice
27 shall, at a minimum, include:

- 28 (a) The name and address of the condemning authority.
29 (b) A written or visual description of the property.
30 (c) The public purpose for which the property is
31 needed.

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1 (d) The appraisal value of the property.

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

5 (f) A clear, concise statement relating to the power
6 of the association to convey the property on behalf of the
7 unit owners if no objection to the taking or appraisal value
8 is raised, and the effects of this alternative on the unit
9 owner.

10

11 The Division of ~~Florida Land Sales~~, Condominiums, Timeshare,
12 and Mobile Homes of the Department of Business and
13 Professional Regulation may adopt, by rule, a standard form
14 for such notice and may require the notice to include any
15 additional relevant information.

16 Section 101. Paragraph (e) of subsection (6) of
17 section 192.037, Florida Statutes, is amended to read:

18 192.037 Fee timeshare real property; taxes and
19 assessments; escrow.--

20 (6)

21 (e) On or before May 1 of each year, a statement of
22 receipts and disbursements of the escrow account must be filed
23 with the Division of ~~Florida Land Sales~~, Condominiums,
24 Timeshare, and Mobile Homes of the Department of Business and
25 Professional Regulation, which may enforce this paragraph
26 pursuant to s. 721.26. This statement must appropriately show
27 the amount of principal and interest in such account.

28 Section 102. Paragraph (i) of subsection (7) of
29 section 213.053, Florida Statutes, is amended to read:

30 213.053 Confidentiality and information sharing.--

31 (7) Notwithstanding any other provision of this

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1 section, the department may provide:

2 (i) Information relative to chapters 212 and 326 to
3 the ~~Division of Florida Land Sales, Condominiums, and Mobile~~
4 ~~Homes of the~~ Department of Business and Professional
5 Regulation in the conduct of its official duties.

6
7 Disclosure of information under this subsection shall be
8 pursuant to a written agreement between the executive director
9 and the agency. Such agencies, governmental or
10 nongovernmental, shall be bound by the same requirements of
11 confidentiality as the Department of Revenue. Breach of
12 confidentiality is a misdemeanor of the first degree,
13 punishable as provided by s. 775.082 or s. 775.083.

14 Section 103. Paragraph (w) of subsection (4) of
15 section 215.20, Florida Statutes, is amended to read:

16 215.20 Certain income and certain trust funds to
17 contribute to the General Revenue Fund.--

18 (4) The income of a revenue nature deposited in the
19 following described trust funds, by whatever name designated,
20 is that from which the deductions authorized by subsection (3)
21 shall be made:

22 (w) The Division of ~~Florida Land Sales, Condominiums,~~
23 Timeshare, and Mobile Homes Trust Fund established pursuant to
24 s. 718.509 ~~498.019~~.

25
26 The enumeration of the foregoing moneys or trust funds shall
27 not prohibit the applicability thereto of s. 215.24 should the
28 Governor determine that for the reasons mentioned in s. 215.24
29 the money or trust funds should be exempt herefrom, as it is
30 the purpose of this law to exempt income from its force and
31 effect when, by the operation of this law, federal matching

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1 funds or contributions or private grants to any trust fund
2 would be lost to the state.

3 Section 104. Paragraph (a) of subsection (4) of
4 section 380.0651, Florida Statutes, is amended to read:

5 380.0651 Statewide guidelines and standards.--

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

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

14 1.a. The same person has retained or shared control of
15 the developments;

16 b. The same person has ownership or a significant
17 legal or equitable interest in the developments; or

18 c. There is common management of the developments
19 controlling the form of physical development or disposition of
20 parcels of the development.

21 2. There is a reasonable closeness in time between the
22 completion of 80 percent or less of one development and the
23 submission to a governmental agency of a master plan or series
24 of plans or drawings for the other development which is
25 indicative of a common development effort.

26 3. A master plan or series of plans or drawings exists
27 covering the developments sought to be aggregated which have
28 been submitted to a local general-purpose government, water
29 management district, the Florida Department of Environmental
30 Protection, or the Division of ~~Florida Land Sales,~~
31 Condominiums, Timeshare, and Mobile Homes for authorization to

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1 commence development. The existence or implementation of a
2 utility's master utility plan required by the Public Service
3 Commission or general-purpose local government or a master
4 drainage plan shall not be the sole determinant of the
5 existence of a master plan.

6 4. The voluntary sharing of infrastructure that is
7 indicative of a common development effort or is designated
8 specifically to accommodate the developments sought to be
9 aggregated, except that which was implemented because it was
10 required by a local general-purpose government; water
11 management district; the Department of Environmental
12 Protection; the Division of ~~Florida Land Sales~~, Condominiums,
13 Timeshare, and Mobile Homes; or the Public Service Commission.

14 5. There is a common advertising scheme or promotional
15 plan in effect for the developments sought to be aggregated.

16 Section 105. Subsection (5) of section 455.116,
17 Florida Statutes, is amended to read:

18 455.116 Regulation trust funds.--The following trust
19 funds shall be placed in the department:

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

22 Section 106. Section 475.455, Florida Statutes, is
23 amended to read:

24 475.455 Exchange of disciplinary information.--The
25 commission shall inform the Division of ~~Florida Land Sales~~,
26 Condominiums, Timeshare, and Mobile Homes of the Department of
27 Business and Professional Regulation of any disciplinary
28 action the commission has taken against any of its licensees.
29 The division shall inform the commission of any disciplinary
30 action the division has taken against any broker or
31 salesperson registered with the division.

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1 Section 107. Section 509.512, Florida Statutes, is
2 amended to read:

3 509.512 Timeshare plan developer and exchange company
4 exemption.--Sections 509.501-509.511 do not apply to a
5 developer of a timeshare plan or an exchange company approved
6 by the Division of ~~Florida Land Sales~~, Condominiums,
7 Timeshare, and Mobile Homes pursuant to chapter 721, but only
8 to the extent that the developer or exchange company engages
9 in conduct regulated under chapter 721.

10 Section 108. Subsection (1) of section 559.935,
11 Florida Statutes, is amended to read:

12 559.935 Exemptions.--

13 (1) This part does not apply to:

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

16 (b) Any direct common carrier of passengers or
17 property regulated by an agency of the Federal Government or
18 employees of such carrier when engaged solely in the
19 transportation business of the carrier as identified in the
20 carrier's certificate;

21 (c) An intrastate common carrier of passengers or
22 property selling only transportation as defined in the
23 applicable state or local registration or certification, or
24 employees of such carrier when engaged solely in the
25 transportation business of the carrier;

26 (d) Hotels, motels, or other places of public
27 accommodation selling public accommodations, or employees of
28 such hotels, motels, or other places of public accommodation,
29 when engaged solely in making arrangements for lodging,
30 accommodations, or sightseeing tours within the state, or
31 taking reservations for the traveler with times, dates,

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1 locations, and accommodations certain at the time the
 2 reservations are made, provided that hotels and motels
 3 registered with the Department of Business and Professional
 4 Regulation pursuant to chapter 509 are excluded from the
 5 provisions of this chapter;
 6 (e) Persons involved solely in the rental, leasing, or
 7 sale of residential property;
 8 (f) Persons involved solely in the rental, leasing, or
 9 sale of transportation vehicles;
 10 (g) Persons who make travel arrangements for
 11 themselves; for their employees or agents; for distributors,
 12 franchisees, or dealers of the persons' products or services;
 13 for entities which are financially related to the persons; or
 14 for the employees or agents of the distributor, franchisee, or
 15 dealer or financially related entity;
 16 (h) A developer of a timeshare plan or an exchange
 17 company approved by the Division of ~~Florida Land Sales,~~
 18 Condominiums, Timeshare, and Mobile Homes pursuant to chapter
 19 721, but only to the extent that the developer or exchange
 20 company engages in conduct regulated under chapter 721; or
 21 (i) Persons or entities engaged solely in offering
 22 diving services, including classes and sales or rentals of
 23 equipment, when engaged in making any prearranged
 24 travel-related or tourist-related services in conjunction with
 25 a primarily dive-related event.
 26 Section 109. Effective July 1, 2001, subsection (2) of
 27 section 468.452, Florida Statutes, is amended to read:
 28 468.452 Definitions.--For purposes of this part, the
 29 term:
 30 (2) "Athlete agent" means a person who, directly or
 31 indirectly, recruits or solicits a student athlete to enter

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1 into an agent contract, or who, for any type of financial
2 gain, procures, offers, promises, or attempts to obtain
3 employment or promotional fees or benefits for a student
4 athlete with a professional sports team or as a professional
5 athlete, or with any promoter who markets or attempts to
6 market the student athlete's athletic ability or athletic
7 reputation. This term includes all employees and other persons
8 acting on behalf of an athlete agent who participate in the
9 activities included under this subsection. The term does not
10 include a spouse, parent, sibling, grandparent, or guardian of
11 the student-athlete or an individual acting solely on behalf
12 of a professional sports team or professional sports
13 organization.

14 Section 110. Effective July 1, 2001, section 468.453,
15 Florida Statutes, is amended to read:

16 468.453 Licensure required; qualifications;
17 examination; bond; exception; license nontransferable.--

18 (1) Any person who practices as an athlete agent in
19 this state must be licensed pursuant to this part.

