

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

Amendment No.      Barcode 843900

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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 Subsection (7) is repealed and paragraph (d) of subsection (2), paragraph (a) of subsection (4), and subsection (6) of section 20.165, Florida Statutes, are amended to read: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

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

Amendment No. \_\_\_\_ Barcode 843900

1 under part I of chapter 481.

2 2. Florida Board of Auctioneers, created under part VI  
3 of chapter 468.

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

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

8 5. Construction Industry Licensing Board, created  
9 under part I of chapter 489.

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

11 ~~6.7.~~ Electrical Contractors' Licensing Board, created  
12 under part II of chapter 489.

13 ~~7.8.~~ Board of Employee Leasing Companies, created  
14 under part XI of chapter 468.

15 ~~8.9.~~ Board of Funeral Directors and Embalmers, created  
16 under chapter 470.

17 ~~9.10.~~ Board of Landscape Architecture, created under  
18 part II of chapter 481.

19 ~~10.11.~~ Board of Pilot Commissioners, created under  
20 chapter 310.

21 ~~11.12.~~ Board of Professional Engineers, created under  
22 chapter 471.

23 ~~12.13.~~ Board of Professional Geologists, created under  
24 chapter 492.

25 ~~13.14.~~ Board of Professional Surveyors and Mappers,  
26 created under chapter 472.

27 ~~14.15.~~ Board of Veterinary Medicine, created under  
28 chapter 474.

29 (6) Each board with ~~five or~~ more than seven members  
30 shall have at least two consumer members who are not, and have  
31 never been, members or practitioners of the profession

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

12 326.001 Short title.--This chapter Sections  
13 ~~326.001-326.006~~ may be cited as the "Yacht and Ship Brokers'  
14 Act."

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

17 326.002 Definitions.--As used in this chapter ss.  
18 ~~326.001-326.006~~, the term:

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

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

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

30 (4) "Yacht" means any vessel which is propelled by  
31 sail or machinery in the water which exceeds 32 feet in

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

Amendment No. \_\_\_\_ Barcode 843900

1 length, and which weighs less than 300 gross tons.

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

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

6 326.003 Administration.--The department division  
7 shall:

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

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

14 (3) Enforce the provisions of this chapter ~~ss.~~  
15 ~~326.001-326.006~~ against any person who operates as a broker or  
16 salesperson without a license.

17 Section 5. Section 326.004, Florida Statutes, is  
18 amended to read:

19 326.004 Licensing.--

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

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

27 (3) A license is not required for:

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

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

31 (c) A receiver, trustee, or other person acting under

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

Amendment No. \_\_\_\_ Barcode 843900

1 a court order.

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

3 (e) A transaction involving the foreclosure of a  
4 security interest in a yacht.

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

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

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

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

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

21 (c) Post the bond required by the Yacht and Ship  
22 Brokers' Act.

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

25 (e) Furnish a full set of fingerprints taken within  
26 the 6 months immediately preceding the submission of the  
27 application.

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

30 (7)(a) Before any license may be issued to a yacht or  
31 ship broker, he or she must deliver to the department ~~division~~

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

Amendment No. \_\_\_\_ Barcode 843900

1 a good and sufficient surety bond or irrevocable letter of  
2 credit, executed by the broker as principal, in the sum of  
3 \$25,000.

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

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

31 (d) Irrevocable letters of credit must be engaged by a

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

Amendment No. \_\_\_\_ Barcode 843900

1 bank as an agreement to honor demands for payment as specified  
2 in this section.

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

6 (8) A person may not be licensed as a broker unless he  
7 or she has been a salesperson for at least 2 consecutive  
8 years, and may not be licensed as a broker after October 1,  
9 1990, unless he or she has been licensed as a salesperson for  
10 at least 2 consecutive years.

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

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

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

31 (12) If a surety notifies the department ~~division~~ that

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

Amendment No. \_\_\_\_ Barcode 843900

1 it is no longer the surety for a licensee, the department  
2 ~~division~~ shall notify the licensee of such withdrawal by  
3 certified mail, return receipt requested, addressed to the  
4 licensee's principal office. Upon the termination of such  
5 surety the licensee's license is automatically suspended until  
6 he or she files a new bond with the department ~~division~~.

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

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

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

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

26 Section 6. Section 326.006, Florida Statutes, is  
27 amended to read:

28 326.006 Powers and duties of department ~~division~~.--

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

31 (2) The department ~~may~~ ~~division~~ ~~has the power to~~



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

Amendment No. \_\_\_\_ Barcode 843900

1 enforce and ensure compliance with the provisions of this  
2 chapter and rules adopted under this chapter relating to the  
3 sale and ownership of yachts and ships. In performing its  
4 duties, the department ~~division~~ has the following powers and  
5 duties:

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 court for an order compelling compliance, may impose a civil  
2 penalty, and may suspend or revoke the licensee's license.

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

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

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

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

26 4. The department division may impose a civil penalty  
27 against a broker or salesperson or any of his or her assignees  
28 or agents, or against an unlicensed person or any of his or  
29 her assignees or agents, for any violation of this chapter or  
30 a rule adopted under this chapter. A penalty may be imposed  
31 for each day of continuing violation, but in no event may the

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

Amendment No. \_\_\_\_ Barcode 843900

1 penalty for any offense exceed \$10,000. All amounts collected  
2 must be deposited with the Treasurer to the credit of the  
3 ~~Professional Regulation Division of Florida Land Sales,~~  
4 ~~Condominiums, and Mobile Homes~~ Trust Fund. If a broker,  
5 salesperson, or unlicensed person working for a broker, fails  
6 to pay the civil penalty, the ~~department~~ ~~division~~ shall  
7 thereupon issue an order suspending the broker's license until  
8 such time as the civil penalty is paid or may pursue  
9 enforcement of the penalty in a court of competent  
10 jurisdiction. The order imposing the civil penalty or the  
11 order of suspension may not become effective until 20 days  
12 after the date of such order. Any action commenced by the  
13 ~~department~~ ~~division~~ must be brought in the county in which the  
14 ~~department~~ ~~division~~ has its executive offices or in the county  
15 where the violation occurred.

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

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

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

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

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

31 5. Commingles the money or other property of his or

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

Amendment No. \_\_\_\_ Barcode 843900

1 her principal with his or her own.

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

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

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

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

11 10. Is convicted of a felony.

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

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

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

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

5 399.061 Inspections; correction of deficiencies.--  
6 (1)(a) All elevators or other conveyances subject to  
7 this chapter must be annually inspected by a certified  
8 elevator inspector through a third-party inspection service,  
9 or by a municipality or county under contract with the  
10 division pursuant to s. 399.13. If the elevator or other  
11 conveyance is by a third-party inspection service certified as  
12 a qualified elevator inspector or maintained pursuant to a  
13 service maintenance contract continuously in force, it shall  
14 be inspected at least once every two years by a certified  
15 elevator inspector not employed by or otherwise associated  
16 with the maintenance company; however, if the elevator is not  
17 an escalator or a dumbwaiter and the elevator serves only two  
18 adjacent floors and is covered by a service maintenance  
19 contract, no inspection shall be required so long as the  
20 service contract remains in effect. A statement verifying the  
21 existence, performance, and cancellation of each service  
22 maintenance contract must be filed annually with the division  
23 as prescribed by rule. All elevators covered by a service  
24 maintenance contract shall be inspected by a  
25 certificate-of-competency holder at least once every 2 years;  
26 however, if the elevator is not an escalator or a dumbwaiter  
27 and the elevator serves only two adjacent floors and is  
28 covered by a service maintenance contract, no inspection shall  
29 be required so long as the service contract remains in effect.

30 (b) The division may inspect an elevator whenever  
31 necessary to ensure its safe operation or when a third-party

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

Amendment No. \_\_\_\_ Barcode 843900

1 inspection service is not available for routine inspection.

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

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

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

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

21 455.213 General licensing provisions.--

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

26 Notwithstanding any other provision of law, the department is  
27 the sole authority for determining the content of any  
28 documents to be submitted for initial licensure and licensure  
29 renewal. Such documents may contain information including, as  
30 appropriate demographics, education, work history, personal  
31 background, criminal history, finances, business information,

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

27 (12) The department may not issue or renew a license  
28 to any person who is not in compliance with all provisions of  
29 a final order of a board or the department until that person  
30 is in compliance with all terms and conditions of the final  
31 order. The department may not issue or renew a license to any

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

Amendment No. \_\_\_\_ Barcode 843900

1 person who is not in compliance with all legal obligations  
2 under this chapter or the relevant practice act, including,  
3 but not limited to, the obligation to pay all fees and  
4 assessments that are owed and to complete all continuing  
5 education requirements. This subsection applies to all  
6 divisions within the department.

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

9 455.224 Authority to issue citations.--

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

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

30 (3) The department shall be entitled to recover the  
31 costs of investigation, in addition to any penalty provided



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

Amendment No. \_\_\_\_ Barcode 843900

1 according to board or department rule, as part of the penalty  
2 levied pursuant to the citation.

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

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 the appropriate division.

2 Section 11. Subsections (10) and (11) of section  
3 468.401, Florida Statutes, are amended to read:

4 468.401 Regulation of talent agencies;  
5 definitions.--As used in this part or any rule adopted  
6 pursuant hereto:

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

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

14 Section 12. Section 468.402, Florida Statutes, is  
15 amended to read:

16 468.402 Operation of a talent agency ~~Duties of the~~  
17 ~~department; authority to issue and revoke license;~~ adoption of  
18 rules.--

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

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

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

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

31 (d) Made, printed, published, distributed, or caused,

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

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

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

29 (i) Had a license or registration to operate a talent  
30 agency revoked, suspended, or otherwise acted against,  
31 including, but not limited to, having been denied a license or

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

Amendment No. \_\_\_\_ Barcode 843900

1 registration for good cause by the licensing authority of  
2 another state, territory, or country.

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

10 (k) Advertised goods or services in a manner that was  
11 fraudulent, false, deceptive, or misleading in form or  
12 content.

13 (l) Advertised, operated, or attempted to operate  
14 under a name other than the name appearing on the registration  
15 license.

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

18 (n) Operated with a revoked, suspended, inactive, or  
19 delinquent registration license.

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

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

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

29 (r) Conspired with ~~another licensee or with~~ any other  
30 person to commit an act, or has committed an act, that would  
31 tend to coerce, intimidate, or preclude another registrant

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

Amendment No. \_\_\_\_ Barcode 843900

1 licensee from advertising his or her services.

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

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

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

15 ~~(2)(3)~~ The department may ~~has authority to~~ adopt rules  
16 pursuant to ss. 120.536(1) and 120.54 necessary to administer  
17 ~~implement the provisions of~~ this part.

18 ~~(3)(4)~~ A revoked or suspended registration license  
19 must be returned to the department within 7 days after the  
20 time for appeal has elapsed.

21 ~~(4)(5)~~ Upon a finding of a violation of any one or  
22 more of the grounds enumerated in subsection (1) or any other  
23 section of this part, the department may ~~take the following~~  
24 actions:

25 (a) Deny an application for registration licensure as  
26 a talent agency.

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

29 ~~(c) Impose an administrative fine, not to exceed~~  
30 ~~\$5,000, for each count or separate offense.~~

31 ~~(d) Require restitution.~~

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

8           ~~(5)(7)~~ The department may deny a registration license  
9 if any owner or operator listed on the application has been  
10 associated with a talent agency whose registration license has  
11 been revoked or otherwise disciplined.

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

14           468.403 Registration License requirements.--

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

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

29           ~~(3)(a) Each owner of a talent agency if other than a~~  
30 ~~corporation and each operator of a talent agency shall submit~~  
31 ~~to the department with the application for licensure of the~~

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

Amendment No. \_\_\_\_ Barcode 843900

1 ~~agency a full set of fingerprints and a photograph of herself~~  
2 ~~or himself taken within the preceding 2 years. The department~~  
3 ~~shall conduct an examination of fingerprint records and police~~  
4 ~~records.~~

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

13 ~~(3)(4)~~ Each application must include:

14 (a) The name and address of the owner of the talent  
15 agency.

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

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

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

28 ~~(4)(6)~~ If the applicant is other than a corporation,  
29 the application shall also include the names and addresses of  
30 all persons, except bona fide employees on stated salaries,  
31 financially interested, either as partners, associates, or

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

Amendment No. \_\_\_\_ Barcode 843900

1 profit sharers, in the operation of the talent agency in  
2 question, together with the amount of their respective  
3 interest.

4 ~~(5)(7)~~ If the applicant is a corporation, the  
5 application shall include the corporate name and the names,  
6 residential addresses, and telephone numbers of all persons  
7 actively participating in the business of the corporation and  
8 shall include the names of all persons exercising managing  
9 responsibility in the applicant's or registrant's licensee's  
10 office.

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

17 ~~(6)(9)~~ If any information in the application supplied  
18 to the department by the applicant or registrant licensee  
19 changes in any manner whatsoever, the applicant or registrant  
20 licensee shall submit such changes to the department within 30  
21 days after the date of such change or after the date such  
22 change is known or should have been known to the applicant or  
23 registrant licensee.

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

26 468.404 Registration License; fees; renewals.--

27 (1) The department by rule shall establish biennial  
28 fees for initial registration licensing, renewal of  
29 registration license, and reinstatement of registration  
30 license, none of which fees shall exceed \$400. The department  
31 may by rule establish a delinquency fee of no more than \$50.



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

Amendment No. \_\_\_\_ Barcode 843900

1 The fees shall be adequate to proportionately fund the  
2 expenses of the department which are allocated to the  
3 registering ~~regulation~~ of talent agencies and shall be based  
4 on the department's estimate of the revenue required to  
5 administer this part.

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

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

26 (4) No registration ~~license~~ issued under this part  
27 shall be assignable.

28 Section 15. Section 468.406, Florida Statutes, is  
29 amended to read:

30 468.406 Fees to be charged by talent agencies; rates;  
31 display.--

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

22           468.407 Registration License; content; posting.--

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

31           (2) The talent agency registration license shall at

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

Amendment No. \_\_\_\_ Barcode 843900

1 all times be displayed conspicuously in the place of business  
2 in such manner as to be open to the view of the public and  
3 subject to the inspection of all duly authorized officers of  
4 the state and county.

5 (3) If a registrant ~~licensee~~ desires to cancel his or  
6 her registration ~~license~~, he or she must notify the department  
7 and forthwith return to the department the registration  
8 ~~license~~ so canceled. No registration ~~license~~ fee may be  
9 refunded upon cancellation of the registration ~~license~~.

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

12 468.410 Prohibition against registration fees;  
13 referral.--

14 (3) A talent agency shall give each applicant a copy  
15 of a contract which lists the services to be provided and the  
16 fees to be charged. The contract shall state that the talent  
17 agency is registered with ~~regulated by~~ the department and  
18 shall list the address and telephone number of the department.

19 Section 18. Section 468.412, Florida Statutes, is  
20 amended to read:

21 468.412 Talent agency requirements ~~regulations~~.--

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

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

28 (a) The name and address of each artist employing such  
29 talent agency;

30 (b) The amount of fees received from each such artist;

31 and

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

Amendment No. \_\_\_\_ Barcode 843900

1           (c) The employment in which each such artist is  
2 engaged at the time of employing such talent agency and the  
3 amount of compensation of the artist in such employment, if  
4 any, and the employments subsequently secured by such artist  
5 during the term of the contract between the artist and the  
6 talent agency and the amount of compensation received by the  
7 artist pursuant thereto. ~~and~~

8           ~~(d) Other information which the department may require~~  
9 ~~from time to time.~~

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

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

24           ~~(4)(5)~~ No talent agency may knowingly issue a contract  
25 for employment containing any term or condition which, if  
26 complied with, would be in violation of law, or attempt to  
27 fill an order for help to be employed in violation of law.