20 (2) A person shall be licensed as an athlete agent if
21 the applicant:

22 (a) Is at least 18 years of age.

23 (b) Is of good moral character.

24 ~~(c) Passes an examination provided by the department~~
25 ~~which tests the applicant's proficiency to practice as an~~
26 ~~athlete agent, including, but not limited to, knowledge of the~~
27 ~~laws and rules of this state relating to athlete agents, this~~
28 ~~part, and chapter 455.~~

29 ~~(c)(d)~~ Has completed the application form and remitted
30 an application fee not to exceed \$500, ~~an examination fee not~~
31 ~~to exceed the actual cost for the examination plus \$500,an~~

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1 active licensure fee not to exceed \$2,000, and all other
2 applicable fees provided for in this part or in chapter 455.

3 ~~(d)(e)~~ Has submitted to the department a fingerprint
4 card for a criminal history records check. The fingerprint
5 card shall be forwarded to the Division of Criminal Justice
6 Information Systems within the Department of Law Enforcement
7 for purposes of processing the fingerprint card to determine
8 if the applicant has a criminal history record. The
9 fingerprint card shall also be forwarded to the Federal Bureau
10 of Investigation for purposes of processing the fingerprint
11 card to determine if the applicant has a criminal history
12 record. The information obtained by the processing of the
13 fingerprint card by the Florida Department of Law Enforcement
14 and the Federal Bureau of Investigation shall be sent to the
15 department for the purpose of determining if the applicant is
16 statutorily qualified for licensure.

17 ~~(e)(f)~~ Has not in any jurisdiction, within the
18 preceding 5 years, been convicted or found guilty of or
19 entered a plea of nolo contendere for, regardless of
20 adjudication, a crime which relates to the applicant's
21 practice or ability to practice as an athlete agent.

22 ~~(g)~~ Has posted with the department a \$15,000 surety
23 bond issued by an insurance company authorized to do business
24 in this state. The bond shall be in favor of the State of
25 Florida, Department of Business and Professional Regulation,
26 for the use and benefit of any student athlete or college or
27 university within Florida who or which is injured or damaged,
28 including reasonable costs and attorney's fees, as a result of
29 acts or omissions by the athlete agent pursuant to a license
30 issued under this part. The bond shall be written in the form
31 determined by the department. The bond shall provide that the

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1 ~~athlete agent is responsible for the acts or omissions of any~~
2 ~~representatives acting under the athlete agent's supervision~~
3 ~~or authority. The bond shall be in effect for and cover all~~
4 ~~times that the athlete agent has an active license and~~
5 ~~conducts business pursuant to that license in this or any~~
6 ~~other state.~~

7 (3) An unlicensed individual may act as an athlete
8 agent if:

9 (a) A student-athlete or person acting on the
10 athlete's behalf initiates communication with the individual;
11 and

12 (b) Within 7 days after an initial act as an athlete
13 agent, the individual submits an application for licensure.
14 ~~Members of The Florida Bar are exempt from the state laws and~~
15 ~~rules component, and the fee for such, of the examination~~
16 ~~required by this section.~~

17 (4) A license issued to an athlete agent is not
18 transferable.

19 (5) By acting as an athlete agent in this state, a
20 nonresident individual appoints the department as the
21 individual's agent for service of process in any civil action
22 related to the individual's acting as an athlete agent.

23 (6) The department may issue a temporary license while
24 an application for licensure is pending. If the department
25 issues a notice of intent to deny the license application, the
26 initial temporary license expires and may not be extended
27 during any proceeding or administrative or judicial review.

28 (7)(a) An individual who has submitted an application
29 and holds a certificate, registration or license as an athlete
30 agent in another state may submit a copy of the application
31 and certificate, registration or license from the other state

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1 in lieu of submitting an application in the form prescribed
2 pursuant to this section. The department shall accept the
3 application and the certificate from the other state as an
4 application for registration in this state if the application
5 in the other state:

6 1. Was submitted in the other state within 6 months
7 next preceding the submission of the application in this state
8 and the applicant certifies that the information contained in
9 the application is current;

10 2. Contains information substantially similar to or
11 more comprehensive than that required in an application
12 submitted in this state; and

13 3. Was signed by the applicant under penalty of
14 perjury.

15 (b) An applicant applying under this subsection must
16 meet all other requirements for licensure as provided by this
17 part.

18 Section 111. Effective July 1, 2001, section 468.454,
19 Florida Statutes, is amended to read:

20 468.454 Contracts.--

21 (1) An agent contract must be in a record, signed, or
22 otherwise authenticated by the parties.

23 (2) An agent contract must state:

24 (a) The amount and method of calculating the
25 consideration to be paid by the student-athlete for services
26 to be provided by the athlete agent and any other
27 consideration the agent has received or will receive from any
28 other source under the contract;

29 (b) The name of any person not listed in the licensure
30 application who will be compensated because the
31 student-athlete signed the agent contract;

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1 (c) A description of any expenses that the
2 student-athlete agrees to reimburse;

3 (d) A description of the services to be provided to
4 the student-athlete;

5 (e) The duration of the contract; and

6 (f) The date of execution.

7 (3) An agent contract must contain, in close proximity
8 to the signature of the student-athlete, a conspicuous notice
9 in boldface type in capital letters stating:

10
11 WARNING TO STUDENT-ATHLETE

12
13 IF YOU SIGN THE CONTRACT:

14 1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS
15 A STUDENT-ATHLETE IN YOUR SPORT;

16 2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72
17 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND
18 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
19 DIRECTOR; AND

20 3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS
21 AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS
22 CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

23
24 (4) An agent contract that does not conform to this
25 section is voidable by the student-athlete. If a
26 student-athlete voids an agent contract, the student-athlete
27 is not required to pay any consideration or return any
28 consideration received from the athlete agent to induce the
29 student-athlete to enter into the contract.

30 (5) The athlete agent shall give a record of the
31 signed or authenticated agent contract to the student-athlete

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1 at the time of execution.

2 (6) Within 72 hours after entering into an agent
3 contract or before the next scheduled athletic event in which
4 the student-athlete may participate, whichever occurs first,
5 the athlete agent must give notice in a record of the
6 existence of the contract to the athletic director of the
7 educational institution at which the student-athlete is
8 enrolled or the athlete agent has reasonable grounds to
9 believe the student-athlete intends to enroll.

10 (7) Within 72 hours after entering into an agent
11 contract or before the next athletic event in which the
12 student-athlete may participate, whichever occurs first, the
13 student-athlete must inform the athletic director of the
14 educational institution at which the student-athlete is
15 enrolled that he or she has entered into an agent contract.

16 (8) A student-athlete may cancel an agent contract by
17 giving notice of the cancellation to the athlete agent in a
18 record within 14 days after the contract is signed.

19 (9) A student-athlete may not waive the right to
20 cancel an agent contract.

21 (10) If a student-athlete cancels an agent contract,
22 the student-athlete is not required to pay any consideration
23 or return any consideration received from the athlete agent to
24 induce the student-athlete to enter into the contract.

25 ~~(1) An athlete agent and a student athlete who enter~~
26 ~~into an agent contract must provide written notice of the~~
27 ~~contract to the athletic director or the president of the~~
28 ~~college or university in which the student athlete is~~
29 ~~enrolled. The athlete agent and the student must give the~~
30 ~~notice before the contracting student athlete practices or~~
31 ~~participates in any intercollegiate athletic event or within~~

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1 ~~72 hours after entering into said contract, whichever comes~~
2 ~~first. Failure of the athlete agent to provide this~~
3 ~~notification is a felony of the third degree, punishable as~~
4 ~~provided in ss. 775.082, 775.083, 775.084, 775.089, and~~
5 ~~775.091.~~

6 ~~(2) A written contract between a student athlete and~~
7 ~~an athlete agent must state the fees and percentages to be~~
8 ~~paid by the student athlete to the agent and must have a~~
9 ~~notice printed near the student athlete's signature containing~~
10 ~~the following statement in 10-point boldfaced type:~~

11 ~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS~~
12 ~~CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO~~
13 ~~COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL~~
14 ~~PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED~~
15 ~~INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF~~
16 ~~YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO~~
17 ~~THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE~~
18 ~~ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS~~
19 ~~NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL~~
20 ~~YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY~~
21 ~~CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING~~
22 ~~OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE~~
23 ~~DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS~~
24 ~~CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR~~
25 ~~CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT~~
26 ~~RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE~~
27 ~~ATHLETICS."~~

28 ~~(3) An agent contract which does not meet the~~
29 ~~requirements of this section is void and unenforceable.~~

30 ~~(4) Within 15 days after the date the athletic~~
31 ~~director or president of the college or university of the~~

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1 Section 113. Effective July 1, 2001, subsection (4) is
2 added to section 468.45615, Florida Statutes, to read:

3 468.45615 Provision of illegal inducements to athletes
4 prohibited; penalties; license suspension.--

5 (4)(a) An athlete agent, with the intent to induce a
6 student-athlete to enter into an agent contract, may not:

7 1. Give any materially false or misleading information
8 or make a materially false promise or representation;

9 2. Furnish anything of value to a student-athlete
10 before the student-athlete enters into the agent contract; or

11 3. Furnish anything of value to any individual other
12 than the student-athlete or another athlete agent.

13 (b) An athlete agent may not intentionally:

14 1. Initiate contact with a student-athlete unless
15 licensed under this part;

16 2. Refuse or fail to retain or permit inspection of
17 the records required to be retained by s. 468.4565;

18 3. Provide materially false or misleading information
19 in an application for licensure;

20 4. Predate or postdate an agent contract;

21 5. Fail to give notice of the existence of an agent
22 contract as required by s. 468.454(6); or

23 6. Fail to notify a student-athlete before the
24 student-athlete signs or otherwise authenticates an agent
25 contract for a sport that the signing or authentication may
26 make the student-athlete ineligible to participate as a
27 student-athlete in that sport.

28 (c) An athlete agent who violates this subsection
29 commits a felony of the second degree, punishable as provided
30 in s. 775.082, s. 775.083, or s. 775.084.

31 Section 114. Effective July 1, 2001, section 468.4562,

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1 Florida Statutes, is amended to read:

2 468.4562 Civil action by institution.--

3 (1) A college or university may sue for damages, as
4 provided by this section, any person who violates this part.
5 A college or university may seek equitable relief to prevent
6 or minimize harm arising from acts or omissions which are or
7 would be a violation of this part.

8 (2) For purposes of this section, a college or
9 university is damaged if, because of activities of the person,
10 the college or university is penalized,~~or is~~ disqualified,~~or~~
11 suspended from participation in intercollegiate athletics by a
12 national association for the promotion and regulation of
13 intercollegiate athletics,~~or~~ by an intercollegiate athletic
14 conference or by reasonable self-imposed disciplinary action
15 taken to mitigate sanctions likely to be imposed by such
16 organization and, because of that penalty, disqualification,
17 ~~or~~ suspension, or action the institution:

- 18 (a) Loses revenue from media coverage of a sports
19 contest;
- 20 (b) Loses the right to grant an athletic scholarship;
- 21 (c) Loses the right to recruit an athlete;
- 22 (d) Is prohibited from participating in postseason
23 athletic competition;
- 24 (e) Forfeits an athletic contest; or
- 25 (f) Otherwise suffers an adverse financial impact.
- 26 (3) An institution that prevails in a suit brought
27 under this section may recover:
- 28 (a) Actual damages;
- 29 (b) Punitive damages;
- 30 (c) Treble damages;
- 31 (d) Court costs; and

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1 judgment or order rendered or passed in the foreclosure
2 proceedings in which the decree of foreclosure shall be
3 rescinded, vacated, and set aside; the word "mortgage" shall
4 mean any written instrument securing the payment of money or
5 advances and shall include liens to secure payment of
6 assessments arising under chapters 718, 719, and 720; the word
7 "debt" shall include promissory notes, bonds, and all other
8 written obligations given for the payment of money; the words
9 "foreclosure proceedings" shall embrace every action in the
10 circuit or county courts of this state wherein it is sought to
11 foreclose a mortgage and sell the property covered by the
12 same; and the word "property" shall mean and include both real
13 and personal property.

14 Section 118. Paragraph (h) of subsection (4) and
15 subsection (5) of section 718.104, Florida Statutes, are
16 amended to read:

17 718.104 Creation of condominiums; contents of
18 declaration.--Every condominium created in this state shall be
19 created pursuant to this chapter.

20 (4) The declaration must contain or provide for the
21 following matters:

22 (h) If a developer reserves the right, in a
23 declaration recorded on or after July 1, 2000, to create a
24 multicondominium, the declaration must state, or provide a
25 specific formula for determining, the fractional or percentage
26 shares of liability for the common expenses of the association
27 and of ownership of the common surplus of the association to
28 be allocated to the units in each condominium to be operated
29 by the association. If a ~~the~~ declaration recorded on or after
30 July 1, 2000, for a condominium operated by a multicondominium
31 association, as originally recorded, fails to so provide, the

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1 share of liability for the common expenses of the association
2 and of ownership of the common surplus of the association
3 allocated to each unit in each condominium operated by the
4 association shall be a fraction of the whole, the numerator of
5 which is the number "one" and the denominator of which is the
6 total number of units in all condominiums operated by the
7 association.

8 (5) The declaration as originally recorded, or as
9 amended pursuant to the procedures provided therein, may
10 include covenants and restrictions concerning the use,
11 occupancy, and transfer of the units permitted by law with
12 reference to real property. With the exception of amendments
13 that materially modify unit appurtenances as provided in s.
14 718.110(4), amendments may be applied to owners of units
15 existing as of the effective date of the amendment. This
16 section is intended to clarify existing law and applies to
17 associations existing on the effective date of this act.
18 However, the rule against perpetuities shall not defeat a
19 right given any person or entity by the declaration for the
20 purpose of allowing unit owners to retain reasonable control
21 over the use, occupancy, and transfer of units.

22 Section 119. Paragraph (b) of subsection (2) of
23 section 718.106, Florida Statutes, is amended to read:

24 718.106 Condominium parcels; appurtenances; possession
25 and enjoyment.--

26 (2) There shall pass with a unit, as appurtenances
27 thereto:

28 (b) The exclusive right to use such portion of the
29 common elements as may be provided by the declaration,
30 including the right to transfer such right to other units or
31 unit owners to the extent authorized by the declaration as

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1 originally recorded, or amendments to the declaration adopted
2 pursuant to the provisions contained therein under s.
3 718.110(2). Amendments to declarations of condominium
4 providing for the transfer of use rights with respect to
5 limited common elements are not amendments which materially
6 modify unit appurtenances as described in s. 718.110(4).
7 However, in order to be effective, the transfer of use rights
8 with respect to limited common elements must be effectuated in
9 conformity with the procedures set forth in the declaration as
10 originally recorded or as amended. Further, such transfers
11 must be evidenced by a written instrument which must be
12 executed with the formalities of a deed and recorded in the
13 land records of the county in which the condominium is located
14 in order to be effective. Such instrument of transfer must
15 also specify the legal description of the unit which is
16 transferring use rights, as well as the legal description of
17 the unit obtaining the transfer of such rights. This section
18 is intended to clarify existing law and applies to
19 associations existing on the effective date of this act.

20 Section 120. Subsection (4) of section 718.110,
21 Florida Statutes, is amended to read:

22 718.110 Amendment of declaration; correction of error
23 or omission in declaration by circuit court.--

24 (4) Unless otherwise provided in the declaration as
25 originally recorded, no amendment may change the configuration
26 or size of any unit in any material fashion, materially alter
27 or modify the appurtenances to the unit, or change the
28 proportion or percentage by which the unit owner shares the
29 common expenses of the condominium and owns the common surplus
30 of the condominium unless the record owner of the unit and all
31 record owners of liens on the unit join in the execution of

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1 the amendment and unless all the record owners of all other
2 units in the same condominium approve the amendment. The
3 acquisition of property by the association, and material
4 alterations or substantial additions to such property or the
5 common elements by the association in accordance with s.
6 718.111(7) or s. 718.113, amendments providing for the
7 transfer of use rights in limited common elements pursuant to
8 s. 718.106(2)(b), and amendments restricting or modifying the
9 right to lease condominium units shall not be deemed to
10 constitute a material alteration or modification of the
11 appurtenances to the units. With the exception of amendments
12 that materially modify unit appurtenances as provided in this
13 section, amendments may be applied to owners of units existing
14 as of the effective date of the amendment. This section is
15 intended to clarify existing law and applies to associations
16 existing on the effective date of this act.A declaration
17 recorded after April 1, 1992, may not require the approval of
18 less than a majority of total voting interests of the
19 condominium for amendments under this subsection, unless
20 otherwise required by a governmental entity.

21 Section 121. Subsection (4), paragraph (a) of
22 subsection (7), and subsection (13) of section 718.111,
23 Florida Statutes, are amended to read:

24 718.111 The association.--

25 (4) ASSESSMENTS; MANAGEMENT OF COMMON ELEMENTS.--The
26 association has the power to make and collect assessments and
27 to lease, maintain, repair, and replace the common elements or
28 association property; however, the association may not charge
29 a use fee against a unit owner for the use of common elements
30 or association property unless otherwise provided for in the
31 declaration of condominium or by a majority vote of the

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1 association or unless the charges relate to ~~expenses incurred~~
2 ~~by~~ an owner having exclusive use of the common elements or
3 association property.

4 (7) TITLE TO PROPERTY.--

5 (a) The association has the power to acquire title to
6 property or otherwise hold, convey, lease, and mortgage
7 association property for the use and benefit of its members.
8 The power to acquire personal property shall be exercised by
9 the board of administration. Except as otherwise permitted in
10 subsections (8) and (9) and in s. 718.114, no association may
11 acquire, convey, ~~lease~~, or mortgage association real property
12 except in the manner provided in the declaration, and if the
13 declaration does not specify the procedure, then approval of
14 75 percent of the total voting interests shall be required.