28           ~~(5)(6)~~ No talent agency may publish or cause to be  
29 published any false, fraudulent, or misleading information,  
30 representation, notice, or advertisement. All advertisements  
31 of a talent agency by means of card, circulars, or signs, and

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

Amendment No. \_\_\_\_ Barcode 843900

1 in newspapers and other publications, and all letterheads,  
2 receipts, and blanks shall be printed and contain the  
3 registered ~~licensed~~ name, department registration ~~license~~  
4 number, and address of the talent agency and the words "talent  
5 agency." No talent agency may give any false information or  
6 make any false promises or representations concerning an  
7 engagement or employment to any applicant who applies for an  
8 engagement or employment.

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

17 ~~(7)(8)~~ No talent agency may divide fees with anyone,  
18 including, but not limited to, an agent or other employee of  
19 an employer, a buyer, a casting director, a producer, a  
20 director, or any venue that uses entertainment.

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

30 ~~(9)(10)~~ Each talent agency must maintain a permanent  
31 office and must maintain regular operating hours at that

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

Amendment No. \_\_\_\_ Barcode 843900

1 office.

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

4 468.413 Unlawful acts ~~Legal requirements~~; penalties.--

5 (1) Each of the following acts constitutes a felony of  
6 the third degree, punishable as provided in s. 775.082, s.  
7 775.083, or s. 775.084:

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

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

13 (2) Each of the following acts constitutes a  
14 misdemeanor of the second degree, punishable as provided in s.  
15 775.082 or s. 775.083:

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

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

24 (c) Failing to show on a registration license  
25 application whether or not the agency or any owner of the  
26 agency is financially interested in any other business of like  
27 nature and, if so, failing to specify such interest or  
28 interests.

29 (d) Failing to maintain the records required by s.  
30 468.409 or knowingly making false entries in such records.

31 (e) Requiring as a condition to registering or

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

Amendment No. \_\_\_\_ Barcode 843900

1 obtaining employment or placement for any applicant that the  
2 applicant subscribe to, purchase, or attend any publication,  
3 postcard service, advertisement, resume service, photography  
4 service, school, acting school, workshop, or acting workshop.

5 (f) Failing to give each applicant a copy of a  
6 contract which lists the services to be provided and the fees  
7 to be charged, which states that the talent agency is  
8 registered with ~~regulated by~~ the department, ~~and which lists~~  
9 ~~the address and telephone number of the department.~~

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

12 (h) Knowingly sending or causing to be sent any artist  
13 to a prospective employer or place of business, the character  
14 or operation of which employer or place of business the talent  
15 agency knows to be in violation of the laws of the United  
16 States or of this state.

17 (3) The court may, in addition to other punishment  
18 provided for in subsection (1) or subsection (2), suspend or  
19 revoke the registration license of any person licensee under  
20 this part who has been found guilty of any violation of  
21 subsection (1) or misdemeanor listed in subsection (2).

22 (4) ~~If a~~ ~~In the event the department or any state~~  
23 ~~attorney finds shall have~~ probable cause to believe that a  
24 talent agency or other person has violated any provision of  
25 subsection (1) or subsection (2), an action may be brought by  
26 the department or any state attorney to enjoin such talent  
27 agency or any person from continuing such violation, or  
28 engaging therein or doing any acts in furtherance thereof, and  
29 for such other relief as to the court seems appropriate. In  
30 addition to this remedy, the department may permanently  
31 prohibit a person from operating or working for a talent

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

Amendment No. \_\_\_\_ Barcode 843900

1 ~~agency assess a penalty against any talent agency or any~~  
2 ~~person in an amount not to exceed \$1,000.~~

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

10 Section 20. Section 468.414, Florida Statutes, is  
11 amended to read:

12 468.414 Collection and deposit of moneys;  
13 appropriation.--Proceeds from the ~~finer, fees, and penalties~~  
14 imposed pursuant to this part shall be deposited in the  
15 Professional Regulation Trust Fund, created by s. 215.37.

16 Section 21. Section 468.415, Florida Statutes, is  
17 amended to read:

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



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

Amendment No. \_\_\_\_ Barcode 843900

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

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

5           468.609 Administration of this part; standards for  
6 certification; additional categories of certification.--

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

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1           2. Direct supervision and the determination of  
2 qualifications under this paragraph may be provided by a  
3 building code administrator who holds a limited or provisional  
4 certificate in any county with a population of less than  
5 75,000 and in any municipality located within such a county.

6           3. Direct supervision under this paragraph may be  
7 provided in any county with a population of less than 75,000  
8 and in any municipality within such county by  
9 telecommunication devices if the supervision is appropriate  
10 for the facts surrounding the performance of the duties being  
11 supervised.

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

14           468.627 Application; examination; renewal; fees.--

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

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

30           471.025 Seals.--

31           (1) The board shall prescribe, by rule, the forms a

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

Amendment No. \_\_\_\_ Barcode 843900

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

17 Section 26. Section 472.001, Florida Statutes, is  
 18 amended to read:

19 472.001 Purpose.--The Legislature deems it necessary  
 20 to regulate surveyors and mappers as provided in this chapter  
 21 ~~ss. 472.001-472.041.~~

22 Section 27. Section 472.003, Florida Statutes, is  
 23 amended to read:

24 472.003 Exemptions ~~Persons not affected by ss.~~  
 25 ~~472.001-472.041.~~--This chapter does ~~Sections 472.001-472.041~~  
 26 ~~do~~ not apply to:

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

30 (2) A registered professional engineer who takes or  
 31 contracts for professional surveying and mapping services

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

Amendment No. \_\_\_\_ Barcode 843900

1 incidental to her or his practice of engineering and who  
2 delegates such surveying and mapping services to a registered  
3 professional surveyor and mapper qualified within her or his  
4 firm or contracts for such professional surveying and mapping  
5 services to be performed by others who are registered  
6 professional surveyors and mappers under this chapter ~~the~~  
7 ~~provisions of ss. 472.001-472.041.~~

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

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

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

23 (c) Registered professional engineers licensed  
24 pursuant to chapter 471 and employees of a firm, corporation,  
25 or partnership who are the subordinates of the registered  
26 professional engineer in responsible charge.

27 (4) Persons employed by county property appraisers, as  
28 defined at s. 192.001(3), and persons employed by the  
29 Department of Revenue, to prepare maps for property appraisal  
30 purposes only, but only to the extent that they perform  
31 mapping services which do not include any surveying activities

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

Amendment No. \_\_\_\_ Barcode 843900

1 as described in s. 472.005(4)(a) and (b).

2 (5)(a) Persons who are employees of any state, county,  
 3 municipal, or other governmental unit of this state and who  
 4 are the subordinates of a person in responsible charge  
 5 registered under this chapter, to the extent that the  
 6 supervision meets standards adopted by rule of the board, if  
 7 any.

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

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

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

20 472.005 Definitions.--As used in this chapter ~~ss.~~  
 21 ~~472.001-472.041~~:

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

24 (2) "Department" means the Department of Business and  
 25 Professional Regulation.

26 (3) "Surveyor and mapper" includes the term  
 27 "professional surveyor and mapper" and means a person who is  
 28 registered to engage in the practice of surveying and mapping  
 29 under this chapter ~~ss. 472.001-472.041~~. For the purposes of  
 30 this subsection ~~statute~~, a surveyor and mapper means a person  
 31 who determines and displays the facts of size, shape,

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

Amendment No. \_\_\_\_ Barcode 843900

1 topography, tidal datum planes, legal or geodetic location or  
2 relation, and orientation of improved or unimproved real  
3 property through direct measurement or from certifiable  
4 measurement through accepted photogrammetric procedures.

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

21 (b) The practice of surveying and mapping also  
22 includes, but is not limited to, photogrammetric control; the  
23 monumentation and remonumentation of property boundaries and  
24 subdivisions; the measurement of and preparation of plans  
25 showing existing improvements after construction; the layout  
26 of proposed improvements; the preparation of descriptions for  
27 use in legal instruments of conveyance of real property and  
28 property rights; the preparation of subdivision planning maps  
29 and record plats, as provided for in chapter 177; the  
30 determination of, but not the design of, grades and elevations  
31 of roads and land in connection with subdivisions or divisions

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

Amendment No. \_\_\_\_ Barcode 843900

1 of land; and the creation and perpetuation of alignments  
2 related to maps, record plats, field note records, reports,  
3 property descriptions, and plans and drawings that represent  
4 them.

5 (5) ~~The term~~ "Surveyor and mapper intern" includes ~~the~~  
6 ~~term~~ "surveyor-mapper-in-training" and means a person who  
7 complies with the requirements of this chapter ~~provided by ss.~~  
8 ~~472.001-472.041~~ and who has passed an examination as provided  
9 by rules adopted by the board.

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

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

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

23 (9) "Employee" means a person who receives  
24 compensation from and is under the supervision and control of  
25 an employer who regularly deducts the F.I.C.A. and withholding  
26 tax and provides workers' compensation, all as prescribed by  
27 law.

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

31 (11) "Monument" means an artificial or natural object

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

Amendment No. \_\_\_\_ Barcode 843900

1 that is permanent or semipermanent and used or presumed to  
2 occupy any real property corner, any point on a boundary line,  
3 or any reference point or other point to be used for  
4 horizontal or vertical control.

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

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

10 472.011 Fees.--

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

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

24 472.015 Licensure.--

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

31 Section 31. Subsection (1) of section 472.021, Florida



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

Amendment No. \_\_\_\_ Barcode 843900

1 Statutes, is amended to read:

2           472.021 Certification of partnerships and  
3 corporations.--

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 services performed by reason of his or her employment or  
2 relationship with a corporation or partnership.

3 Section 32. Section 472.027, Florida Statutes, is  
4 amended to read:

5 472.027 Minimum technical standards for surveying and  
6 mapping.--The board shall adopt rules relating to the practice  
7 of surveying and mapping which establish minimum technical  
8 standards to ensure the achievement of no less than minimum  
9 degrees of accuracy, completeness, and quality in order to  
10 assure adequate and defensible real property boundary  
11 locations and other pertinent information provided by  
12 surveyors and mappers under the authority of this chapter ss.  
13 ~~472.001-472.041.~~

14 Section 33. Section 472.029, Florida Statutes, is  
15 amended to read:

16 472.029 Authorization ~~Surveyors and mappers authorized~~  
17 ~~to enter lands of third parties; under certain~~  
18 conditions.--Surveyors and mappers and their subordinates may  
19 go on, over, and upon the lands of others when necessary to  
20 make surveys and maps or to search for, uncover, locate, or  
21 set monuments, and, in so doing, may carry with them their  
22 agents and employees necessary for that purpose. Entry under  
23 the right hereby granted does not constitute trespass, and  
24 surveyors and mappers and their subordinates and duly  
25 authorized agents or employees so entering are not liable to  
26 arrest or to a civil action by reason of such entry as long as  
27 the entering is in compliance with all federal, state, and  
28 local regulations pertaining to premises security,  
29 agricultural protections, and other health and safety  
30 requirements. However, this section does not give authority  
31 to registrants, subordinates, agents, or employees to destroy,

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

Amendment No. \_\_\_\_ Barcode 843900

1 injure, damage, or otherwise move any physical improvements  
2 ~~anything~~ on lands of another without the written permission of  
3 the landowner. No landowner shall be liable to any third party  
4 for any civil or criminal act, or any damages, which result in  
5 whole or in part through the negligent or intentional conduct  
6 of any person regulated by this section. If written notice is  
7 delivered to a landowner or the landowner's registered agent  
8 three business days prior to entry on a parcel containing more  
9 than 160 acres classified as agricultural land, the duty of  
10 care owed to those regulated by this section shall be that due  
11 to a licensee under this chapter; however, if no such notice  
12 is given, the landowner's duty of care shall be that due to an  
13 unforeseen trespasser.

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

16 810.12 Unauthorized entry on land; prima facie  
17 evidence of trespass.--

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

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

31 472.031 Prohibitions; penalties.--

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

Amendment No. \_\_\_\_ Barcode 843900

1 (1) No person shall:

2 (a) Practice surveying and mapping unless such person  
3 is registered under this chapter ~~pursuant to ss.~~  
4 ~~472.001-472.041~~;

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

8 (c) Present as his or her own the registration of  
9 another;

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

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

14 Section 36. Section 472.037, Florida Statutes, is  
15 amended to read:

16 472.037 Application of chapter ~~ss. 472.001-472.041~~.--

17 (1) Nothing contained in this chapter ~~ss.~~  
18 ~~472.001-472.041~~ shall be construed to repeal, amend, limit, or  
19 otherwise affect any local building code or zoning law or  
20 ordinance, now or hereafter enacted, which is more restrictive  
21 with respect to the services of registered surveyors and  
22 mappers than the provisions of this chapter ~~ss.~~  
23 ~~472.001-472.041~~.

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

31 Section 37. A new subsection (4) is added to section

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

Amendment No. \_\_\_\_ Barcode 843900

1 475.01, Florida Statutes, to read:

2 475.01 Definitions.--

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

5 Section 38. Section 476.014, Florida Statutes, is  
6 amended to read:

7 476.014 Short title.--This chapter act may be cited as  
8 the "Barbers' Act."

9 Section 39. Section 476.034, Florida Statutes, is  
10 amended to read:

11 476.034 Definitions.--As used in this chapter act:

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

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

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

25 (4) "Board" means the ~~Barbers'~~Board of Barbering and  
26 Cosmetology.

27 (5) "Department" means the Department of Business and  
28 Professional Regulation.

29 Section 40. Section 476.054, Florida Statutes, is  
30 amended to read:

31 476.054 ~~Barbers'~~Board of Barbering and Cosmetology.--

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

Amendment No.      Barcode 843900

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

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

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

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

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

31           (6) Before beginning duties as a board member, each

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

Amendment No. \_\_\_\_ Barcode 843900

1 appointee must take the constitutional oath of office and file  
2 it with the Department of State, which shall issue to such  
3 member a certificate of appointment.

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

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

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

20 Section 41. Section 476.064, Florida Statutes, is  
21 amended to read:

22 476.064 Organization; headquarters; personnel;  
23 meetings.--

24 ~~(1) The board shall annually elect a chair and a vice~~  
25 ~~chair from its number.~~The board shall maintain its  
26 headquarters in Tallahassee.

27 (2) The department shall appoint or employ such  
28 personnel as ~~may be~~ necessary to assist the board in  
29 exercising the powers and performing the duties and  
30 obligations set forth in this chapter act. Such personnel need  
31 not be licensed barbers or cosmetologists and shall not be

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

Amendment No. \_\_\_\_ Barcode 843900

1 members of the board. Such personnel shall be authorized to  
2 do and perform such duties and work as may be assigned by the  
3 board.

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

9 ~~(3)(4)~~ The board has authority to adopt rules pursuant  
10 to ss. 120.536(1) and 120.54 necessary to administer ~~implement~~  
11 ~~the provisions of this chapter.~~

12 Section 42. Subsections (1) and (2) of section  
13 476.074, Florida Statutes, are amended to read:

14 476.074 Legal, investigative, and inspection  
15 services.--

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

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

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

23 476.154 Biennial renewal of licenses.--

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

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



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

Amendment No. \_\_\_\_ Barcode 843900

1           476.194 Prohibited acts.--

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

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

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

8           Section 45. Subsections (1) and (3) of section  
9 476.214, Florida Statutes, are amended to read:

10           476.214 Grounds for suspending, revoking, or refusing  
11 to grant license or certificate.--

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

19           (a) Gross malpractice or gross incompetency in the  
20 practice of barbering;

21           (b) Practice by a person knowingly having an  
22 infectious or contagious disease; or

23           (c) Commission of any of the offenses described in s.  
24 476.194.

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

28           Section 46. Section 476.234, Florida Statutes, is  
29 amended to read:

30           476.234 Civil proceedings.--In addition to any other  
31 remedy, the department may file a proceeding in the name of

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

Amendment No. \_\_\_\_ Barcode 843900

1 the state seeking issuance of a restraining order, injunction,  
2 or writ of mandamus against any person who is or has been  
3 violating any of the provisions of this chapter act or the  
4 lawful rules or orders of the board, commission, or  
5 department.

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

8 477.013 Definitions.--As used in this chapter:

9 (1) "Board" means the Board of Barbering and  
10 Cosmetology.

11 Section 48. Section 477.015, Florida Statutes, is  
12 repealed.

13 Section 49. The Barbers' Board created pursuant to  
14 section 476.054, Florida Statutes, and the Board of  
15 Cosmetology created pursuant to section 477.015, Florida  
16 Statutes, are abolished. All rules of the Barbers' Board and  
17 the Board of Cosmetology in effect on the effective date of  
18 this act shall remain in full force and shall become rules of  
19 the Board of Barbering and Cosmetology.

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

31 Section 51. The Board of Barbering and Cosmetology

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

Amendment No. \_\_\_\_ Barcode 843900

1 shall be replaced as the party of interest for any legal  
2 actions naming the Barbers' Board or the Board of Cosmetology  
3 as a party.

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

6 477.019 Cosmetologists; qualifications; licensure;  
7 supervised practice; license renewal; endorsement; continuing  
8 education.--

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

25 (b) Any person whose occupation or practice is  
26 confined solely to hair braiding, hair wrapping, or body  
27 wrapping is exempt from the continuing education requirements  
28 of this subsection.

29 (c) The board may, by rule, require any licensee in  
30 violation of a continuing education requirement to take a  
31 refresher course or refresher course and examination in

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

Amendment No. \_\_\_\_ Barcode 843900

1 addition to any other penalty. The number of hours for the  
2 refresher course may not exceed 48 hours.

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

5 477.026 Fees; disposition.--

6 (1) The board shall set fees according to the  
7 following schedule:

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

10 (b) For cosmetologists, fees for endorsement  
11 application, examination, and reexamination shall not exceed  
12 \$50.

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

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

18 (e) For specialists, fees for initial registration,  
19 registration renewal, and delinquent renewal shall not exceed  
20 \$50.

21 (f) For hair braiders, hair wrappers, and body  
22 wrappers, fees for initial registration, registration renewal,  
23 and delinquent renewal shall not exceed \$25.

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

26 481.209 Examinations.--

27 (1) A person desiring to be licensed as a registered  
28 architect shall apply to the department to take the licensure  
29 examination. The department shall administer the licensure  
30 examination for architects to each applicant who the board  
31 certifies:

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

Amendment No. \_\_\_\_ Barcode 843900

1 (a) Has completed the application form and remitted a  
2 nonrefundable application fee and an examination fee which is  
3 refundable if the applicant is found to be ineligible to take  
4 the examination;

5 (b)1. ~~Has successfully completed all architectural~~  
6 ~~curriculum courses required by and~~ Is a graduate of a school  
7 or college of architecture accredited by the National  
8 Architectural Accreditation Board; or

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

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

21 Section 55. Section 481.223, Florida Statutes, is  
22 amended to read:

23 481.223 Prohibitions; penalties; injunctive relief.--

24 (1) A person may not knowingly:

25 (a) Practice architecture unless the person is an  
26 architect or a registered architect;

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

29 (c) Use the name or title "architect" or "registered  
30 architect," or "interior designer" or "registered interior  
31 designer," or words to that effect, when the person is not

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

Amendment No. \_\_\_\_ Barcode 843900

1 then the holder of a valid license issued pursuant to this  
2 part;

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

4 (e) Give false or forged evidence to the board or a  
5 member thereof;

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

9 (g) Employ unlicensed persons to practice architecture  
10 or interior design; or

11 (h) Conceal information relative to violations of this  
12 part.

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

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

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

31 Section 56. Effective July 1, 2001, subsections (2)

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

Amendment No. \_\_\_\_ Barcode 843900

1 and (4) of section 489.107, Florida Statutes, are amended to  
2 read:

3 489.107 Construction Industry Licensing Board.--

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

5 (a) Four are primarily engaged in business as general  
6 contractors;

7 (b) Three are primarily engaged in business as  
8 building contractors or residential contractors, however, at  
9 least one building contractor and one residential contractor  
10 shall be appointed;

11 (c) One is primarily engaged in business as a roofing  
12 contractor;

13 (d) One is primarily engaged in business as a sheet  
14 metal contractor;

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

17 (f) One is primarily engaged in business as a  
18 mechanical contractor;

19 (g) One is primarily engaged in business as a pool  
20 contractor;

21 (h) One is primarily engaged in business as a plumbing  
22 contractor;

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1           (1) On the date the reduction of the number of members  
2 on the board made by this act becomes effective, the affected  
3 appointments shall be those in the reduced membership class  
4 whose terms next expire.

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

7           (a) Division I is comprised of the general contractor,  
8 building contractor, and residential contractor members of the  
9 board; ~~one of the members appointed pursuant to paragraph~~  
10 ~~(2)(j) and one of the member members~~ appointed pursuant to  
11 paragraph (2)(k). Division I has jurisdiction over the  
12 regulation of general contractors, building contractors, and  
13 residential contractors.

14           (b) Division II is comprised of the roofing  
15 contractor, sheet metal contractor, air-conditioning  
16 contractor, mechanical contractor, pool contractor, plumbing  
17 contractor, and underground utility and excavation contractor  
18 members of the board; ~~and one of the member members~~ appointed  
19 ~~pursuant to paragraph (2)(j) and one of the members appointed~~  
20 ~~pursuant to paragraph (2)(k).~~ Division II has jurisdiction  
21 over the regulation of contractors defined in s.  
22 489.105(3)(d)-(p).

23           (c) Jurisdiction for the regulation of specialty  
24 contractors defined in s. 489.105(3)(q) shall lie with the  
25 division having jurisdiction over the scope of work of the  
26 specialty contractor as defined by board rule.

27           Section 57. Section 489.1133, Florida Statutes, is  
28 created to read:

29           489.1133 Temporary certificate or registration.--The  
30 department may issue a temporary certificate or registration  
31 to any applicant who has submitted a completed application and



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

Amendment No. \_\_\_\_ Barcode 843900

1 who appears to meet all qualifications for certification or  
 2 registration, pending final approval of the application and  
 3 the granting of a permanent certificate or registration by the  
 4 board. If the board determines that the applicant does not  
 5 meet all of the requirements for certification or registration  
 6 under this part, the board shall, upon notifying the applicant  
 7 of his or her failure to qualify, revoke the applicant's  
 8 temporary certificate or registration.

9           Section 58. Paragraph (b) of subsection (4) of section  
 10 489.115, Florida Statutes, as amended by chapters 98-287 and  
 11 2000-141, Laws of Florida, is amended to read:

12           489.115 Certification and registration; endorsement;  
 13 reciprocity; renewals; continuing education.--

14           (4)

15           (b)1. Each certificateholder or registrant shall  
 16 provide proof, in a form established by rule of the board,  
 17 that the certificateholder or registrant has completed at  
 18 least 14 classroom hours of at least 50 minutes each of  
 19 continuing education courses during each biennium since the  
 20 issuance or renewal of the certificate or registration. The  
 21 board shall establish by rule that a portion of the required  
 22 14 hours must deal with the subject of workers' compensation,  
 23 business practices, and workplace safety. The board shall by  
 24 rule establish criteria for the approval of continuing  
 25 education courses and providers, including requirements  
 26 relating to the content of courses and standards for approval  
 27 of providers, and may by rule establish criteria for accepting  
 28 alternative nonclassroom continuing education on an  
 29 hour-for-hour basis. The board shall prescribe by rule the  
 30 continuing education, if any, which is required during the  
 31 first biennium of initial licensure. A person who has been

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

Amendment No. \_\_\_\_ Barcode 843900

1 licensed for less than an entire biennium must not be required  
2 to complete the full 14 hours of continuing education.

3 2. In addition, the board may approve specialized  
4 continuing education courses on compliance with the wind  
5 resistance provisions for one and two family dwellings  
6 contained in the Florida Building Code and any alternate  
7 methodologies for providing such wind resistance which have  
8 been approved for use by the Florida Building Commission.

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

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

29 4. The board shall require, by rule adopted pursuant  
30 to ss. 120.536(1) and 120.54, a specified number of hours in  
31 specialized or advanced module courses, approved by the

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

Amendment No. \_\_\_\_ Barcode 843900

1 Florida Building Commission, on any portion of the Florida  
2 Building Code, adopted pursuant to part VII of chapter 553,  
3 relating to the contractor's respective discipline.

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

6 489.118 Certification of registered contractors;  
7 grandfathering provisions.--The board shall, upon receipt of a  
8 completed application and appropriate fee, issue a certificate  
9 in the appropriate category to any contractor registered under  
10 this part who makes application to the board and can show that  
11 he or she meets each of the following requirements:

12 (1) Currently holds a valid registered local license  
13 in one of the contractor categories defined in s.  
14 489.105(3)(a)-(p) or holds a valid registered local specialty  
15 license which substantially corresponds to a type of specialty  
16 contractor recognized for state certification pursuant to  
17 board rule under s. 489.113(6).

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

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

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

28 489.511 Certification; application; examinations;  
29 endorsement.--

30 (6) The board shall certify as qualified for  
31 certification by endorsement any individual who applies from a

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

Amendment No. \_\_\_\_ Barcode 843900

1 state that has a mutual reciprocity endorsement agreement with  
 2 the board and ~~applying for certification who~~

3 ~~(a) meets the requirements for certification as set~~  
 4 ~~forth in this section; has passed a national, regional, state,~~  
 5 ~~or United States territorial licensing examination that is~~  
 6 ~~substantially equivalent to the examination required by this~~  
 7 ~~part; and has satisfied the requirements set forth in s.~~  
 8 ~~489.521. ~~or~~~~

9 ~~(b) Holds a valid license to practice electrical or~~  
 10 ~~alarm system contracting issued by another state or territory~~  
 11 ~~of the United States, if the criteria for issuance of such~~  
 12 ~~license was substantially equivalent to the certification~~  
 13 ~~criteria that existed in this state at the time the~~  
 14 ~~certificate was issued.~~

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

17 489.537 Application of this part.--

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

20 (f) To require that one electrical journeyman, who is  
 21 a graduate of the Institute of Applied Technology in  
 22 Construction Excellence or licensed pursuant to s. 489.5335,  
 23 be present on an industrial or commercial new construction  
 24 site with a facility of 50,000 gross square feet or more when  
 25 electrical work in excess of 77 volts is being performed in  
 26 order to supervise or perform such work, except as provided in  
 27 s. 489.503.

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

30 498.005 Definitions.--As used in this chapter, unless  
 31 the context otherwise requires, the term:

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

Amendment No. \_\_\_\_ Barcode 843900

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

4           Section 65. Section 498.019, Florida Statutes, is  
5 amended to read:

6           498.019 Professional Regulation Division of Florida  
7 ~~Land Sales, Condominiums, and Mobile Homes~~ Trust Fund.--

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 ~~businesses which may be used to determine fees charged by the~~  
2 ~~division. This subsection shall operate pursuant to the~~  
3 ~~provisions of s. 215.20.~~

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

6 498.049 Suspension; revocation; civil penalties.--

7 (5) Each person who materially participates in any  
8 offer or disposition of any interest in subdivided lands in  
9 violation of this chapter or relevant rules involving fraud,  
10 deception, false pretenses, misrepresentation, or false  
11 advertising or the disposition, concealment, or diversion of  
12 any funds or assets of any person which adversely affects the  
13 interests of a purchaser of any interest in subdivided lands,  
14 and who directly or indirectly controls a subdivider or is a  
15 general partner, officer, director, agent, or employee of a  
16 subdivider shall also be liable under this subsection jointly  
17 and severally with and to the same extent as the subdivider,  
18 unless that person did not know, and in the exercise of  
19 reasonable care could not have known, of the existence of the  
20 facts creating the alleged liability. Among these persons a  
21 right of contribution shall exist, except that a creditor of a  
22 subdivider shall not be jointly and severally liable unless  
23 the creditor has assumed managerial or fiduciary  
24 responsibility in a manner related to the basis for the  
25 liability of the subdivider under this subsection. Civil  
26 penalties shall be limited to \$10,000 for each offense, and  
27 all amounts collected shall be deposited with the Treasurer to  
28 the credit of the Professional Regulation ~~Division of Florida~~  
29 ~~Land Sales, Condominiums, and Mobile Homes~~ Trust Fund. No  
30 order requiring the payment of a civil penalty shall become  
31 effective until 20 days after the date of the order, unless

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

Amendment No. \_\_\_\_ Barcode 843900

1 otherwise agreed in writing by the person on whom the penalty  
2 is imposed.

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

5 190.009 Disclosure of public financing.--

6 (2) The Division of Real Estate ~~Florida Land Sales,~~  
7 ~~Condominiums, and Mobile Homes~~ of the Department of Business  
8 and Professional Regulation shall ensure that disclosures made  
9 by developers pursuant to chapter 498 meet the requirements of  
10 subsection (1).

11 Section 68. The regulation of land sales pursuant to  
12 chapter 498, Florida Statutes, shall remain under the  
13 Department of Business and Professional Regulation but is  
14 reassigned from the Division of Florida Land Sales,  
15 Condominiums, and Mobile Homes to the Division of Real Estate.  
16 All funds collected by the department pursuant to this  
17 regulation and all funds in the account created within the  
18 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund  
19 for the purpose of this regulation shall be deposited in an  
20 account created within the Professional Regulation Trust Fund  
21 for this same purpose.