15 (13) FINANCIAL REPORTING.--Within 90 days after the
16 end of the fiscal year, or annually on a date provided in the
17 bylaws, the association shall prepare and complete, or
18 contract for the preparation and completion of ~~cause to be~~
19 ~~prepared and completed by a third party~~, a financial report
20 for the preceding fiscal year. Within 21 days after the final
21 financial report is completed by the association or received
22 ~~by the association~~ from the third party, but in no event later
23 than 120 days after the end of the fiscal year, or such other
24 date as is provided in the bylaws, the association shall mail
25 to each unit owner at the address last furnished to the
26 association by the unit owner, or hand deliver to each unit
27 owner, a copy of the financial report or a notice that a copy
28 of the financial report will be mailed or hand delivered to
29 the unit owner, without charge, upon receipt of a written
30 request from the unit owner. The division shall adopt rules
31 setting forth uniform accounting principles and standards to

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1 be used by all associations and shall adopt rules addressing
2 financial reporting requirements for multicondominium
3 associations. In adopting such rules, the division shall
4 consider the number of members and annual revenues of an
5 association. Financial reports shall be prepared as follows:

6 (a) An association that meets the criteria of this
7 paragraph shall prepare or cause to be prepared a complete set
8 of financial statements in accordance with generally accepted
9 accounting principles. The financial statements shall be
10 based upon the association's total annual revenues, as
11 follows:

12 1. An association with total annual revenues of
13 \$100,000 or more, but less than \$200,000, shall prepare
14 compiled financial statements.

15 2. An association with total annual revenues of at
16 least \$200,000, but less than \$400,000, shall prepare reviewed
17 financial statements.

18 3. An association with total annual revenues of
19 \$400,000 or more shall prepare audited financial statements.

20 (b)1. An association with total annual revenues of
21 less than \$100,000 shall prepare a report of cash receipts and
22 expenditures.

23 2. An association which operates less than 50 units,
24 regardless of the association's annual revenues, shall prepare
25 a report of cash receipts and expenditures in lieu of
26 financial statements required by paragraph (a).

27 3. A report of cash receipts and disbursements must
28 disclose the amount of receipts by accounts and receipt
29 classifications and the amount of expenses by accounts and
30 expense classifications, including, but not limited to, the
31 following, as applicable: costs for security, professional and

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1 management fees and expenses, taxes, costs for recreation
2 facilities, expenses for refuse collection and utility
3 services, expenses for lawn care, costs for building
4 maintenance and repair, insurance costs, administration and
5 salary expenses, and reserves accumulated and expended for
6 capital expenditures, deferred maintenance, and any other
7 category for which the association maintains reserves.

8 (c) An association may prepare or cause to be
9 prepared, without a meeting of or approval by the unit owners:

10 1. Compiled, reviewed, or audited financial
11 statements, if the association is required to prepare a report
12 of cash receipts and expenditures;

13 2. Reviewed or audited financial statements, if the
14 association is required to prepare compiled financial
15 statements; or

16 3. Audited financial statements if the association is
17 required to prepare reviewed financial statements.

18 (d) If approved by a majority of the voting interests
19 present at a properly called meeting of the association, an
20 association may prepare or cause to be prepared:

21 1. A report of cash receipts and expenditures in lieu
22 of a compiled, reviewed, or audited financial statement;

23 2. A report of cash receipts and expenditures or a
24 compiled financial statement in lieu of a reviewed or audited
25 financial statement; or

26 3. A report of cash receipts and expenditures, a
27 compiled financial statement, or a reviewed financial
28 statement in lieu of an audited financial statement.

29

30 Such meeting and approval must occur prior to the end of the
31 fiscal year and is effective only for the fiscal year in which

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1 the vote is taken. With respect to an association to which the
2 developer has not turned over control of the association, all
3 unit owners, including the developer, may vote on issues
4 related to the preparation of financial reports for the first
5 2 fiscal years of the association's operation, beginning with
6 the fiscal year in which the declaration is recorded.
7 Thereafter, all unit owners except the developer may vote on
8 such issues until control is turned over to the association by
9 the developer.

10 Section 122. Subsection (3) of section 718.112,
11 Florida Statutes, is amended to read:

12 718.112 Bylaws.--

13 (3) OPTIONAL PROVISIONS.--The bylaws as originally
14 recorded, or as amended pursuant to the procedure provided
15 therein, may provide for the following:

16 (a) A method of adopting and amending administrative
17 rules and regulations governing the details of the operation
18 and use of the common elements.

19 (b) Restrictions on and requirements for the use,
20 maintenance, and appearance of the units and the use of the
21 common elements.

22 (c) Other provisions which are not inconsistent with
23 this chapter or with the declaration, as may be desired. This
24 subsection is intended to clarify existing law and applies to
25 associations existing on the effective date of this act.

26 Section 123. Subsection (2) of section 718.113,
27 Florida Statutes, is amended to read:

28 718.113 Maintenance; limitation upon improvement;
29 display of flag; hurricane shutters.--

30 (2)(a) Except as otherwise provided in this section,
31 there shall be no material alteration or substantial additions

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1 to the common elements or to real property which is
2 association property, except in a manner provided in the
3 declaration as originally recorded or as amended pursuant to
4 the procedures provided therein. If the declaration as
5 originally recorded or amended does not specify the procedure
6 for approval of material alterations or substantial additions,
7 75 percent of the total voting interests of the association
8 must approve the alterations or additions. This paragraph is
9 intended to clarify existing law and applies to associations
10 existing on the effective date of this act.

11 (b) There shall not be any material alteration of, or
12 substantial addition to, the common elements of any
13 condominium operated by a multicondominium association unless
14 approved in the manner provided in the declaration of the
15 affected condominium or condominiums as originally recorded,
16 or as amended pursuant to the procedures provided therein. If
17 a declaration as originally recorded or amended does not
18 specify a procedure for approving such an alteration or
19 addition, the approval of 75 percent of the total voting
20 interests of each affected condominium is required. This
21 subsection does not prohibit a provision in any declaration,
22 articles of incorporation, or bylaws as originally recorded or
23 amended requiring the approval of unit owners in any
24 condominium operated by the same association or requiring
25 board approval before a material alteration or substantial
26 addition to the common elements is permitted. This paragraph
27 is intended to clarify existing law and applies to
28 associations existing on the effective date of this act.

29 (c) There shall not be any material alteration or
30 substantial addition made to association real property
31 operated by a multicondominium association, except as provided

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1 in the declaration, articles of incorporation, or bylaws as
2 said documents are originally recorded or amended pursuant to
3 the procedures provided therein. If the declaration, articles
4 of incorporation, or bylaws do not specify the procedure for
5 approving an alteration or addition to association real
6 property, the approval of 75 percent of the total voting
7 interests of the association is required. This paragraph is
8 intended to clarify existing law and applies to associations
9 existing on the effective date of this act.

10 Section 124. Paragraphs (b) and (c) of subsection (1)
11 of section 718.115, Florida Statutes, are amended to read:

12 718.115 Common expenses and common surplus.--

13 (1)

14 (b) The common expenses of a condominium within a
15 multicondominium are the common expenses directly attributable
16 to the operation of that condominium. The common expenses of a
17 multicondominium association do not include the common
18 expenses directly attributable to the operation of any
19 specific condominium or condominiums within the
20 multicondominium. This paragraph is intended to clarify
21 existing law and applies to associations existing on the
22 effective date of this act.

23 (c) The common expenses of a multicondominium
24 association may include categories of expenses related to the
25 property or common elements within a specific condominium in
26 the multicondominium if such property or common elements are
27 areas in which all members of the multicondominium association
28 have use rights or from which all members receive tangible
29 economic benefits. Such common expenses of the association
30 shall be identified in the declaration or bylaws of each
31 condominium within the multicondominium association. This

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1 paragraph is intended to clarify existing law and applies to
2 associations existing on the effective date of this act.

3 Section 125. Subsections (1) and (4) of section
4 718.405, Florida Statutes, are amended to read:

5 718.405 Multicondominiums; multicondominium
6 associations.--

7 (1) An association may operate more than one
8 condominium. For multicondominiums created on or after July 1,
9 2000, if the declaration for each condominium to be operated
10 by that association shall provide ~~provides~~ for participation
11 in a multicondominium, in conformity with this section, and
12 disclose ~~discloses~~ or describe ~~describes~~:

13 (a) The manner or formula by which the assets,
14 liabilities, common surplus, and common expenses of the
15 association will be apportioned among the units within the
16 condominiums operated by the association, in accordance with
17 s. 718.104(4)(g) or (h), as applicable.

18 (b) Whether unit owners in any other condominium, or
19 any other persons, will or may have the right to use
20 recreational areas or any other facilities or amenities that
21 are common elements of the condominium, and, if so, the
22 specific formula by which the other users will share the
23 common expenses related to those facilities or amenities.

24 (c) Recreational and other commonly used facilities or
25 amenities which the developer has committed to provide that
26 will be owned, leased by, or dedicated by a recorded plat to
27 the association but which are not included within any
28 condominium operated by the association. The developer may
29 reserve the right to add additional facilities or amenities if
30 the declaration and prospectus for each condominium to be
31 operated by the association contains the following statement

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1 in conspicuous type and in substantially the following form:
2 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT
3 CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

4 (d) The voting rights of the unit owners in the
5 election of directors and in other multicondominium
6 association affairs when a vote of the owners is taken,
7 including, but not limited to, a statement as to whether each
8 unit owner will have a right to personally cast his or her own
9 vote in all matters voted upon.