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

24 718.103 Definitions.--As used in this chapter, the  
25 term:

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

29 Section 70. Paragraph (c) of subsection (4) of section  
30 718.105, Florida Statutes, is amended to read:

31 718.105 Recording of declaration.--

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

Amendment No. \_\_\_\_ Barcode 843900

1 (4)

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

15 Section 71. Section 718.1255, Florida Statutes, is  
 16 amended to read:

17 718.1255 Alternative dispute resolution; ~~voluntary~~  
 18 ~~mediation;~~ mandatory nonbinding arbitration and mediation;  
 19 local resolution; exemptions; legislative findings.--

20 (1) APPLICABILITY DEFINITIONS.--

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

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

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

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

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



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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

7 a. Require any owner to take any action, or not to  
 8 take any action, involving that owner's unit or the  
 9 appurtenances thereto; or

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

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

13 a.2. Give adequate notice of meetings or other  
 14 actions;

15 b.3. Properly conduct meetings; or

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

17

18 ~~"Dispute" does not include any disagreement that primarily~~  
 19 ~~involves: title to any unit or common element; the~~  
 20 ~~interpretation or enforcement of any warranty; the levy of a~~  
 21 ~~fee or assessment, or the collection of an assessment levied~~  
 22 ~~against a party; the eviction or other removal of a tenant~~  
 23 ~~from a unit; alleged breaches of fiduciary duty by one or more~~  
 24 ~~directors; or claims for damages to a unit based upon the~~  
 25 ~~alleged failure of the association to maintain the common~~  
 26 ~~elements or condominium property.~~

27 ~~(2) VOLUNTARY MEDIATION.--Voluntary mediation through~~  
 28 ~~Citizen Dispute Settlement Centers as provided for in s.~~  
 29 ~~44.201 is encouraged.~~

30 ~~(2)(3) LEGISLATIVE FINDINGS.--~~

31 (a) The Legislature finds that unit owners are

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

Amendment No. \_\_\_\_ Barcode 843900

1 frequently at a disadvantage when litigating against an  
2 association. Specifically, a condominium association, with its  
3 statutory assessment authority, is often more able to bear the  
4 costs and expenses of litigation than the unit owner who must  
5 rely on his or her own financial resources to satisfy the  
6 costs of litigation against the association.

7 (b) The Legislature finds that the courts are becoming  
8 overcrowded with condominium and other disputes, and further  
9 finds that alternative dispute resolution has been making  
10 progress in reducing court dockets and trials and in offering  
11 a more efficient, cost-effective option to court litigation.  
12 However, the Legislature also finds that alternative dispute  
13 resolution should not be used as a mechanism to encourage the  
14 filing of frivolous or nuisance suits.

15 (c) There exists a need to develop a flexible means of  
16 alternative dispute resolution that directs disputes to the  
17 most efficient means of resolution.

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

24 (3)~~(4)~~ MANDATORY NONBINDING ARBITRATION AND MEDIATION  
25 OF DISPUTES.--~~The division of Florida Land Sales,~~  
26 ~~Condominiums, and Mobile Homes of the Department of Business~~  
27 ~~and Professional Regulation shall provide ~~employ~~ full-time~~  
28 ~~attorneys to act as~~ arbitrators to conduct the arbitration  
29 hearings as required ~~provided~~ by this chapter. The department  
30 may employ attorneys to act as arbitrators, and the division  
31 may also certify attorneys who are not employed by the

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

Amendment No. \_\_\_\_ Barcode 843900

1 division to act as arbitrators to conduct the arbitration  
 2 hearings provided by this chapter ~~section~~. No person may be  
 3 employed by the department as an ~~a full-time~~ arbitrator unless  
 4 he or she is a member in good standing of The Florida Bar. The  
 5 department shall promulgate rules of procedure to govern such  
 6 arbitration hearings including mediation incident thereto.  
 7 The decision of an arbitrator shall be final; however, such a  
 8 decision shall not be deemed final agency action. Nothing in  
 9 this provision shall be construed to foreclose parties from  
 10 proceeding in a trial de novo unless the parties have agreed  
 11 that the arbitration is binding. If such judicial proceedings  
 12 are initiated, the final decision of the arbitrator shall be  
 13 admissible in evidence in the trial de novo.

14 (a) Prior to the institution of court litigation, a  
 15 party to a dispute shall petition the division for nonbinding  
 16 arbitration. The petition must be accompanied by a filing fee  
 17 in the amount of \$50. Filing fees collected under this  
 18 section must be used to defray the expenses of the alternative  
 19 dispute resolution program.

20 (b) The petition must recite, and have attached  
 21 thereto, supporting proof that the petitioner gave the  
 22 respondents:

- 23 1. Advance written notice of the specific nature of
- 24 the dispute;
- 25 2. A demand for relief, and a reasonable opportunity
- 26 to comply or to provide the relief; and
- 27 3. Notice of the intention to file an arbitration
- 28 petition or other legal action in the absence of a resolution
- 29 of the dispute.

30  
 31 Failure to include the allegations or proof of compliance with

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

Amendment No. \_\_\_\_ Barcode 843900

1 these prerequisites requires dismissal of the petition without  
2 prejudice.

3 (c) Upon receipt, the petition shall be promptly  
4 reviewed by the division to determine the existence of a  
5 dispute and compliance with the requirements of paragraphs (a)  
6 and (b). If emergency relief is required and is not available  
7 through arbitration, a motion to stay the arbitration may be  
8 filed. The motion must be accompanied by a verified petition  
9 alleging facts that, if proven, would support entry of a  
10 temporary injunction, and if an appropriate motion and  
11 supporting papers are filed, the division may abate the  
12 arbitration pending a court hearing and disposition of a  
13 motion for temporary injunction.

14 (d) Upon determination by the division that a dispute  
15 exists and that the petition substantially meets the  
16 requirements of paragraphs (a) and (b) and any other  
17 applicable rules, a copy of the petition shall forthwith be  
18 served by the division upon all respondents.

19 (e) Either before or after the filing of the  
20 respondents' answer to the petition, any party may request  
21 that the arbitrator refer the case to mediation under this  
22 section and any rules adopted by the division. Upon receipt  
23 of a request for mediation, the division shall promptly  
24 contact the parties to determine if there is agreement that  
25 mediation would be appropriate. If all parties agree, the  
26 dispute must be referred to mediation. Notwithstanding a lack  
27 of an agreement by all parties, the arbitrator may refer a  
28 dispute to mediation at any time.

29 (f) The arbitrator or the division may refer the  
30 parties to a Citizens Dispute Settlement Center under s.  
31 44.201 in the county in which the dispute arose ~~Upon referral~~

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

Amendment No. \_\_\_\_ Barcode 843900

1 ~~of a case to mediation, or~~ the parties may agree on ~~must~~  
2 ~~select~~ a mutually acceptable mediator. To assist in the  
3 selection, the arbitrator shall provide the parties with a  
4 list of both volunteer and paid mediators that have been  
5 certified by the division under s. 718.501. If the parties  
6 are unable to agree on a mediator within the time allowed by  
7 the arbitrator or the division, the arbitrator or the division  
8 shall appoint a mediator from the list of certified mediators.  
9 If a case is referred to mediation, the parties shall attend a  
10 mediation conference, as scheduled by the parties and the  
11 mediator. If any party fails to attend a duly noticed  
12 mediation conference, without the permission or approval of  
13 the arbitrator or mediator, the arbitrator or the division may  
14 ~~must~~ impose sanctions against the party, including the  
15 striking of any pleadings filed, the entry of an order of  
16 dismissal or default if appropriate, and the award of costs  
17 and attorneys' fees incurred by the other parties. Unless  
18 otherwise agreed to by the parties or as provided by order of  
19 the arbitrator, a party is deemed to have appeared at a  
20 mediation conference by the physical presence of the party or  
21 its representative having full authority to settle without  
22 further consultation, provided that an association may comply  
23 by having one or more representatives present with full  
24 authority to negotiate a settlement and recommend that the  
25 board of administration ratify and approve such a settlement  
26 within 5 days from the date of the mediation conference. The  
27 mediator or Citizens Dispute Settlement Center may charge fees  
28 for handling these cases.The parties shall share equally the  
29 expense of mediation, unless they agree otherwise.

30 (g) The purpose of mediation as provided for by this  
31 section is to present the parties with an opportunity to

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

Amendment No. \_\_\_\_ Barcode 843900

1 resolve the underlying dispute ~~in good faith, and~~ with a  
2 minimum expenditure of time and resources.

3 (h) Mediation proceedings must generally be conducted  
4 in accordance with the Florida Rules of Civil Procedure, and  
5 these proceedings are privileged and confidential to the same  
6 extent as court-ordered mediation. Persons who are not parties  
7 to the dispute are not allowed to attend the mediation  
8 conference without the consent of all parties, with the  
9 exception of counsel for the parties and corporate  
10 representatives designated to appear for a party. If the case  
11 was referred to mediation by an arbitrator and the mediator  
12 declares an impasse after a mediation conference ends in an  
13 impasse has been held, the arbitration proceeding terminates,  
14 unless all parties agree in writing to continue the  
15 arbitration proceeding, in which case the arbitrator's  
16 decision shall be either binding or nonbinding, as agreed upon  
17 by the parties; in the arbitration proceeding, the arbitrator  
18 shall not consider any evidence relating to the unsuccessful  
19 mediation except in a proceeding to impose sanctions for  
20 failure to appear at the mediation conference. If the parties  
21 do not agree to continue arbitration, the arbitrator shall  
22 enter an order of dismissal, and either party may institute a  
23 suit in a court of competent jurisdiction. If the case was  
24 referred to mediation by the division and ends in an impasse,  
25 either party may institute a suit in a court of competent  
26 jurisdiction.The parties may seek to recover any costs and  
27 attorneys' fees incurred in connection with arbitration and  
28 mediation proceedings under this section as part of the costs  
29 and fees that may be recovered by the prevailing party in any  
30 subsequent litigation.

31 (i) Arbitration shall be conducted according to rules

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

Amendment No. \_\_\_\_ Barcode 843900

1 promulgated by the division. The filing of a petition for  
2 arbitration shall toll the applicable statute of limitations.

3 (j) At the request of any party to the arbitration,  
4 such arbitrator shall issue subpoenas for the attendance of  
5 witnesses and the production of books, records, documents, and  
6 other evidence and any party on whose behalf a subpoena is  
7 issued may apply to the court for orders compelling such  
8 attendance and production. Subpoenas shall be served and shall  
9 be enforceable in the manner provided by the Florida Rules of  
10 Civil Procedure. Discovery may, in the discretion of the  
11 arbitrator, be permitted in the manner provided by the Florida  
12 Rules of Civil Procedure. Rules adopted by the division may  
13 authorize any reasonable sanctions except contempt for a  
14 violation of the arbitration procedural rules of the division  
15 or for the failure of a party to comply with a reasonable  
16 nonfinal order issued by an arbitrator which is not under  
17 judicial review.

18 (k) The arbitration decision shall be presented to the  
19 parties in writing. An arbitration decision is final in those  
20 disputes in which the parties have agreed to be bound. An  
21 arbitration decision is also final if a complaint for a trial  
22 de novo is not filed in a court of competent jurisdiction in  
23 which the condominium is located within 30 days. The right to  
24 file for a trial de novo entitles the parties to file a  
25 complaint in the appropriate trial court for a judicial  
26 resolution of the dispute. The prevailing party in an  
27 arbitration proceeding shall be awarded the costs of the  
28 arbitration and reasonable attorney's fees in an amount  
29 determined by the arbitrator. Such an award shall include the  
30 costs and reasonable attorney's fees incurred in the  
31 arbitration proceeding as well as the costs and reasonable

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

Amendment No. \_\_\_\_ Barcode 843900

1 attorney's fees incurred in preparing for and attending any  
2 scheduled mediation.

3 (l) The party who files a complaint for a trial de  
4 novo shall be assessed the other party's arbitration costs,  
5 court costs, and other reasonable costs, including attorney's  
6 fees, investigation expenses, and expenses for expert or other  
7 testimony or evidence incurred after the arbitration hearing  
8 if the judgment upon the trial de novo is not more favorable  
9 than the arbitration decision. If the judgment is more  
10 favorable, the party who filed a complaint for trial de novo  
11 shall be awarded reasonable court costs and attorney's fees.

12 (m) Any party to an arbitration proceeding may enforce  
13 an arbitration award by filing a petition in a court of  
14 competent jurisdiction in which the condominium is located. A  
15 petition may not be granted unless the time for appeal by the  
16 filing of a complaint for trial de novo has expired. If a  
17 complaint for a trial de novo has been filed, a petition may  
18 not be granted with respect to an arbitration award that has  
19 been stayed. If the petition for enforcement is granted, the  
20 petitioner shall recover reasonable attorney's fees and costs  
21 incurred in enforcing the arbitration award. A mediation  
22 settlement may also be enforced through the county or circuit  
23 court, as applicable, by the filing of a court case. ~~and~~ Any  
24 costs and fees incurred in the enforcement of a settlement  
25 agreement reached at mediation must be awarded to the  
26 prevailing party in any enforcement action.

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

30 (4) EXEMPTIONS.--A dispute is not subject to  
31 resolution under this section if it includes any disagreement



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

Amendment No. \_\_\_\_ Barcode 843900

1 that primarily involves:

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

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

4 (c) The levy of a fee or assessment or the collection

5 of an assessment levied against a party;

6 (d) The eviction or other removal of a tenant from a  
7 unit;

8 (e) Alleged breaches of fiduciary duty by one or more  
9 directors; or

10 (f) Claims for damages to a unit based upon the  
11 alleged failure of the association to maintain the common  
12 elements or condominium property.

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

19 Section 72. The Division of Condominiums, Timeshare,  
20 and Mobile Homes of the Department of Business and  
21 Professional Regulation shall continue the arbitration of any  
22 cases which qualified for arbitration on the date the case was  
23 filed with the division and which were filed with the division  
24 prior to the date on which this act becomes law.

25 Section 73. There is appropriated 1 FTE and \$440,626  
26 from the Division of Condominiums, Timeshare, and Mobile Homes  
27 Trust Fund to the Department of Business and Professional  
28 Regulation for the purpose of investigating and resolving  
29 disputes and dealing with compliance issues relating to  
30 condominiums and cooperatives. This appropriation shall not  
31 take effect if a similar amount of funding is included in the

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

Amendment No. \_\_\_\_ Barcode 843900

1 various appropriations for compliance and enforcement in the  
2 Florida Condominiums, Timeshare, and Mobile Homes program in  
3 the fiscal year 2001-2002 General Appropriations Act.

4 Section 74. Section 718.501, Florida Statutes, is  
5 amended to read:

6 718.501 Powers and duties of Division of ~~Florida Land~~  
7 ~~Sales~~, Condominiums, Timeshare, and Mobile Homes.--

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

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

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

27 (c) For the purpose of any investigation under this  
28 chapter, the division director or any officer or employee  
29 designated by the division director may administer oaths or  
30 affirmations, subpoena witnesses and compel their attendance,  
31 take evidence, and require the production of any matter which

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

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

31 3. The division may bring an action in circuit court

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

Amendment No. \_\_\_\_ Barcode 843900

1 on behalf of a class of unit owners, lessees, or purchasers  
2 for declaratory relief, injunctive relief, or restitution.

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

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

Amendment No. \_\_\_\_ Barcode 843900

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

30 (e) The division is authorized to prepare and  
31 disseminate a prospectus and other information to assist

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

Amendment No. \_\_\_\_ Barcode 843900

1 prospective owners, purchasers, lessees, and developers of  
2 residential condominiums in assessing the rights, privileges,  
3 and duties pertaining thereto.

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

7 (g) The division shall establish procedures for  
8 providing notice to an association when the division is  
9 considering the issuance of a declaratory statement with  
10 respect to the declaration of condominium or any related  
11 document governing in such condominium community.

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

18 (i) The division shall annually provide each  
19 association with a summary of declaratory statements and  
20 formal legal opinions relating to the operations of  
21 condominiums which were rendered by the division during the  
22 previous year.

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

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

27 (l) The division shall develop a program to certify  
28 both volunteer and paid mediators to provide mediation of  
29 condominium disputes. The division shall provide, upon  
30 request, a list of such mediators to any association, unit  
31 owner, or other participant in arbitration proceedings under

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

Amendment No. \_\_\_\_ Barcode 843900

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

15 (m) When a complaint is made, the division shall  
16 conduct its inquiry with due regard to the interests of the  
17 affected parties. Within 30 days after receipt of a complaint,  
18 the division shall acknowledge the complaint in writing and  
19 notify the complainant whether the complaint is within the  
20 jurisdiction of the division and whether additional  
21 information is needed by the division from the complainant.  
22 The division shall conduct its investigation and shall, within  
23 90 days after receipt of the original complaint or of timely  
24 requested additional information, take action upon the  
25 complaint. However, the failure to complete the investigation  
26 within 90 days does not prevent the division from continuing  
27 the investigation, accepting or considering evidence obtained  
28 or received after 90 days, or taking administrative action if  
29 reasonable cause exists to believe that a violation of this  
30 chapter or a rule of the division has occurred. If an  
31 investigation is not completed within the time limits

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

Amendment No. \_\_\_\_ Barcode 843900

1 established in this paragraph, the division shall, on a  
2 monthly basis, notify the complainant in writing of the status  
3 of the investigation. When reporting its action to the  
4 complainant, the division shall inform the complainant of any  
5 right to a hearing pursuant to ss. 120.569 and 120.57.

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

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

18 Section 75. Paragraph (a) of subsection (2) of section  
19 718.502, Florida Statutes, is amended to read:

20 718.502 Filing prior to sale or lease.--

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



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

Amendment No. \_\_\_\_ Barcode 843900

1 condominium unless the developer has an ownership, leasehold,  
2 or contractual interest in the land upon which the condominium  
3 is to be developed. The division shall notify the developer  
4 within 20 days of receipt of the reservation filing of any  
5 deficiencies contained therein. Such notification shall not  
6 preclude the determination of reservation filing deficiencies  
7 at a later date, nor shall it relieve the developer of any  
8 responsibility under the law. The escrow agreement and the  
9 reservation agreement form shall include a statement of the  
10 right of the prospective purchaser to an immediate unqualified  
11 refund of the reservation deposit moneys upon written request  
12 to the escrow agent by the prospective purchaser or the  
13 developer.

14 Section 76. Section 718.504, Florida Statutes, is  
15 amended to read:

16 718.504 Prospectus or offering circular.--Every  
17 developer of a residential condominium which contains more  
18 than 20 residential units, or which is part of a group of  
19 residential condominiums which will be served by property to  
20 be used in common by unit owners of more than 20 residential  
21 units, shall prepare a prospectus or offering circular and  
22 file it with the division of ~~Florida Land Sales, Condominiums,~~  
23 ~~and Mobile Homes~~ prior to entering into an enforceable  
24 contract of purchase and sale of any unit or lease of a unit  
25 for more than 5 years and shall furnish a copy of the  
26 prospectus or offering circular to each buyer. In addition to  
27 the prospectus or offering circular, each buyer shall be  
28 furnished a separate page entitled "Frequently Asked Questions  
29 and Answers," which shall be in accordance with a format  
30 approved by the division and a copy of the financial  
31 information required by s. 718.111. This page shall, in

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

Amendment No. \_\_\_\_ Barcode 843900

1 readable language, inform prospective purchasers regarding  
2 their voting rights and unit use restrictions, including  
3 restrictions on the leasing of a unit; shall indicate whether  
4 and in what amount the unit owners or the association is  
5 obligated to pay rent or land use fees for recreational or  
6 other commonly used facilities; shall contain a statement  
7 identifying that amount of assessment which, pursuant to the  
8 budget, would be levied upon each unit type, exclusive of any  
9 special assessments, and which shall further identify the  
10 basis upon which assessments are levied, whether monthly,  
11 quarterly, or otherwise; shall state and identify any court  
12 cases in which the association is currently a party of record  
13 in which the association may face liability in excess of  
14 \$100,000; and which shall further state whether membership in  
15 a recreational facilities association is mandatory, and if so,  
16 shall identify the fees currently charged per unit type. The  
17 division shall by rule require such other disclosure as in its  
18 judgment will assist prospective purchasers. The prospectus or  
19 offering circular may include more than one condominium,  
20 although not all such units are being offered for sale as of  
21 the date of the prospectus or offering circular. The  
22 prospectus or offering circular must contain the following  
23 information:

24 (1) The front cover or the first page must contain  
25 only:

26 (a) The name of the condominium.

27 (b) The following statements in conspicuous type:

28 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS  
29 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM  
30 UNIT.

31 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN

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

Amendment No. \_\_\_\_ Barcode 843900

1 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL  
2 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND  
3 SALES MATERIALS.

4 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS  
5 CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER  
6 TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR  
7 CORRECT REPRESENTATIONS.

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

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

13 (4) Beginning on the first page of the text (not  
14 including the summary and index), a description of the  
15 condominium, including, but not limited to, the following  
16 information:

17 (a) Its name and location.

18 (b) A description of the condominium property,  
19 including, without limitation:

20 1. The number of buildings, the number of units in  
21 each building, the number of bathrooms and bedrooms in each  
22 unit, and the total number of units, if the condominium is not  
23 a phase condominium, or the maximum number of buildings that  
24 may be contained within the condominium, the minimum and  
25 maximum numbers of units in each building, the minimum and  
26 maximum numbers of bathrooms and bedrooms that may be  
27 contained in each unit, and the maximum number of units that  
28 may be contained within the condominium, if the condominium is  
29 a phase condominium.

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

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

Amendment No. \_\_\_\_ Barcode 843900

1           3. The estimated latest date of completion of  
2 constructing, finishing, and equipping. In lieu of a date,  
3 the description shall include a statement that the estimated  
4 date of completion of the condominium is in the purchase  
5 agreement and a reference to the article or paragraph  
6 containing that information.

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

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

21           (b) If timeshare estates are or may be created with  
22 respect to any unit in the condominium, a statement in  
23 conspicuous type stating that timeshare estates are created  
24 and being sold in units in the condominium.

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

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

31           (b) Each swimming pool, as to its general location,

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

Amendment No. \_\_\_\_ Barcode 843900

1 approximate size and depths, approximate deck size and  
2 capacity, and whether heated.

3 (c) Additional facilities, as to the number of each  
4 facility, its approximate location, approximate size, and  
5 approximate capacity.

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

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

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

18 2. A reference to the location in the disclosure  
19 materials of the lease or other agreements providing for the  
20 use of those facilities; and

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

31 (g) A statement as to whether the developer may

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

Amendment No. \_\_\_\_ Barcode 843900

1 provide additional facilities not described above; their  
2 general locations and types; improvements or changes that may  
3 be made; the approximate dollar amount to be expended; and the  
4 maximum additional common expense or cost to the individual  
5 unit owners that may be charged during the first annual period  
6 of operation of the modified or added facilities.

7  
8 Descriptions as to locations, areas, capacities, numbers,  
9 volumes, or sizes may be stated as approximations or minimums.

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

17 (a) Each building and facility committed to be built.  
18 (b) Facilities not committed to be built except under  
19 certain conditions, and a statement of those conditions or  
20 contingencies.

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

11  
12 Descriptions shall include location, areas, capacities,  
13 numbers, volumes, or sizes and may be stated as approximations  
14 or minimums.

15 (8) Recreation lease or associated club membership:

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

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

30 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
31 MANDATORY FOR UNIT OWNERS; or

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

11  
12 Immediately following the applicable statement, the location  
13 in the disclosure materials where the development is described  
14 in detail shall be stated.

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

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

31           1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO



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

Amendment No. \_\_\_\_ Barcode 843900

1 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
2 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
3 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

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

10

11 Immediately following the applicable statement, the location  
12 in the disclosure materials where the lien or lien right is  
13 described in detail shall be stated.

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

22 Immediately following this statement, the location in the  
23 disclosure materials where such reserved rights are described  
24 shall be stated.

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 (11) The arrangements for management of the  
2 association and maintenance and operation of the condominium  
3 property and of other property that will serve the unit owners  
4 of the condominium property, and a description of the  
5 management contract and all other contracts for these purposes  
6 having a term in excess of 1 year, including the following:

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

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

26 (12) If the developer or any other person or persons  
27 other than the unit owners has the right to retain control of  
28 the board of administration of the association for a period of  
29 time which can exceed 1 year after the closing of the sale of  
30 a majority of the units in that condominium to persons other  
31 than successors or alternate developers, then a statement in

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

Amendment No. \_\_\_\_ Barcode 843900

1 conspicuous type in substantially the following form shall be  
2 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
3 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE  
4 UNITS HAVE BEEN SOLD. Immediately following this statement,  
5 the location in the disclosure materials where this right to  
6 control is described in detail shall be stated.

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

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

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

22 (b) A summary of the provisions of the declaration  
23 which provide for the phasing.

24 (c) A statement as to whether or not residential  
25 buildings and units which are added to the condominium may be  
26 substantially different from the residential buildings and  
27 units originally in the condominium. If the added residential  
28 buildings and units may be substantially different, there  
29 shall be a general description of the extent to which such  
30 added residential buildings and units may differ, and a  
31 statement in conspicuous type in substantially the following

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

Amendment No. \_\_\_\_ Barcode 843900

1 form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO  
2 THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER  
3 BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following  
4 this statement, the location in the disclosure materials where  
5 the extent to which added residential buildings and units may  
6 substantially differ is described shall be stated.

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

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

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

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

30 (c) A statement of the minimum and maximum number of  
31 condominiums, and the minimum and maximum number of units in

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

Amendment No. \_\_\_\_ Barcode 843900

1 each of those condominiums, which will or may be operated by  
2 the association, and the latest date by which the exact number  
3 will be finally determined.

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

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

11 (16) If the condominium is created by conversion of  
12 existing improvements, the following information shall be  
13 stated:

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

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 land and the nature and term of service, and the declaration  
2 or other instrument creating such servitude shall be included  
3 as an exhibit.

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

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

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

15 (a) The estimated monthly and annual expenses of the  
16 condominium and the association that are collected from unit  
17 owners by assessments.

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 billed directly to each unit owner for utility services to his  
 2 or her unit; insurance premiums other than those incurred for  
 3 policies obtained by the condominium; and similar personal  
 4 expenses of the unit owner. A unit owner's estimated payments  
 5 for assessments shall also be stated in the estimated amounts  
 6 for the times when they will be due.

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

- 13 1. Expenses for the association and condominium:
  - 14 a. Administration of the association.
  - 15 b. Management fees.
  - 16 c. Maintenance.
  - 17 d. Rent for recreational and other commonly used
  - 18 facilities.
  - 19 e. Taxes upon association property.
  - 20 f. Taxes upon leased areas.
  - 21 g. Insurance.
  - 22 h. Security provisions.
  - 23 i. Other expenses.
  - 24 j. Operating capital.
  - 25 k. Reserves.
  - 26 l. Fees payable to the division.
- 27 2. Expenses for a unit owner:
  - 28 a. Rent for the unit, if subject to a lease.
  - 29 b. Rent payable by the unit owner directly to the
  - 30 lessor or agent under any recreational lease or lease for the
  - 31 use of commonly used facilities, which use and payment is a

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

Amendment No. \_\_\_\_ Barcode 843900

1 mandatory condition of ownership and is not included in the  
2 common expense or assessments for common maintenance paid by  
3 the unit owners to the association.

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

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

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

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

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

21 (b) The articles of incorporation creating the  
22 association.

23 (c) The bylaws of the association.

24 (d) The ground lease or other underlying lease of the  
25 condominium.

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

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



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

Amendment No. \_\_\_\_ Barcode 843900

1 (g) A copy of the floor plan of the unit and the plot  
2 plan showing the location of the residential buildings and the  
3 recreation and other common areas.

4 (h) The lease of recreational and other facilities  
5 that will be used only by unit owners of the subject  
6 condominium.

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

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

10 (k) A declaration of servitude of properties serving  
11 the condominium but not owned by unit owners or leased to them  
12 or the association.

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

16 (m) The statement of inspection for termite damage and  
17 treatment of the existing improvements, if the condominium is  
18 a conversion.

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

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

22 (p) A copy of the documents containing any  
23 restrictions on use of the property required by subsection  
24 (16).

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

30 (26) A brief narrative description of the location and  
31 effect of all existing and intended easements located or to be

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

Amendment No. \_\_\_\_ Barcode 843900

1 located on the condominium property other than those described  
2 in the declaration.

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

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

12 Section 77. Section 718.508, Florida Statutes, is  
13 amended to read:

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

23 Section 78. Section 718.509, Florida Statutes, is  
24 amended to read:

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

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

31 (2) All funds collected by the division and any amount

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

Amendment No. \_\_\_\_ Barcode 843900

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

14 Section 79. Paragraph (a) of subsection (2) of section  
 15 718.608, Florida Statutes, is amended to read:

16 718.608 Notice of intended conversion; time of  
 17 delivery; content.--

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

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

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

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1           5. All notices must be given in writing and sent by  
2 mail, return receipt requested, or delivered in person to the  
3 developer at this address: ...(name and address of  
4 developer)....

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

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

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

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

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

30           719.103 Definitions.--As used in this chapter:

31           (17) "Division" means the Division of ~~Florida Land~~

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

Amendment No. \_\_\_\_ Barcode 843900

1 ~~Sales, Condominiums, Timeshare,~~ and Mobile Homes of the  
2 Department of Business and Professional Regulation.

3 Section 81. Section 719.1255, Florida Statutes, is  
4 amended to read:

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

10 Section 82. Section 719.501, Florida Statutes, is  
11 amended to read:

12 719.501 Powers and duties of Division of ~~Florida Land~~  
13 ~~Sales, Condominiums, Timeshare,~~ and Mobile Homes.--

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

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

30 (b) The division may require or permit any person to  
31 file a statement in writing, under oath or otherwise, as the

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

Amendment No. \_\_\_\_ Barcode 843900

1 division determines, as to the facts and circumstances  
2 concerning a matter to be investigated.

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

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

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

30 2. The division may issue an order requiring the  
31 developer, association, officer, or member of the board, or

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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



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

Amendment No. \_\_\_\_ Barcode 843900

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 the civil penalty or the cease and desist order shall not  
2 become effective until 20 days after the date of such order.  
3 Any action commenced by the division shall be brought in the  
4 county in which the division has its executive offices or in  
5 the county where the violation occurred.

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

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

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

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

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

30 (j) The division shall adopt uniform accounting  
31 principles, policies, and standards to be used by all

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

Amendment No. \_\_\_\_ Barcode 843900

1 associations in the preparation and presentation of all  
2 financial statements required by this chapter. The principles,  
3 policies, and standards shall take into consideration the size  
4 of the association and the total revenue collected by the  
5 association.

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 right to a hearing pursuant to ss. 120.569 and 120.57.