10 (4) This section does not prevent or restrict the
11 formation of a multicondominium by the merger or consolidation
12 of two or more condominium associations. Mergers or
13 consolidations of associations shall be accomplished in
14 accordance with this chapter, the declarations of the
15 condominiums being merged or consolidated, and chapter 617.
16 Section 718.110(4) does not apply to amendments to
17 declarations necessary to effect a merger or consolidation.
18 This section is intended to clarify existing law and applies
19 to associations existing on the effective date of this act.

20 Section 126. Subsection (2) of section 718.503,
21 Florida Statutes, is amended to read:

22 718.503 Developer disclosure prior to sale;
23 nondeveloper unit owner disclosure prior to sale;
24 voidability.--

25 (2) NONDEVELOPER DISCLOSURE.--

26 (a) Each unit owner who is not a developer as defined
27 by this chapter shall comply with the provisions of this
28 subsection prior to the sale of his or her unit. Each
29 prospective purchaser who has entered into a contract for the
30 purchase of a condominium unit is entitled, at the seller's
31 expense, to a current copy of the declaration of condominium,

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1 articles of incorporation of the association, bylaws, and
2 rules of the association, ~~as well as a copy of the question~~
3 ~~and answer sheet provided for by s. 718.504~~ and a copy of the
4 financial information required by s. 718.111.

5 (b) If a person licensed under part I of chapter 475
6 provides to or otherwise obtains for a prospective purchaser
7 the documents described in this subsection, the person is not
8 liable for any error or inaccuracy contained in the documents.

9 (c) Each contract entered into after July 1, 1992, for
10 the resale of a residential unit shall contain in conspicuous
11 type either:

12 1. A clause which states: THE BUYER HEREBY
13 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF
14 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF
15 THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, AND A COPY
16 OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION ~~AND THE~~
17 ~~QUESTION AND ANSWER SHEET~~ MORE THAN 3 DAYS, EXCLUDING
18 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF
19 THIS CONTRACT; or

20 2. A clause which states: THIS AGREEMENT IS VOIDABLE
21 BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION
22 TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND
23 LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT
24 BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE
25 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS,
26 ~~AND~~ RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT
27 YEAR-END FINANCIAL INFORMATION ~~AND QUESTION AND ANSWER SHEET~~
28 IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE
29 VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND
30 THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS,
31 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE

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1 BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION,
2 BYLAWS, AND RULES, ~~AND QUESTION AND ANSWER SHEET~~ IF REQUESTED
3 IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL
4 TERMINATE AT CLOSING.

5

6 A contract that does not conform to the requirements of this
7 paragraph is voidable at the option of the purchaser prior to
8 closing.

9 Section 127. Subsection (15) of section 718.504,
10 Florida Statutes, is amended to read:

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

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

19 (15) If a the condominium created on or after July 1,
20 2000, is or may become part of a multicondominium, the
21 following information must be provided:

22 (a) A statement in conspicuous type in substantially
23 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
24 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
25 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately
26 following this statement, the location in the prospectus or
27 offering circular and its exhibits where the multicondominium
28 aspects of the offering are described must be stated.

29 (b) A summary of the provisions in the declaration,
30 articles of incorporation, and bylaws which establish and
31 provide for the operation of the multicondominium, including a

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1 statement as to whether unit owners in the condominium will
2 have the right to use recreational or other facilities located
3 or planned to be located in other condominiums operated by the
4 same association, and the manner of sharing the common
5 expenses related to such facilities.

6 (c) A statement of the minimum and maximum number of
7 condominiums, and the minimum and maximum number of units in
8 each of those condominiums, which will or may be operated by
9 the association, and the latest date by which the exact number
10 will be finally determined.

11 (d) A statement as to whether any of the condominiums
12 in the multicondominium may include units intended to be used
13 for nonresidential purposes and the purpose or purposes
14 permitted for such use.

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

18 Section 128. Subsections (4) through (17) of section
19 548.002, Florida Statutes, are renumbered as subsections (5)
20 through (17), respectively, present subsection (18) is
21 renumbered as subsection (19), and new subsections (4) and
22 (18) are added to said section to read:

23 548.002 Definitions.--As used in this act, the term:

24 (4) "Concessionaire" means any person or business
25 entity not licensed as a promoter which receives revenues or
26 other compensation from the sale of tickets or from the sale
27 of souvenirs, programs, broadcast rights, or any other
28 concessions in conjunction with the promotion of a match.

29 (18) "Second" or "cornerman" means a person who
30 assists the fight participant between rounds and maintains the
31 corner of the participant during the match.

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1 Section 129. Section 548.015, Florida Statutes, is
2 created to read:

3 548.015 Concessionaires; security.--The commission may
4 require that before any license is issued or renewed to a
5 concessionaire, or before the holding of a match, the
6 concessionaire must file a surety bond, a cash deposit, or
7 some other form of security with the commission in such
8 reasonable amount as the commission determines.

9 Section 130. Subsections (1) and (2) of section
10 548.003, Florida Statutes, are amended to read:

11 548.003 Florida State Boxing Commission; powers;
12 organization; meetings; accountability of commission members;
13 compensation and travel expenses; association membership and
14 participation.--

15 (1) The Florida State Boxing Commission is created and
16 is assigned to the Department of Business and Professional
17 Regulation for administrative and fiscal accountability
18 purposes only. The Florida State Boxing Commission shall
19 consist of five members appointed by the Governor, subject to
20 confirmation by the Senate. One member must be a physician
21 licensed pursuant to chapter 458 or chapter 459, who must
22 maintain an unencumbered license in good standing, and who
23 must, at the time of her or his appointment, have practiced
24 medicine for at least 5 years. Upon the expiration of the term
25 of a commissioner, the Governor shall appoint a successor to
26 serve for a 4-year term. A commissioner whose term has expired
27 shall continue to serve on the commission until such time as a
28 replacement is appointed. If a vacancy on the commission
29 occurs prior to the expiration of the term, it shall be filled
30 for the unexpired portion of the term in the same manner as
31 the original appointment.

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1 (2) The Florida State Boxing Commission, as created by
2 subsection (1), shall administer the provisions of this
3 chapter. The commission has authority to adopt rules pursuant
4 to ss. 120.536(1) and 120.54 to implement the provisions of
5 this chapter and to implement each of the duties and
6 responsibilities conferred upon the commission, including, but
7 not limited to:

8 (a) Development of an ethical code of conduct for
9 commissioners, commission staff, and commission officials;

10 (b) Facility and safety requirements relating to the
11 ring, floor plan and apron seating, emergency medical
12 equipment and services, and other equipment and services
13 necessary for the conduct of a program of matches;

14 (c) Requirements regarding a participant's apparel,
15 bandages, handwraps, gloves, mouthpiece, and appearance during
16 a match;

17 (d) Requirements relating to a manager's
18 participation, presence, and conduct during a match;

19 (e) Duties and responsibilities of all licensees under
20 this chapter;

21 (f) Procedures for hearings and resolution of
22 disputes;

23 (g) Qualifications for appointment of referees and
24 judges;

25 (h) Qualifications for and appointment of chief
26 inspectors and inspectors, and duties and responsibilities of
27 chief inspectors and inspectors with respect to oversight and
28 coordination of activities for each program of matches
29 regulated under this chapter;

30 (i) Designation and duties of a knockdown timekeeper;

31 and

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1 (j) Setting fee and reimbursement schedules for
2 referees and other officials appointed by the commission or
3 the representative of the commission.

4 Section 131. The Florida State Boxing Commission shall
5 conduct a review and analysis of boxing competitions not now
6 regulated or sanctioned and shall provide recommendations to
7 the Department of Business and Professional Regulation and the
8 Legislature regarding any rules or legislation necessary to
9 achieve effective regulation.

10 Section 132. Section 548.017, Florida Statutes, is
11 amended to read:

12 548.017 Boxers, managers, and other persons required
13 to have licenses.--

14 (1) A professional participant, manager, trainer,
15 second, timekeeper, referee, judge, announcer, physician,
16 matchmaker, concessionaire, or booking agent or representative
17 of a booking agent shall be licensed before directly or
18 indirectly acting in such capacity in connection with any
19 match involving a professional. A physician must be licensed
20 pursuant to chapter 458 or chapter 459, must maintain an
21 unencumbered license in good standing, and must demonstrate
22 satisfactory medical training or experience in boxing, or a
23 combination of both, to the executive director prior to
24 working as the ringside physician.

25 (2) A violation of this section is a misdemeanor of
26 the second degree, punishable as provided in s. 775.082 or s.
27 775.083.

28 Section 133. Section 548.021, Florida Statutes, is
29 amended to read:

30 548.021 Applications for licenses and permits.--

31 (1) An application for a license or a permit must:

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1 ~~(a)(1)~~ Be in writing on a form supplied by the
2 commission which shall contain the applicant's social security
3 number.