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

20 (2)(a) Each cooperative association shall pay to the  
21 division, on or before January 1 of each year, an annual fee  
22 in the amount of \$4 for each residential unit in cooperatives  
23 operated by the association. If the fee is not paid by March  
24 1, then the association shall be assessed a penalty of 10  
25 percent of the amount due, and the association shall not have  
26 the standing to maintain or defend any action in the courts of  
27 this state until the amount due 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 83. Paragraph (a) of subsection (2) of section

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

Amendment No. \_\_\_\_ Barcode 843900

1 719.502, Florida Statutes, is amended to read:

2 719.502 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 cooperative is to be  
6 developed, a developer shall not offer a contract for purchase  
7 or lease of a unit for more than 5 years. However, the  
8 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 cooperative unless the developer has an ownership, leasehold,  
15 or contractual interest in the land upon which the cooperative  
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 84. Section 719.504, Florida Statutes, is  
28 amended to read:

29 719.504 Prospectus or offering circular.--Every  
30 developer of a residential cooperative which contains more  
31 than 20 residential units, or which is part of a group of

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

Amendment No. \_\_\_\_ Barcode 843900

1 residential cooperatives 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 must be in accordance with a format  
12 approved by the division. This page must, in readable  
13 language: inform prospective purchasers regarding their  
14 voting rights and unit use restrictions, including  
15 restrictions on the leasing of a unit; indicate whether and in  
16 what amount the unit owners or the association is obligated to  
17 pay rent or land use fees for recreational or other commonly  
18 used facilities; contain a statement identifying that amount  
19 of assessment which, pursuant to the budget, would be levied  
20 upon each unit type, exclusive of any special assessments, and  
21 which identifies the basis upon which assessments are levied,  
22 whether monthly, quarterly, or otherwise; state and identify  
23 any court cases in which the association is currently a party  
24 of record in which the association may face liability in  
25 excess of \$100,000; and state whether membership in a  
26 recreational facilities association is mandatory and, if so,  
27 identify the fees currently charged per unit type. The  
28 division shall by rule require such other disclosure as in its  
29 judgment will assist prospective purchasers. The prospectus or  
30 offering circular may include more than one cooperative,  
31 although not all such units are being offered for sale as of

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

Amendment No. \_\_\_\_ Barcode 843900

1 the date of the prospectus or offering circular. The  
2 prospectus or offering circular must contain the following  
3 information:

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

6 (a) The name of the cooperative.

7 (b) The following statements in conspicuous type:

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

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

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

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

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

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

28 (a) Its name and location.

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

31 1. The number of buildings, the number of units in

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

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

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



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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

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

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

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

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

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

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

31 3. A description of the terms of the lease or other

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

17

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

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

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

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

31 (c) As to each facility committed to be built, or

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

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

21  
22 Descriptions shall include location, areas, capacities,  
23 numbers, volumes, or sizes and may be stated as approximations  
24 or minimums.

25 (8) Recreation lease or associated club membership:

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

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

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

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

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 following this statement, the location in the disclosure  
2 materials where the rent or land use fees are described in  
3 detail shall be stated.

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

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

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

19

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 materials where such reserved rights are described shall be  
2 stated.

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

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

16 (a) The names of contracting parties.

17 (b) The term of the contract.

18 (c) The nature of the services included.

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

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

24  
25 Copies of all described contracts shall be attached as  
26 exhibits. If there is a contract for the management of the  
27 cooperative property, then a statement in conspicuous type in  
28 substantially the following form shall appear, identifying the  
29 proposed or existing contract manager: **THERE IS (IS TO BE) A**  
30 **CONTRACT FOR THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH**  
31 **(NAME OF THE CONTRACT MANAGER).** Immediately following this

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

Amendment No. \_\_\_\_ Barcode 843900

1 statement, the location in the disclosure materials of the  
2 contract for management of the cooperative property shall be  
3 stated.

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

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 (b) A summary of the provisions of the declaration  
2 providing for the phasing.

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

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

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

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

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

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



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

Amendment No. \_\_\_\_ Barcode 843900

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 cooperative 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 (17) 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 cooperative. If any part of such land  
13 will serve the cooperative, the statement shall describe the  
14 land and the nature and term of service, and the cooperative  
15 documents or other instrument creating such servitude shall be  
16 included as an exhibit.

17 (18) 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 (19) An explanation of the manner in which the  
22 apportionment of common expenses and ownership of the common  
23 areas have been determined.

24 (20) An estimated operating budget for the cooperative  
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 cooperative and the association that are collected from unit  
30 owners by assessments.

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

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

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

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

Amendment No. \_\_\_\_ Barcode 843900

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 made to the developer prior to closing.

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

5 (24) Any prospectus or offering circular complying  
6 with the provisions of former ss. 711.69 and 711.802 may  
7 continue to be used without amendment, or may be amended to  
8 comply with the provisions of this chapter.

9 (25) A brief narrative description of the location and  
10 effect of all existing and intended easements located or to be  
11 located on the cooperative property other than those in the  
12 declaration.

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

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

22 Section 85. Section 719.508, Florida Statutes, is  
23 amended to read:

24 719.508 Regulation by Division of Hotels and  
25 Restaurants.--In addition to the authority, regulation, or  
26 control exercised by the Division of ~~Florida Land Sales,~~  
27 Condominiums, Timeshare, and Mobile Homes pursuant to this act  
28 with respect to cooperatives, buildings included in a  
29 cooperative property shall be subject to the authority,  
30 regulation, or control of the Division of Hotels and  
31 Restaurants of the Department of Business and Professional

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

Amendment No. \_\_\_\_ Barcode 843900

1 Regulation, to the extent provided for in chapters 399 and  
2 509.

3 Section 86. Paragraph (a) of subsection (2) of section  
4 719.608, Florida Statutes, is amended to read:

5 719.608 Notice of intended conversion; time of  
6 delivery; content.--

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

11

12 These apartments are being converted to cooperative by  
13 ...(name of developer)..., the developer.

14 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION  
15 OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
16 AGREEMENT AS FOLLOWS:

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

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

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

28 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45  
29 DAYS, you may extend your rental agreement for up to 45 days  
30 after the date of this notice while you decide whether to  
31 extend your rental agreement as explained above. To do so, you

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

Amendment No. \_\_\_\_ Barcode 843900

1 must notify the developer in writing. You will then have the  
2 full 45 days to decide whether to extend your rental agreement  
3 as explained above.

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

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

8 a. If your rental agreement began or was extended or  
9 renewed after May 1, 1980, and your rental agreement,  
10 including extensions and renewals, has an unexpired term of  
11 180 days or less, you may cancel your rental agreement upon 30  
12 days' written notice and move. Also, upon 30 days' written  
13 notice, you may cancel any extension of the rental agreement.

14 b. If your rental agreement was not begun or was not  
15 extended or renewed after May 1, 1980, you may not cancel the  
16 rental agreement without the consent of the developer. If  
17 your rental agreement, including extensions and renewals, has  
18 an unexpired term of 180 days or less, you may, however, upon  
19 30 days' written notice cancel any extension of the rental  
20 agreement.

21 5. All notices must be given in writing and sent by  
22 mail, return receipt requested, or delivered in person to the  
23 developer at this address: ...(name and address of  
24 developer)....

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

27 a. You have the right to purchase your apartment and  
28 will have 45 days to decide whether to purchase. If you do  
29 not buy the unit at that price and the unit is later offered  
30 at a lower price, you will have the opportunity to buy the  
31 unit at the lower price. However, in all events your right to

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

Amendment No. \_\_\_\_ Barcode 843900

1 purchase the unit ends when the rental agreement or any  
2 extension of the rental agreement ends or when you waive this  
3 right in writing.

4       b. Within 90 days you will be provided purchase  
5 information relating to your apartment, including the price of  
6 your unit and the condition of the building. If you do not  
7 receive this information within 90 days, your rental agreement  
8 and any extension will be extended 1 day for each day over 90  
9 days until you are given the purchase information. If you do  
10 not want this rental agreement extension, you must notify the  
11 developer in writing.

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

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

19       721.05 Definitions.--As used in this chapter, the  
20 term:

21       (10) "Division" means the Division of ~~Florida Land~~  
22 ~~Sales~~, Condominiums, Timeshare, and Mobile Homes of the  
23 Department of Business and Professional Regulation.

24       Section 88. Paragraph (d) of subsection (2) of section  
25 721.07, Florida Statutes, is amended to read:

26       721.07 Public offering statement.--Prior to offering  
27 any timeshare plan, the developer must submit a registered  
28 public offering statement to the division for approval as  
29 prescribed by s. 721.03, s. 721.55, or this section. Until  
30 the division approves such filing, any contract regarding the  
31 sale of that timeshare plan is voidable by the purchaser.



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

Amendment No. \_\_\_\_ Barcode 843900

1 (2)

2 (d) A developer shall have the authority to deliver to  
3 purchasers any purchaser public offering statement that is not  
4 yet approved by the division, provided that the following  
5 shall apply:

6 1. At the time the developer delivers an unapproved  
7 purchaser public offering statement to a purchaser pursuant to  
8 this paragraph, the developer shall deliver a fully completed  
9 and executed copy of the purchase contract required by s.  
10 721.06 that contains the following statement in conspicuous  
11 type in substantially the following form which shall replace  
12 the statements required by s. 721.06(1)(g):

13

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

23

24 Your statutory right to cancel this transaction without any  
25 penalty or obligation expires 10 calendar days after the date  
26 you signed your purchase contract or 10 calendar days after  
27 you receive revisions required to be delivered to you, if any,  
28 whichever is later.

29

30 2. After receipt of approval from the division and  
31 prior to closing, if any revisions made to the documents

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

Amendment No. \_\_\_\_ Barcode 843900

1 contained in the purchaser public offering statement  
2 materially alter or modify the offering in a manner adverse to  
3 a purchaser, the developer shall send the purchaser such  
4 revisions together with a notice containing a statement in  
5 conspicuous type in substantially the following form:

6  
7 The unapproved public offering statement previously delivered  
8 to you, together with the enclosed revisions, has been  
9 approved by the Division of ~~Florida Land Sales~~, Condominiums,  
10 Timeshare, and Mobile Homes. Accordingly, your cancellation  
11 right expires 10 calendar days after you sign your purchase  
12 contract or 10 calendar days after you receive these  
13 revisions, whichever is later. If you have any questions  
14 regarding your cancellation rights, you may contact the  
15 division at [insert division's current address].

16  
17 3. After receipt of approval from the division and  
18 prior to closing, if no revisions have been made to the  
19 documents contained in the unapproved purchaser public  
20 offering statement, or if such revisions do not materially  
21 alter or modify the offering in a manner adverse to a  
22 purchaser, the developer shall send the purchaser a notice  
23 containing a statement in conspicuous type in substantially  
24 the following form:

25  
26 The unapproved public offering statement previously delivered  
27 to you has been approved by the Division of ~~Florida Land~~  
28 ~~Sales~~, Condominiums, Timeshare, and Mobile Homes. Revisions  
29 made to the unapproved public offering statement, if any, are  
30 either not required to be delivered to you or are not deemed  
31 by the developer, in its opinion, to materially alter or

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

Amendment No. \_\_\_\_ Barcode 843900

1 modify the offering in a manner that is adverse to you.  
2 Accordingly, your cancellation right expired 10 days after you  
3 signed your purchase contract. A complete copy of the approved  
4 public offering statement is available through the managing  
5 entity for inspection as part of the books and records of the  
6 plan. If you have any questions regarding your cancellation  
7 rights, you may contact the division at [insert division's  
8 current address].

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

11 721.08 Escrow accounts; nondisturbance instruments;  
12 alternate security arrangements; transfer of legal title.--

13 (8) An escrow agent holding escrowed funds pursuant to  
14 this chapter that have not been claimed for a period of 5  
15 years after the date of deposit shall make at least one  
16 reasonable attempt to deliver such unclaimed funds to the  
17 purchaser who submitted such funds to escrow. In making such  
18 attempt, an escrow agent is entitled to rely on a purchaser's  
19 last known address as set forth in the books and records of  
20 the escrow agent and is not required to conduct any further  
21 search for the purchaser. If an escrow agent's attempt to  
22 deliver unclaimed funds to any purchaser is unsuccessful, the  
23 escrow agent may deliver such unclaimed funds to the division  
24 and the division shall deposit such unclaimed funds in the  
25 Division of ~~Florida Land Sales~~, Condominiums, Timeshare, and  
26 Mobile Homes Trust Fund, 30 days after giving notice in a  
27 publication of general circulation in the county in which the  
28 timeshare property containing the purchaser's timeshare  
29 interest is located. The purchaser may claim the same at any  
30 time prior to the delivery of such funds to the division.  
31 After delivery of such funds to the division, the purchaser

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

Amendment No. \_\_\_\_ Barcode 843900

1 shall have no more rights to the unclaimed funds. The escrow  
2 agent shall not be liable for any claims from any party  
3 arising out of the escrow agent's delivery of the unclaimed  
4 funds to the division pursuant to this section.

5 Section 90. Section 721.26, Florida Statutes, is  
6 amended to read:

7 721.26 Regulation by division.--The division has the  
8 power to enforce and ensure compliance with the provisions of  
9 this chapter, except for parts III and IV, using the powers  
10 provided in this chapter, as well as the powers prescribed in  
11 chapters 498, 718, and 719. In performing its duties, the  
12 division shall have the following powers and duties:

13 (1) To aid in the enforcement of this chapter, or any  
14 division rule or order promulgated or issued pursuant to this  
15 chapter, the division may make necessary public or private  
16 investigations within or outside this state to determine  
17 whether any person has violated or is about to violate this  
18 chapter, or any division rule or order promulgated or issued  
19 pursuant to this chapter.

20 (2) The division may require or permit any person to  
21 file a written statement under oath or otherwise, as the  
22 division determines, as to the facts and circumstances  
23 concerning a matter under investigation.

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

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

Amendment No. \_\_\_\_ Barcode 843900

1 the identity and location of persons having knowledge of  
2 relevant facts or any other matter reasonably calculated to  
3 lead to the discovery of material evidence. Failure to obey a  
4 subpoena or to answer questions propounded by the  
5 investigating officer and upon reasonable notice to all  
6 persons affected thereby shall be a violation of this chapter.  
7 In addition to the other enforcement powers authorized in this  
8 subsection, the division may, at its discretion, apply to the  
9 circuit court for an order compelling compliance.

10 (4) The division may prepare and disseminate a  
11 prospectus and other information to assist prospective  
12 purchasers, sellers, and managing entities of timeshare plans  
13 in assessing the rights, privileges, and duties pertaining  
14 thereto.

15 (5) Notwithstanding any remedies available to  
16 purchasers, if the division has reasonable cause to believe  
17 that a violation of this chapter, or of any division rule or  
18 order promulgated or issued pursuant to this chapter, has  
19 occurred, the division may institute enforcement proceedings  
20 in its own name against any regulated party, as such term is  
21 defined in this subsection:

22 (a)1. "Regulated party," for purposes of this section,  
23 means any developer, exchange company, seller, managing  
24 entity, association, association director, association  
25 officer, manager, management firm, escrow agent, trustee, any  
26 respective assignees or agents, or any other person having  
27 duties or obligations pursuant to this chapter.

28 2. Any person who materially participates in any offer  
29 or disposition of any interest in, or the management or  
30 operation of, a timeshare plan in violation of this chapter or  
31 relevant rules involving fraud, deception, false pretenses,

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

Amendment No. \_\_\_\_ Barcode 843900

1 misrepresentation, or false advertising or the disbursement,  
2 concealment, or diversion of any funds or assets, which  
3 conduct adversely affects the interests of a purchaser, and  
4 which person directly or indirectly controls a regulated party  
5 or is a general partner, officer, director, agent, or employee  
6 of such regulated party, shall be jointly and severally liable  
7 under this subsection with such regulated party, unless such  
8 person did not know, and in the exercise of reasonable care  
9 could not have known, of the existence of the facts giving  
10 rise to the violation of this chapter. A right of  
11 contribution shall exist among jointly and severally liable  
12 persons pursuant to this paragraph.

13 (b) The division may permit any person whose conduct  
14 or actions may be under investigation to waive formal  
15 proceedings and enter into a consent proceeding whereby an  
16 order, rule, or letter of censure or warning, whether formal  
17 or informal, may be entered against that person.

18 (c) The division may issue an order requiring a  
19 regulated party to cease and desist from an unlawful practice  
20 under this chapter and take such affirmative action as in the  
21 judgment of the division will carry out the purposes of this  
22 chapter.

23 (d)1. The division may bring an action in circuit  
24 court for declaratory or injunctive relief or for other  
25 appropriate relief, including restitution.

26 2. The division shall have broad authority and  
27 discretion to petition the circuit court to appoint a receiver  
28 with respect to any managing entity which fails to perform its  
29 duties and obligations under this chapter with respect to the  
30 operation of a timeshare plan. The circumstances giving rise  
31 to an appropriate petition for receivership under this

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

Amendment No. \_\_\_\_ Barcode 843900

1 subparagraph include, but are not limited to:

2 a. Damage to or destruction of any of the  
3 accommodations or facilities of a timeshare plan, where the  
4 managing entity has failed to repair or reconstruct same.

5 b. A breach of fiduciary duty by the managing entity,  
6 including, but not limited to, undisclosed self-dealing or  
7 failure to timely assess, collect, or disburse the common  
8 expenses of the timeshare plan.

9 c. Failure of the managing entity to operate the  
10 timeshare plan in accordance with the timeshare instrument and  
11 this chapter.

12

13 If, under the circumstances, it appears that the events giving  
14 rise to the petition for receivership cannot be reasonably and  
15 timely corrected in a cost-effective manner consistent with  
16 the timeshare instrument, the receiver may petition the  
17 circuit court to implement such amendments or revisions to the  
18 timeshare instrument as may be necessary to enable the  
19 managing entity to resume effective operation of the timeshare  
20 plan, or to enter an order terminating the timeshare plan, or  
21 to enter such further orders regarding the disposition of the  
22 timeshare property as the court deems appropriate, including  
23 the disposition and sale of the timeshare property held by the  
24 association or the purchasers. In the event of a receiver's  
25 sale, all rights, title, and interest held by the association  
26 or any purchaser shall be extinguished and title shall vest in  
27 the buyer. This provision applies to timeshare estates and  
28 timeshare licenses. All reasonable costs and fees of the  
29 receiver relating to the receivership shall become common  
30 expenses of the timeshare plan upon order of the court.

31 3. The division may revoke its approval of any filing

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

Amendment No. \_\_\_\_ Barcode 843900

1 for any timeshare plan for which a petition for receivership  
2 has been filed pursuant to this paragraph.

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

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

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

20 (f) In order to permit the regulated party an  
21 opportunity either to appeal such decision administratively or  
22 to seek relief in a court of competent jurisdiction, the order  
23 imposing the penalty or the cease and desist order shall not  
24 become effective until 20 days after the date of such order.

25 (g) Any action commenced by the division shall be  
26 brought in the county in which the division has its executive  
27 offices or in the county where the violation occurred.

28 (h) Notice to any regulated party shall be complete  
29 when delivered by United States mail, return receipt  
30 requested, to the party's address currently on file with the  
31 division or to such other address at which the division is



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

Amendment No. \_\_\_\_ Barcode 843900

1 able to locate the party. Every regulated party has an  
2 affirmative duty to notify the division of any change of  
3 address at least 5 business days prior to such change.

4 (6) The division has authority to adopt rules pursuant  
5 to ss. 120.536(1) and 120.54 to implement and enforce the  
6 provisions of this chapter.

7 (7)(a) The use of any unfair or deceptive act or  
8 practice by any person in connection with the sales or other  
9 operations of an exchange program or timeshare plan is a  
10 violation of this chapter.

11 (b) Any violation of the Florida Deceptive and Unfair  
12 Trade Practices Act, ss. 501.201 et seq., relating to the  
13 creation, promotion, sale, operation, or management of any  
14 timeshare plan shall also be a violation of this chapter.

15 (c) The division is authorized to institute  
16 proceedings against any such person and take any appropriate  
17 action authorized in this section in connection therewith,  
18 notwithstanding any remedies available to purchasers.

19 (8) The failure of any person to comply with any order  
20 of the division is a violation of this chapter.

21 Section 91. Section 721.28, Florida Statutes, is  
22 amended to read:

23 721.28 Division of ~~Florida Land Sales~~, Condominiums,  
24 Timeshare, and Mobile Homes Trust Fund.--All funds collected  
25 by the division and any amounts paid as fees or penalties  
26 under this chapter shall be deposited in the State Treasury to  
27 the credit of the Division of ~~Florida Land Sales~~,  
28 Condominiums, Timeshare, and Mobile Homes Trust Fund created  
29 by s. 718.509 ~~498.019~~.

30 Section 92. Paragraph (c) of subsection (1) of section  
31 721.301, Florida Statutes, is amended to read:

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

Amendment No. \_\_\_\_ Barcode 843900

1           721.301 Florida Timesharing, Vacation Club, and  
 2 Hospitality Program.--  
 3           (1)  
 4           (c) The director may designate funds from the Division  
 5 of ~~Florida Land Sales, Condominiums, Timeshare,~~ and Mobile  
 6 Homes Trust Fund, not to exceed \$50,000 annually, to support  
 7 the projects and proposals undertaken pursuant to paragraph  
 8 (b). All state trust funds to be expended pursuant to this  
 9 section must be matched equally with private moneys and shall  
 10 comprise no more than half of the total moneys expended  
 11 annually.

12           Section 93. Section 721.50, Florida Statutes, is  
 13 amended to read:

14           721.50 Short title.--This part may be cited as the  
 15 "McAllister Act" in recognition and appreciation for the years  
 16 of extraordinary and insightful contributions by Mr. Bryan C.  
 17 McAllister, Examinations Supervisor, former Division of  
 18 Florida Land Sales, Condominiums, and Mobile Homes.

19           Section 94. Subsection (10) of section 721.82, Florida  
 20 Statutes, is amended to read:

21           721.82 Definitions.--As used in this part, the term:

22           (10) "Registered agent" means an agent duly appointed  
 23 ~~by the obligor~~ under s. 721.84 for the purpose of accepting  
 24 all notices and service of process under this part for the  
 25 obligor. A registered agent may be an individual resident in  
 26 this state whose business office qualifies as a registered  
 27 office, or a domestic or foreign corporation or a  
 28 not-for-profit corporation as defined in chapter 617  
 29 authorized to transact business or to conduct its affairs in  
 30 this state, whose business office qualifies as a registered  
 31 office. A registered agent for any obligor may not be the

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

Amendment No. \_\_\_\_ Barcode 843900

1 lienholder or the attorney for the lienholder.

2 Section 95. Subsection (5) of section 721.84, Florida  
3 Statutes, is amended, present subsections (6) and (7) are  
4 renumbered as subsections (9) and (10), respectively, and new  
5 subsections (6), (7), and (8) are added to that section, to  
6 read:

7 721.84 Appointment of a registered agent; duties.--

8 (5) A registered agent may resign his or her agency  
9 appointment for any obligor for which he or she serves as  
10 registered agent, provided that:

11 (a) The resigning registered agent executes a written  
12 statement of resignation that identifies himself or herself  
13 and the street address of his or her registered office, and  
14 identifies the obligors affected by his or her resignation;

15 (b)1. A successor registered agent is appointed by the  
16 resigning registered agent and such successor registered agent  
17 executes an acceptance of appointment as successor registered  
18 agent and satisfies all of the requirements of subsection (1);  
19 or;

20 2. The registered agent provides 120 days' prior  
21 written notice to the mortgagee as to the mortgage lien and to  
22 the owners' association of the timeshare plan as to the  
23 assessment lien of its intent to deliver the statement of  
24 resignation. Prior to the effective date of termination of the  
25 resigning registered agent's agency and registered office, a  
26 ~~The resigning registered agent may designate the successor~~  
27 ~~registered agent; however, if the resigning registered agent~~  
28 ~~fails to designate a successor registered agent or the~~  
29 ~~designated successor registered agent fails to accept, the~~  
30 successor registered agent for the affected obligors may be  
31 designated by the mortgagee as to the mortgage lien and by the

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

Amendment No. \_\_\_\_ Barcode 843900

1 owners' association of the timeshare plan as to the assessment  
2 lien; and

3 (c)1. If a successor registered agent is appointed  
4 under subparagraph (b)1., copies of the statement of  
5 resignation and acceptance of appointment as successor  
6 registered agent are promptly mailed to the affected obligors  
7 at the obligors' last designated address shown on the records  
8 of the resigning registered agent and to the affected  
9 lienholders; or-

10 2. If a resigning registered agent has previously  
11 provided notice under subparagraph (b)2., a copy of the  
12 statement of resignation is promptly mailed to the affected  
13 obligors at the obligor's last designated address shown on the  
14 records of the resigning registered agent and a copy of the  
15 statement of resignation and a list of the obligors' last  
16 designated addresses shown on the records of the resigning  
17 registered agent are promptly mailed to the affected  
18 lienholders.

19 (6) If a successor registered agent is appointed under  
20 subparagraph (5)(b)1., the agency and registered office of the  
21 resigning registered agent are terminated and the agency and  
22 registered office of the successor registered agent are  
23 effective as of the 10th day after the date on which the  
24 statement of resignation and acceptance of appointment as  
25 successor registered agent are received by the lienholder,  
26 unless a longer period is provided in the statement of  
27 resignation and acceptance of appointment as successor  
28 registered agent.

29 (7) If a resigning registered agent has previously  
30 provided notice under subparagraph (5)(b)2. and a successor  
31 registered agent is not designated or the designated successor

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

Amendment No. \_\_\_\_ Barcode 843900

1 registered agent fails to accept the appointment as registered  
2 agent, the agency and registered office of the resigning  
3 registered agent are terminated effective as of the 10th day  
4 after the date on which the statement of resignation and list  
5 of obligors required by subparagraph (5)(c)2. are received by  
6 the lienholder, unless a longer period is provided in the  
7 statement of resignation. After the effective date of the  
8 termination of the agency and registered office of the  
9 resigning registered agent, if no successor registered agent  
10 exists, the affected lienholders must mail any notice or  
11 document required to be delivered by a lienholder to the  
12 obligor by first class mail if the obligor's address is within  
13 the United States, and by international air mail if the  
14 obligor's address is outside the United States, with postage  
15 fees prepaid to the obligor at the obligor's last designated  
16 address as shown on the records of the resigning registered  
17 agent. If such notice or document requires service of process  
18 on persons outside the United States, such service of process  
19 shall be accomplished by any internationally agreed means  
20 reasonably calculated to give notice. Whenever no successor  
21 registered agent exists, a successor registered agent for the  
22 affected obligors may be designated by the mortgagee as to the  
23 mortgage lien and by the owners' association of the timeshare  
24 plan as to the assessment lien.

25 (8) If a successor registered agent is appointed under  
26 subparagraph (5)(b)2. or under subsection (7), copies of the  
27 acceptance of appointment as successor registered agent must  
28 be promptly mailed, by the mortgagee as to a registered agent  
29 appointed by the mortgagee as to the mortgage lien, and by the  
30 owners' association of the timeshare plan as to the assessment  
31 lien, to the affected obligors at the obligor's last address

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

Amendment No. \_\_\_\_ Barcode 843900

1 shown on the records of the resigning registered agent. The  
2 agency and registered office of the successor registered agent  
3 are effective as of the date provided in the acceptance of  
4 appointment.

5 Section 96. Subsection (1) of section 723.003, Florida  
6 Statutes, is amended to read:

7 723.003 Definitions.--As used in this chapter, the  
8 following words and terms have the following meanings unless  
9 clearly indicated otherwise:

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

13 Section 97. Paragraph (e) of subsection (5) of section  
14 723.006, Florida Statutes, is amended to read:

15 723.006 Powers and duties of division.--In performing  
16 its duties, the division has the following powers and duties:

17 (5) Notwithstanding any remedies available to mobile  
18 home owners, mobile home park owners, and homeowners'  
19 associations, if the division has reasonable cause to believe  
20 that a violation of any provision of this chapter or any rule  
21 promulgated pursuant hereto has occurred, the division may  
22 institute enforcement proceedings in its own name against a  
23 developer, mobile home park owner, or homeowners' association,  
24 or its assignee or agent, as follows:

25 (e)1. The division may impose a civil penalty against  
26 a mobile home park owner or homeowners' association, or its  
27 assignee or agent, for any violation of this chapter, a  
28 properly promulgated park rule or regulation, or a rule or  
29 regulation promulgated pursuant hereto. A penalty may be  
30 imposed on the basis of each separate violation and, if the  
31 violation is a continuing one, for each day of continuing

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

Amendment No. \_\_\_\_ Barcode 843900

1 violation, but in no event may the penalty for each separate  
2 violation or for each day of continuing violation exceed  
3 \$5,000. All amounts collected shall be deposited with the  
4 Treasurer to the credit of the Division of ~~Florida Land Sales,~~  
5 Condominiums, Timeshare, and Mobile Homes Trust Fund.

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

19           Section 98. Section 723.0065, Florida Statutes, is  
20 amended to read:

21           723.0065 Public records exemption; findings.--The  
22 Legislature, in narrowing the existing public records  
23 exemption pursuant to s. 1, chapter 94-78, Laws of Florida,  
24 finds that a public necessity exists to keep confidential and  
25 retain the public records exemption for financial records of  
26 mobile home park owners acquired by the division of ~~Florida~~  
27 ~~Land Sales, Condominiums, and Mobile Homes~~ when performing its  
28 duties under the Florida Mobile Home Act unless the mobile  
29 home park owner has violated the provisions of this chapter.  
30 In that case, only those financial records that are  
31 specifically relevant to the finding of violation should be

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

Amendment No. \_\_\_\_ Barcode 843900

1 released. If it were otherwise, the division would encounter  
2 difficulties in procuring such proprietary information which  
3 would impede the effective and efficient performance of the  
4 division's public duties. Additionally, release of such  
5 proprietary information would harm the business interests of  
6 innocent mobile home park owners to the advantage of  
7 competitors and potential purchasers. Effective monitoring of  
8 the division's performance of its duties can be conducted  
9 without access to these records, and these records are  
10 otherwise available pursuant to a civil complaint as  
11 envisioned by the act. Accordingly, the public good served by  
12 access to financial records of a mobile home park owner who  
13 has not violated the provisions of this chapter is outweighed  
14 by the interference with division investigations and the  
15 private harm that could be caused by allowing such access.

16 Section 99. Section 723.009, Florida Statutes, is  
17 amended to read:

18 723.009 Division of ~~Florida Land Sales~~, Condominiums,  
19 Timeshare, and Mobile Homes Trust Fund.--All proceeds from the  
20 fees, penalties, and fines imposed pursuant to this chapter  
21 shall be deposited into the Division of ~~Florida Land Sales~~,  
22 Condominiums, Timeshare, and Mobile Homes Trust Fund created  
23 by s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated  
24 by the Legislature pursuant to chapter 216, may be used to  
25 defray the expenses incurred by the division in administering  
26 the provisions of this chapter.