4 ~~(b)(2)~~ Be verified by the applicant.

5 ~~(c)(3)~~ Be complete and have attached to the
6 application any photographs and other exhibits required.

7 ~~(2)(4)~~ Pursuant to the federal Personal Responsibility
8 and Work Opportunity Reconciliation Act of 1996, each party is
9 required to provide his or her social security number in
10 accordance with this section. Disclosure of social security
11 numbers obtained through this requirement shall be limited to
12 the purpose of administration of the Title IV-D program for
13 child support enforcement.

14 (3) Any person who seeks to obtain a license by means
15 of a knowingly false or fraudulent representation made in any
16 application or who otherwise knowingly makes false statements
17 concerning her or his medical history, boxing record, or other
18 personal information commits a misdemeanor of the second
19 degree, punishable as provided in s. 775.082 or s. 775.083.

20 Section 134. Section 548.024, Florida Statutes, is
21 created to read:

22 548.024 Background investigation of applicants for
23 licensure.--

24 (1) The commission is authorized to adopt rules
25 pursuant to ss. 120.536(1) and 120.54 which provide for
26 background investigations of applicants for licensure under
27 this chapter for the purpose of ensuring the accuracy of the
28 information provided in the application; ensuring that there
29 are no active or pending criminal or civil indictments against
30 the applicant; and ensuring satisfaction of all other
31 requirements of this chapter. The background investigation may

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1 include, but is not limited to, the criminal and financial
2 history of the applicant.

3 (2) If the commission requires a background criminal
4 history investigation of any applicant, it shall require the
5 applicant to submit to the department a fingerprint card for
6 this purpose. The fingerprint card shall be forwarded to the
7 Division of Criminal Justice Information Systems within the
8 Department of Law Enforcement and the Federal Bureau of
9 Investigation for purposes of processing the fingerprint card
10 to determine if the applicant has a criminal history record.
11 The information obtained by the processing of the fingerprint
12 card by the Department of Law Enforcement and the Federal
13 Bureau of Investigation shall be sent to the department for
14 the purpose of determining if the applicant is statutorily
15 qualified for licensure.

16 Section 135. Section 548.028, Florida Statutes, is
17 amended to read:

18 548.028 Refusal to issue license.--The commission
19 shall not issue a license to:

20 (1) Any person or business entity that ~~who in any~~
21 ~~jurisdiction~~ has been convicted of any act, or who has a
22 trustee, partner, officer, director, or owner that has been
23 convicted of any act, which would constitute a violation of
24 this chapter or which would constitute any of the grounds set
25 forth in this chapter for suspension or revocation of a
26 license or against whom such charges are pending before any
27 regulatory body; or

28 (2) Any person or business entity that ~~who~~ has been
29 named in any ~~an~~ information or indictment, or who has a
30 trustee, partner, officer, director, or owner that has been
31 named in an information or indictment, for any act which would

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1 constitute a violation of this chapter or a ground for
2 suspension or revocation of a license.

3 Section 136. Section 548.041, Florida Statutes, is
4 amended to read:

5 (Substantial rewording of section. See
6 s. 548.041, F.S., for present text.)

7 548.041 Age, condition, and suspension of boxers.--

8 (1) A person shall not be licensed as a participant,
9 and the license of any participant shall be suspended or
10 revoked, if such person:

11 (a) Is under the age of 18;

12 (b) Has participated in a match in this state which
13 was not sanctioned by the commission or sanctioned by a Native
14 American commission properly constituted under federal law; or

15 (c) Does not meet certain health and medical
16 examination conditions as required by rule of the commission.

17 (2)(a) A participant losing by knockout as a result of
18 being counted out in any jurisdiction shall be automatically
19 suspended for a period of time as determined by the attending
20 physician or commission representative, or 60 calendar days
21 from the date of the knockout, whichever is longer. A
22 participant shall not engage in any match, contact exhibition,
23 or contact sparring for training purposes during the
24 suspension period. After the suspension period and prior to
25 engaging in any match, contact exhibition, or contact sparring
26 for training purposes, the participant shall be examined by a
27 physician. The participant shall advise the physician of the
28 previous knockout or technical draw and shall provide medical
29 records or his or her permission for the physician to consult
30 with the treating physician at the time of the previous
31 knockout or technical draw. The results of this examination

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1 shall be filed with the commission prior to any further
2 matches being approved for the participant.

3 (b) A participant losing by technical knockout,
4 technical draw, or disqualification shall be automatically
5 suspended for a period of time to be determined by the
6 physician or commission representative, or 30 calendar days
7 from the date of the technical knockout, technical draw, or
8 disqualification, whichever is longer. A participant shall not
9 engage in any match, contact exhibition, or contact sparring
10 for training purposes during the suspension period without the
11 approval of the physician. After the suspension period and
12 prior to engaging in any match, contact exhibition, or contact
13 sparring for training purposes, the participant shall be
14 examined by a physician. The participant shall advise the
15 physician of the previous knockout or technical draw and shall
16 provide medical records or his or her permission for the
17 physician to consult with the treating physician at the time
18 of the previous knockout or technical draw. The results of
19 this examination shall be filed with the commission prior to
20 any further matches being approved for the participant. In the
21 case of a disqualification, the commission representative
22 shall determine whether a medical clearance shall be required
23 following suspension.

24 (c) Any participant who has been suspended by any
25 state as a result of a recent knockout or series of
26 consecutive losses, an injury, requirement for a medical
27 procedure, physician denial of certification, failure of a
28 drug test, the use of false aliases, or the falsifying or
29 attempting to falsify official identification cards or
30 documents shall not be permitted to participate in this state
31 until such time as the state in which the participant is

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1 suspended removes his or her name from the suspension list or
2 until the requirements of such suspension have been fulfilled
3 and proof of such has been provided to this state. If a
4 participant has been suspended in another state for any reason
5 other than those stated in this paragraph, the participant may
6 be permitted to participate if the state in which the
7 participant is suspended is notified and consulted with by
8 this state prior to the granting of approval to participate or
9 the participant appeals to the Association of Boxing
10 Commissions and the association determines that the suspension
11 of such participant was without sufficient grounds, for an
12 improper purpose, or not related to the health and safety of
13 the participant.

14 (d) Any participant who fails to appear at a match or
15 fails to appear at a match at the designated time for which
16 the participant or the participant's manager has contracted
17 and does not provide a valid reason or, in the case of
18 physical disability, furnish a physician's certificate, shall
19 be suspended for a period to be determined by the commission
20 or shall be fined or both, as determined by the commission.

21 (e) The license of any participant shall be revoked
22 and shall not be reinstated if such participant intentionally
23 strikes, strikes at, or touches in any way or threatens to
24 touch in any way, any official.

25 Section 137. Subsection (4) is added to section
26 548.043, Florida Statutes, to read:

27 548.043 Weights and classes, limitations; gloves.--

28 (4) Participants in a match shall be weighed on the
29 same scale at a time and place to be determined by the
30 commission or a commission representative. The weigh-in shall
31 be conducted in the presence of the opponent of the

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1 participant and a commission representative. If a participant
2 fails to arrive at the weigh-in at the scheduled time and
3 place, the opponent of the late-arriving participant will be
4 permitted to be weighed without the late-arriving participant
5 present. The participant who arrived at the weigh-in on time
6 shall not lose his right of observing the weighing in of his
7 opponent. The weigh-in shall occur no sooner than 4:00 p.m.
8 on the day preceding the date of the program of matches or at
9 such other time as designated by the commission or commission
10 representative.

11 Section 138. Section 548.046, Florida Statutes, is
12 amended to read:

13 548.046 Physician's attendance at match; examinations;
14 cancellation of match.--

15 (1) The commission, or the commission representative,
16 shall assign to each match at least one a physician who shall
17 observe the physical condition of the participants and advise
18 the commissioner or commission representative ~~deputy~~ in charge
19 and the referee of the participants' conditions before, ~~and~~
20 during, and after the match. The commission shall establish a
21 schedule of fees for the physician's services. The
22 physician's fee shall be paid by the promoter of the match
23 attended by the physician. The physician shall be considered
24 an agent of the commission in determining the state insurance
25 coverage and sovereign immunity protection applicability of
26 ss. 284.31 and 768.28.

27 (2)(a) In addition to any other required examination,
28 each participant shall be examined by the attending physician
29 at the time of weigh-in. If the physician determines that a
30 participant is physically or mentally unfit to proceed, the
31 physician shall notify any commissioner or the commission

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1 representative who shall immediately cancel the match. The
2 examination shall conform to rules adopted by the commission
3 ~~based on the advice of the medical advisory council.~~ The
4 result of the examination shall be reported in a writing
5 signed by the physician and filed with the commission prior to
6 completion of the weigh-in.

7 (b) The commission may require, by rule, each
8 participant to present to the commission representative at the
9 time of the weigh-in an original copy of blood test results
10 which demonstrate whether the participant is free from any
11 communicable disease. If the rules of the commission require
12 the presentation of such results and the blood test results
13 are not presented as required by commission rule or reveal the
14 participant has a communicable disease, the commission
15 representative shall immediately cancel the match. The
16 commission may adopt, by rule, protocols and procedures for
17 the blood tests and the cancellation of a match, a list of
18 communicable diseases covered by this paragraph, and a time
19 period within which the blood test must be taken prior to the
20 match.

21 (3)(a) In a match which is a sanctioned championship
22 title fight, or whenever the commission representative has
23 reason to believe that a participant has ingested or used a
24 prohibited drug or foreign substance, the commission
25 representative shall request and the participant shall
26 provide, under the supervision of the attending physician,
27 commission representative, or inspector, a sample or samples
28 of his or her urine taken not less than 1 hour before the
29 commencement of the match nor more than 1 hour after the
30 conclusion of the match. No participant shall use substances
31 or methods which could alter the integrity of the urine

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1 sample. Urine samples shall be taken in accordance with the
2 protocol as agreed upon in writing between the commission and
3 the laboratory used for processing the urine samples.

4 (b) The commission may require urine samples, as
5 provided in paragraph (a), to be conducted randomly. In the
6 event one participant in a match is tested randomly, then the
7 other participant in the match shall be tested also.

8 (c) Failure or refusal to provide a urine sample
9 immediately upon request shall result in the revocation of the
10 participant's license. Any participant who has been adjudged
11 the loser of a match and who subsequently refuses to or is
12 unable to provide a urine sample shall forfeit his or her
13 share of the purse to the commission. Any participant who is
14 adjudged the winner of a match and who subsequently refuses to
15 or is unable to provide a urine sample shall forfeit the win
16 and shall not be allowed to engage in any future match in
17 Florida. A no decision result shall be entered into the
18 official record as the result of the match. The purse shall be
19 redistributed as though the participant found to be in
20 violation of this subsection had lost the match. If
21 redistribution of the purse is not necessary or after
22 redistribution of the purse is completed, the participant
23 found to be in violation of this subsection shall forfeit his
24 or her share of the purse to the commission.

25 (4) The attending physician or physicians shall
26 provide medical assistance at the facility, to the commission
27 representative, and medical advice to the referee during the
28 match, and shall be accorded the cooperation of all commission
29 representatives and licensees present for the purpose of
30 performing his or her medical duties. If, in the opinion of
31 the attending physician, the referee has received an injury

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1 which prohibits the referee from continuing to officiate, the
2 physician shall notify the commission representative who shall
3 temporarily halt the match. The injured referee shall be
4 attended to by the physician until the referee is no longer in
5 danger or has been transferred to the care of another
6 qualified person. The commission representative shall then
7 direct the match to continue under the supervision of the
8 referee or under the supervision of another referee, if the
9 referee is unable to continue.

10 Section 139. Section 548.049, Florida Statutes, is
11 amended to read:

12 548.049 Medical, surgical, and hospital insurance;
13 life insurance.--

14 (1) The commission shall, by rule, require
15 participants to be covered by not less than ~~\$20,000~~^{\$2,500} of
16 insurance for medical, surgical, and hospital care required as
17 a result of injuries sustained while engaged in matches. The
18 insured shall be the beneficiary of such policies. Any
19 deductible associated with the insurance policy shall be paid
20 by the promoter and shall not be paid by or charged to the
21 participant.

22 (2) The commission may also require participants to be
23 covered by not less than ~~\$20,000~~^{\$5,000} of life insurance
24 covering deaths caused by injuries received while engaged in
25 matches.

26 Section 140. Subsection (1) of section 548.05, Florida
27 Statutes, is amended to read:

28 548.05 Control of contracts.--

29 (1) The commission shall adopt rules governing the
30 form and content of contracts executed in this state between
31 managers between promoters, foreign copromoters, and

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1 professionals. All such contracts shall be in writing and
2 shall contain all provisions specifically worded as required
3 by rules of the commission. Contracts which do not contain all
4 provisions specifically worded as required by rules of the
5 commission shall be deemed to contain such provisions. A copy
6 of all such contracts shall be filed with the commission
7 within 7 calendar days of execution.

8 Section 141. Subsections (6) through (11) are added to
9 section 548.057, Florida Statutes, to read:

10 548.057 ~~Attendance of Referee and judges; attendance~~
11 ~~at match; scoring; seconds.--~~

12 (6) No judge licensed in this state shall act as a
13 judge at any match in a state, territory, commonwealth, or
14 Native American Reservation that is not regulated by a state
15 boxing commission unless the match is supervised by a state
16 boxing commission or a Native American commission properly
17 constituted under federal law.

18 (7) No judge shall also serve as a supervisor or on
19 the ratings committee or recommend boxers to the ratings
20 committee for a sanctioning body.

21 (8) Any person whose application for a judge's license
22 has been denied shall not be permitted to reapply for a
23 judge's license for a period of 6 months. Any person whose
24 application for a judge's license has been denied on three
25 occasions shall not be permitted to reapply.

26 (9) The number of judges shall be assigned in
27 accordance with rules of the commission. The number of
28 unofficial judges at each event shall be limited to three by
29 the commission.

30 (10) The judges shall be located in seats designated
31 for them by the commission representative.

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1 (11) In the event that sufficient judges are not
2 available, a referee shall be selected to act as a judge for
3 that specific program of matches.

4 Section 142. Present subsections (2) and (3) of
5 section 548.06, Florida Statutes, are renumbered as
6 subsections (5) and (6), respectively, and new subsections
7 (2), (3), and (4) are added to said section to read:

8 548.06 Payments to state; exemptions.--

9 (2) Where the rights to telecast a match or matches
10 held in Florida to be viewed in Florida or outside of Florida
11 are in whole owned by, sold to, acquired by, or held by any
12 person who intends to sell, subsequently sells, or, in some
13 other manner, extends such rights in part to another, such
14 person is deemed to be a promoter and must be licensed as such
15 in this state. Such person shall, within 72 hours after the
16 match, file with the commission a written report that includes
17 the number of tickets sold, the amount of gross receipts, and
18 any other facts the commission may require.

19 (3) A concessionaire shall, within 72 hours after the
20 match, file with the commission a written report that includes
21 the number of tickets sold, the amount of gross receipts, and
22 any other facts the commission may require.

23 (4) Any written report required to be filed with the
24 commission under this section shall be postmarked within 72
25 hours after the conclusion of the match, and an additional 5
26 days shall be allowed for mailing.

27 Section 143. Section 548.074, Florida Statutes, is
28 amended to read:

29 548.074 Power to administer oaths, take depositions,
30 and issue subpoenas.--For the purpose of any investigation or
31 proceeding conducted pursuant to this chapter, the department

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1 shall have the power to administer oaths, take depositions,
2 make inspections when authorized by statute, issue subpoenas
3 which shall be supported by affidavit, serve subpoenas and
4 other process, and compel the attendance of witnesses and the
5 production of books, papers, documents, and other evidence.
6 The department shall exercise this power on its own initiative
7 or whenever requested by the commission. Challenges to, and
8 enforcement of, subpoenas and orders shall be handled as
9 provided in s. 120.569.~~In addition to the powers of subpoena~~
10 ~~in chapter 120, each member of the commission may issue~~
11 ~~subpoenas requiring the attendance and testimony of, or the~~
12 ~~production of books and papers by, any person whom the~~
13 ~~commission believes to have information or documents of~~
14 ~~importance to any commission investigation.~~

15 Section 144. Section 548.075, Florida Statutes, is
16 amended to read:

17 548.075 Administrative fines; citations.--

18 (1) The commission may impose a fine of not more than
19 \$5,000 for any violation of this chapter in lieu of or in
20 addition to any other punishment provided for such violation.

21 (2) The commission may adopt rules pursuant to ss.
22 120.54 and 120.536(1) to permit the issuance of citations for
23 any violation of this chapter in lieu of or in addition to any
24 other punishment provided for such violation.

25 Section 145. Section 548.045, Florida Statutes, is
26 repealed.

27 Section 146. Section 455.2281, Florida Statutes, is
28 amended to read:

29 455.2281 Unlicensed activities; fees; disposition.--In
30 order to protect the public and to ensure a consumer-oriented
31 department, it is the intent of the Legislature that vigorous

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1 enforcement of regulation for all professional activities is a
2 state priority. All enforcement costs should be covered by
3 professions regulated by the department. Therefore, the
4 department shall impose, upon initial licensure and each
5 renewal thereof, a special fee of \$5 per licensee. Such fee
6 shall be in addition to all other fees collected from each
7 licensee and shall fund efforts to combat unlicensed activity.
8 Any profession regulated by the department which offers
9 services that are not subject to regulation when provided by
10 an unlicensed person may use funds in its unlicensed activity
11 account to inform the public of such situation.The board with
12 concurrence of the department, or the department when there is
13 no board, may earmark \$5 of the current licensure fee for this
14 purpose, if such board, or profession regulated by the
15 department, is not in a deficit and has a reasonable cash
16 balance. A board or profession regulated by the department may
17 authorize the transfer of funds from the operating fund
18 account to the unlicensed activity account of that profession
19 if the operating fund account is not in a deficit and has a
20 reasonable cash balance.The department shall make direct
21 charges to this fund by profession and shall not allocate
22 indirect overhead. The department shall seek board advice
23 regarding enforcement methods and strategies prior to
24 expenditure of funds; however, the department may, without
25 board advice, allocate funds to cover the costs of continuing
26 education compliance monitoring under s. 455.2177. The
27 department shall directly credit, by profession, revenues
28 received from the department's efforts to enforce licensure
29 provisions, including revenues received from fines collected
30 under s. 455.2177. The department shall include all financial
31 and statistical data resulting from unlicensed activity

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1 enforcement and from continuing education compliance
2 monitoring as separate categories in the quarterly management
3 report provided for in s. 455.219. The department shall not
4 charge the account of any profession for the costs incurred on
5 behalf of any other profession. For an unlicensed activity
6 account, a balance which remains at the end of a renewal cycle
7 may, with concurrence of the applicable board and the
8 department, be transferred to the operating fund account of
9 that profession.

10 Section 147. Subsection (4) is added to section
11 473.313, Florida Statutes, to read:

12 473.313 Inactive status.--

13 (4) Notwithstanding the provisions of s. 455.271, the
14 board may, at its discretion, reinstate the license of an
15 individual whose license has become null and void if the
16 individual has made a good-faith effort to comply with this
17 section but has failed to comply because of illness or unusual
18 hardship. The individual shall apply to the board for
19 reinstatement in a manner prescribed by rules of the board and
20 shall pay an application fee in an amount determined by rule
21 of the board. The board shall require that such an individual
22 meet all continuing education requirements as provided in s.
23 473.312, pay appropriate licensing fees, and otherwise be
24 eligible for renewal of licensure under this chapter.

25 Section 148. Except as otherwise expressly provided in
26 this act, this act shall take effect October 1, 2001.

27
28

29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 Delete everything before the enacting clause

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1 455.224, F.S.; authorizing any division of the
2 department to issue citations in the
3 enforcement of its regulatory provisions in
4 accordance with the provisions established for
5 such purposes for the regulation of
6 professions; amending ss. 468.401, 468.402,
7 468.403, 468.404, 468.406, 468.407, 468.410,
8 468.412, 468.413, 468.414, 468.415, F.S.;
9 providing for registration of talent agencies
10 in lieu of licensure; conforming provisions;
11 providing penalties; repealing ss. 468.405 and
12 468.408, F.S., relating to qualification for
13 talent agency license and bonding requirements;
14 amending s. 468.609, F.S.; authorizing direct
15 supervision by building code administrators by
16 telecommunications devices in certain
17 localities and under specified circumstances;
18 amending s. 468.627, F.S.; requiring the
19 payment of costs for certain building code
20 enforcement applicants who fail to appear for
21 scheduled examinations, subject to waiver in
22 case of hardship; amending s. 471.025, F.S.;
23 allowing for more than one type of seal to be
24 used by professional engineers; amending s.
25 472.003, F.S.; providing exemption from ch.
26 472, F.S., relating to land surveying and
27 mapping, for certain subordinate employees;
28 revising cross-references; amending s. 472.005,
29 F.S.; revising and providing definitions;
30 revising cross-references; amending s. 472.029,
31 F.S.; revising provisions relating to access to

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

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

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1 specified date; amending s. 489.511, F.S.;

2 revising provisions relating to licensure as an

3 electrical or alarm system contractor by

4 endorsement; amending s. 489.537, F.S.;

5 revising the power of municipalities and

6 counties with respect to regulating electrical

7 journeymen; amending ss. 498.005, 498.019,

8 498.049, F.S.; reassigning the regulation of

9 land sales from the Division of Florida Land

10 Sales, Condominiums, and Mobile Homes to the

11 Division of Real Estate; requiring all funds

12 collected by the department pursuant to the

13 regulation of land sales to be deposited in the

14 Professional Regulation Trust Fund; amending s.

15 190.009, F.S.; conforming terminology; amending

16 ss. 718.103, 718.105, 718.112, 718.1255,

17 718.501, 718.502, 718.504, 718.508, 718.509,

18 718.608, 719.103, 719.1255, 719.501, 719.502,

19 719.504, 719.508, 719.608, 721.05, 721.07,

20 721.08, 721.26, 721.28, 721.301, 721.50,

21 721.82, 721.84, 723.003, 723.006, 723.0065,

22 723.009, F.S.; renaming the Division of Florida

23 Land Sales, Condominiums, and Mobile Homes as

24 the Division of Condominiums, Timeshare, and

25 Mobile Homes; renaming the Division of Florida

26 Land Sales, Condominiums, and Mobile Homes

27 Trust Fund as the Division of Condominiums,

28 Timeshare, and Mobile Homes Trust Fund;

29 conforming provisions; revising language with

30 respect to condominium association bylaws;

31 revising language with respect to the annual

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

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

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1 language with respect to material alterations
2 of common elements or association real property
3 operated by a multicondominium association;
4 amending s. 718.115, F.S.; revising language
5 with respect to common expenses; amending s.
6 718.405, F.S.; revising language with respect
7 to multicondominiums and multicondominium
8 associations; amending s. 718.503, F.S.,
9 relating to disclosure requirements for the
10 sale of certain condominiums; removing the
11 requirement that question and answer sheets be
12 part of the closing documents; amending s.
13 718.504, F.S.; revising language with respect
14 to the prospectus or offering circular;
15 amending s. 548.002, F.S.; providing
16 definitions; authorizing the Florida State
17 Boxing Commission to require the posting of a
18 bond or other form of security by
19 concessionaires; amending s. 548.015, F.S.;
20 authorizing the Florida State Boxing Commission
21 to require surety bonds or other forms of
22 security; amending s. 548.003, F.S.; requiring
23 one member of the Florida State Boxing
24 Commission to be a licensed physician;
25 providing additional duties and
26 responsibilities of the Florida State Boxing
27 Commission; requiring the Florida State Boxing
28 Commission to make recommendations with respect
29 to unregulated and unsanctioned boxing
30 competition; amending s. 548.017, F.S.;
31 providing requirements for ringside physicians;

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1 requiring concessionaires to be licensed;
2 amending s. 548.021, F.S.; providing a criminal
3 penalty for attempting to obtain a license by
4 means of fraudulent information; creating s.
5 548.024, F.S.; authorizing the Florida State
6 Boxing Commission to adopt rules which provide
7 for background investigations of applicants for
8 licensure; providing for the submission of
9 fingerprint cards; providing procedure for
10 processing fingerprint cards; amending s.
11 548.028, F.S.; expanding provisions with
12 respect to persons whom the Florida State
13 Boxing Commission shall not license; amending
14 s. 548.041, F.S.; providing requirements and
15 restrictions with respect to age, condition,
16 and suspension of boxers; providing for
17 revocation of license under specified
18 circumstances; amending s. 548.043, F.S.;
19 providing requirements and procedure for the
20 weighing of participants in a boxing match;
21 amending s. 548.046, F.S.; revising provisions
22 with respect to physicians' attendance at
23 boxing matches; providing state insurance
24 coverage and sovereign immunity protection for
25 assigned physicians; requiring the provision of
26 urine samples by participants under specified
27 circumstances; providing for revocation of
28 license for failure or refusal to provide a
29 required urine sample; providing conditions
30 with respect to forfeiture and redistribution
31 of purse upon failure or refusal to provide a

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1 required urine sample; specifying authority of
2 physicians at boxing matches; providing
3 procedure in the event of injury of a referee;
4 authorizing blood tests of participants prior
5 to a match; providing for cancellation of the
6 match for a test showing the presence of a
7 communicable disease or for failure to present
8 blood test results, if required; authorizing
9 the Florida State Boxing Commission to adopt
10 rules relating to blood tests; amending s.
11 548.049, F.S.; increasing the minimum coverage
12 amount of required insurance for participants
13 in boxing matches; requiring promoters to pay
14 any deductible for such insurance policy;
15 amending s. 548.05, F.S.; providing additional
16 requirements with respect to contracts between
17 managers and professionals; amending s.
18 548.057, F.S.; placing specified restrictions
19 on judges of boxing matches; providing
20 requirements with respect to number and
21 location of judges; amending s. 548.06, F.S.;
22 revising provisions relating to promoters and
23 payments to the state; amending s. 548.074,
24 F.S.; providing that the department shall have
25 the power to administer oaths, take
26 depositions, make inspections, serve subpoenas,
27 and compel the attendance of witnesses and
28 other evidence; amending s. 548.075, F.S.;
29 authorizing the Florida State Boxing Commission
30 to adopt rules to permit the issuance of
31 citations; repealing s. 548.045, F.S., relating

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1 to the creation, qualifications, compensation,
2 and powers and duties of the medical advisory
3 council; amending s. 455.2281, F.S. ;
4 authorizing any profession regulated by the
5 department which offers services that are not
6 subject to regulation when provided by an
7 unlicensed person to use funds in its
8 unlicensed activity account to inform the
9 public of such situation; authorizing a board
10 or profession regulated by the department to
11 transfer funds in its operating fund account to
12 its unlicensed activity account under certain
13 circumstances; amending s. 473.313, F.S. ;
14 providing authority for the reinstatement of
15 certain licensees in public accountancy whose
16 licenses have become void; providing effective
17 dates.

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