27 Section 100. Subsection (2) of section 73.073, Florida  
28 Statutes, is amended to read:

29 73.073 Eminent domain procedure with respect to  
30 condominium common elements.--

31 (2) With respect to the exercise of eminent domain or



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

Amendment No. \_\_\_\_ Barcode 843900

1 a negotiated sale for the purchase or taking of a portion of  
2 the common elements of a condominium, the condemning authority  
3 shall have the responsibility of contacting the condominium  
4 association and acquiring the most recent rolls indicating the  
5 names of the unit owners or contacting the appropriate taxing  
6 authority to obtain the names of the owners of record on the  
7 tax rolls. Notification shall thereupon be sent by certified  
8 mail, return receipt requested, to the unit owners of record  
9 of the condominium units by the condemning authority  
10 indicating the intent to purchase or take the required  
11 property and requesting a response from the unit owner. The  
12 condemning authority shall be responsible for the expense of  
13 sending notification pursuant to this section. Such notice  
14 shall, at a minimum, include:

15 (a) The name and address of the condemning authority.

16 (b) A written or visual description of the property.

17 (c) The public purpose for which the property is  
18 needed.

19 (d) The appraisal value of the property.

20 (e) A clear, concise statement relating to the unit  
21 owner's right to object to the taking or appraisal value and  
22 the procedures and effects of exercising that right.

23 (f) A clear, concise statement relating to the power  
24 of the association to convey the property on behalf of the  
25 unit owners if no objection to the taking or appraisal value  
26 is raised, and the effects of this alternative on the unit  
27 owner.

28

29 The Division of ~~Florida Land Sales~~, Condominiums, Timeshare,  
30 and Mobile Homes of the Department of Business and  
31 Professional Regulation may adopt, by rule, a standard form

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

Amendment No. \_\_\_\_ Barcode 843900

1 for such notice and may require the notice to include any  
2 additional relevant information.

3 Section 101. Paragraph (e) of subsection (6) of  
4 section 192.037, Florida Statutes, is amended to read:

5 192.037 Fee timeshare real property; taxes and  
6 assessments; escrow.--

7 (6)

8 (e) On or before May 1 of each year, a statement of  
9 receipts and disbursements of the escrow account must be filed  
10 with the Division of ~~Florida Land Sales, Condominiums,~~  
11 Timeshare, and Mobile Homes of the Department of Business and  
12 Professional Regulation, which may enforce this paragraph  
13 pursuant to s. 721.26. This statement must appropriately show  
14 the amount of principal and interest in such account.

15 Section 102. Paragraph (i) of subsection (7) of  
16 section 213.053, Florida Statutes, is amended to read:

17 213.053 Confidentiality and information sharing.--

18 (7) Notwithstanding any other provision of this  
19 section, the department may provide:

20 (i) Information relative to chapters 212 and 326 to  
21 the ~~Division of Florida Land Sales, Condominiums, and Mobile~~  
22 ~~Homes of the~~ Department of Business and Professional  
23 Regulation in the conduct of its official duties.

24  
25 Disclosure of information under this subsection shall be  
26 pursuant to a written agreement between the executive director  
27 and the agency. Such agencies, governmental or  
28 nongovernmental, shall be bound by the same requirements of  
29 confidentiality as the Department of Revenue. Breach of  
30 confidentiality is a misdemeanor of the first degree,  
31 punishable as provided by s. 775.082 or s. 775.083.

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

Amendment No. \_\_\_\_ Barcode 843900

1           Section 103. Paragraph (w) of subsection (4) of  
2 section 215.20, Florida Statutes, is amended to read:

3           215.20 Certain income and certain trust funds to  
4 contribute to the General Revenue Fund.--

5           (4) The income of a revenue nature deposited in the  
6 following described trust funds, by whatever name designated,  
7 is that from which the deductions authorized by subsection (3)  
8 shall be made:

9           (w) The Division of ~~Florida Land Sales~~, Condominiums,  
10 Timeshare, and Mobile Homes Trust Fund established pursuant to  
11 s. 718.509 ~~498.019~~.

12

13 The enumeration of the foregoing moneys or trust funds shall  
14 not prohibit the applicability thereto of s. 215.24 should the  
15 Governor determine that for the reasons mentioned in s. 215.24  
16 the money or trust funds should be exempt herefrom, as it is  
17 the purpose of this law to exempt income from its force and  
18 effect when, by the operation of this law, federal matching  
19 funds or contributions or private grants to any trust fund  
20 would be lost to the state.

21           Section 104. Paragraph (a) of subsection (4) of  
22 section 380.0651, Florida Statutes, is amended to read:

23           380.0651 Statewide guidelines and standards.--

24           (4) Two or more developments, represented by their  
25 owners or developers to be separate developments, shall be  
26 aggregated and treated as a single development under this  
27 chapter when they are determined to be part of a unified plan  
28 of development and are physically proximate to one other.

29           (a) The criteria of two of the following subparagraphs  
30 must be met in order for the state land planning agency to  
31 determine that there is a unified plan of development:

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

Amendment No. \_\_\_\_ Barcode 843900

- 1           1.a. The same person has retained or shared control of  
2 the developments;
- 3           b. The same person has ownership or a significant  
4 legal or equitable interest in the developments; or
- 5           c. There is common management of the developments  
6 controlling the form of physical development or disposition of  
7 parcels of the development.
- 8           2. There is a reasonable closeness in time between the  
9 completion of 80 percent or less of one development and the  
10 submission to a governmental agency of a master plan or series  
11 of plans or drawings for the other development which is  
12 indicative of a common development effort.
- 13           3. A master plan or series of plans or drawings exists  
14 covering the developments sought to be aggregated which have  
15 been submitted to a local general-purpose government, water  
16 management district, the Florida Department of Environmental  
17 Protection, or the Division of ~~Florida Land Sales,~~  
18 Condominiums, Timeshare, and Mobile Homes for authorization to  
19 commence development. The existence or implementation of a  
20 utility's master utility plan required by the Public Service  
21 Commission or general-purpose local government or a master  
22 drainage plan shall not be the sole determinant of the  
23 existence of a master plan.
- 24           4. The voluntary sharing of infrastructure that is  
25 indicative of a common development effort or is designated  
26 specifically to accommodate the developments sought to be  
27 aggregated, except that which was implemented because it was  
28 required by a local general-purpose government; water  
29 management district; the Department of Environmental  
30 Protection; the Division of ~~Florida Land Sales,~~ Condominiums,  
31 Timeshare, and Mobile Homes; or the Public Service Commission.

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

Amendment No. \_\_\_\_ Barcode 843900

1           5. There is a common advertising scheme or promotional  
2 plan in effect for the developments sought to be aggregated.

3           Section 105. Subsection (5) of section 455.116,  
4 Florida Statutes, is amended to read:

5           455.116 Regulation trust funds.--The following trust  
6 funds shall be placed in the department:

7           (5) Division of ~~Florida Land Sales~~, Condominiums,  
8 Timeshare, and Mobile Homes Trust Fund.

9           Section 106. Section 475.455, Florida Statutes, is  
10 amended to read:

11           475.455 Exchange of disciplinary information.--The  
12 commission shall inform the Division of ~~Florida Land Sales~~,  
13 Condominiums, Timeshare, and Mobile Homes of the Department of  
14 Business and Professional Regulation of any disciplinary  
15 action the commission has taken against any of its licensees.  
16 The division shall inform the commission of any disciplinary  
17 action the division has taken against any broker or  
18 salesperson registered with the division.

19           Section 107. Section 509.512, Florida Statutes, is  
20 amended to read:

21           509.512 Timeshare plan developer and exchange company  
22 exemption.--Sections 509.501-509.511 do not apply to a  
23 developer of a timeshare plan or an exchange company approved  
24 by the Division of ~~Florida Land Sales~~, Condominiums,  
25 Timeshare, and Mobile Homes pursuant to chapter 721, but only  
26 to the extent that the developer or exchange company engages  
27 in conduct regulated under chapter 721.

28           Section 108. Subsection (1) of section 559.935,  
29 Florida Statutes, is amended to read:

30           559.935 Exemptions.--

31           (1) This part does not apply to:

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

Amendment No. \_\_\_\_ Barcode 843900

1 (a) A bona fide employee of a seller of travel who is  
2 engaged solely in the business of her or his employer;

3 (b) Any direct common carrier of passengers or  
4 property regulated by an agency of the Federal Government or  
5 employees of such carrier when engaged solely in the  
6 transportation business of the carrier as identified in the  
7 carrier's certificate;

8 (c) An intrastate common carrier of passengers or  
9 property selling only transportation as defined in the  
10 applicable state or local registration or certification, or  
11 employees of such carrier when engaged solely in the  
12 transportation business of the carrier;

13 (d) Hotels, motels, or other places of public  
14 accommodation selling public accommodations, or employees of  
15 such hotels, motels, or other places of public accommodation,  
16 when engaged solely in making arrangements for lodging,  
17 accommodations, or sightseeing tours within the state, or  
18 taking reservations for the traveler with times, dates,  
19 locations, and accommodations certain at the time the  
20 reservations are made, provided that hotels and motels  
21 registered with the Department of Business and Professional  
22 Regulation pursuant to chapter 509 are excluded from the  
23 provisions of this chapter;

24 (e) Persons involved solely in the rental, leasing, or  
25 sale of residential property;

26 (f) Persons involved solely in the rental, leasing, or  
27 sale of transportation vehicles;

28 (g) Persons who make travel arrangements for  
29 themselves; for their employees or agents; for distributors,  
30 franchisees, or dealers of the persons' products or services;  
31 for entities which are financially related to the persons; or

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

Amendment No. \_\_\_\_ Barcode 843900

1 for the employees or agents of the distributor, franchisee, or  
2 dealer or financially related entity;

3 (h) A developer of a timeshare plan or an exchange  
4 company approved by the Division of ~~Florida Land Sales,~~  
5 Condominiums, Timeshare, and Mobile Homes pursuant to chapter  
6 721, but only to the extent that the developer or exchange  
7 company engages in conduct regulated under chapter 721; or

8 (i) Persons or entities engaged solely in offering  
9 diving services, including classes and sales or rentals of  
10 equipment, when engaged in making any prearranged  
11 travel-related or tourist-related services in conjunction with  
12 a primarily dive-related event.

13 Section 109. Effective July 1, 2001, subsection (2) of  
14 section 468.452, Florida Statutes, is amended to read:

15 468.452 Definitions.--For purposes of this part, the  
16 term:

17 (2) "Athlete agent" means a person who, directly or  
18 indirectly, recruits or solicits a student athlete to enter  
19 into an agent contract, or who, for any type of financial  
20 gain, procures, offers, promises, or attempts to obtain  
21 employment or promotional fees or benefits for a student  
22 athlete with a professional sports team or as a professional  
23 athlete, or with any promoter who markets or attempts to  
24 market the student athlete's athletic ability or athletic  
25 reputation. This term includes all employees and other persons  
26 acting on behalf of an athlete agent who participate in the  
27 activities included under this subsection. The term does not  
28 include a spouse, parent, sibling, grandparent, or guardian of  
29 the student-athlete or an individual acting solely on behalf  
30 of a professional sports team or professional sports  
31 organization.

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

Amendment No. \_\_\_\_ Barcode 843900

1           Section 110. Effective July 1, 2001, section 468.453,  
2 Florida Statutes, is amended to read:

3           468.453 Licensure required; qualifications;  
4 examination; bond; exception; license nontransferable.--

5           (1) Any person who practices as an athlete agent in  
6 this state must be licensed pursuant to this part.

7           (2) A person shall be licensed as an athlete agent if  
8 the applicant:

9           (a) Is at least 18 years of age.

10          (b) Is of good moral character.

11          ~~(c) Passes an examination provided by the department~~  
12 ~~which tests the applicant's proficiency to practice as an~~  
13 ~~athlete agent, including, but not limited to, knowledge of the~~  
14 ~~laws and rules of this state relating to athlete agents, this~~  
15 ~~part, and chapter 455.~~

16          (c)~~(d)~~ Has completed the application form and remitted  
17 an application fee not to exceed \$500, ~~an examination fee not~~  
18 ~~to exceed the actual cost for the examination plus \$500,~~ an  
19 active licensure fee not to exceed \$2,000, and all other  
20 applicable fees provided for in this part or in chapter 455.

21          (d)~~(e)~~ Has submitted to the department a fingerprint  
22 card for a criminal history records check. The fingerprint  
23 card shall be forwarded to the Division of Criminal Justice  
24 Information Systems within the Department of Law Enforcement  
25 for purposes of processing the fingerprint card to determine  
26 if the applicant has a criminal history record. The  
27 fingerprint card shall also be forwarded to the Federal Bureau  
28 of Investigation for purposes of processing the fingerprint  
29 card to determine if the applicant has a criminal history  
30 record. The information obtained by the processing of the  
31 fingerprint card by the Florida Department of Law Enforcement



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

Amendment No. \_\_\_\_ Barcode 843900

1 and the Federal Bureau of Investigation shall be sent to the  
2 department for the purpose of determining if the applicant is  
3 statutorily qualified for licensure.

4 (e)(f) Has not in any jurisdiction, within the  
5 preceding 5 years, been convicted or found guilty of or  
6 entered a plea of nolo contendere for, regardless of  
7 adjudication, a crime which relates to the applicant's  
8 practice or ability to practice as an athlete agent.

9 ~~(g) Has posted with the department a \$15,000 surety  
10 bond issued by an insurance company authorized to do business  
11 in this state. The bond shall be in favor of the State of  
12 Florida, Department of Business and Professional Regulation,  
13 for the use and benefit of any student athlete or college or  
14 university within Florida who or which is injured or damaged,  
15 including reasonable costs and attorney's fees, as a result of  
16 acts or omissions by the athlete agent pursuant to a license  
17 issued under this part. The bond shall be written in the form  
18 determined by the department. The bond shall provide that the  
19 athlete agent is responsible for the acts or omissions of any  
20 representatives acting under the athlete agent's supervision  
21 or authority. The bond shall be in effect for and cover all  
22 times that the athlete agent has an active license and  
23 conducts business pursuant to that license in this or any  
24 other state.~~

25 (3) An unlicensed individual may act as an athlete  
26 agent if:

27 (a) A student-athlete or person acting on the  
28 athlete's behalf initiates communication with the individual;  
29 and

30 (b) Within 7 days after an initial act as an athlete  
31 agent, the individual submits an application for licensure.

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

Amendment No. \_\_\_\_ Barcode 843900

1 ~~Members of The Florida Bar are exempt from the state laws and~~  
2 ~~rules component, and the fee for such, of the examination~~  
3 ~~required by this section.~~

4 (4) A license issued to an athlete agent is not  
5 transferable.

6 (5) By acting as an athlete agent in this state, a  
7 nonresident individual appoints the department as the  
8 individual's agent for service of process in any civil action  
9 related to the individual's acting as an athlete agent.

10 (6) The department may issue a temporary license while  
11 an application for licensure is pending. If the department  
12 issues a notice of intent to deny the license application, the  
13 initial temporary license expires and may not be extended  
14 during any proceeding or administrative or judicial review.

15 (7)(a) An individual who has submitted an application  
16 and holds a certificate, registration or license as an athlete  
17 agent in another state may submit a copy of the application  
18 and certificate, registration or license from the other state  
19 in lieu of submitting an application in the form prescribed  
20 pursuant to this section. The department shall accept the  
21 application and the certificate from the other state as an  
22 application for registration in this state if the application  
23 in the other state:

24 1. Was submitted in the other state within 6 months  
25 next preceding the submission of the application in this state  
26 and the applicant certifies that the information contained in  
27 the application is current;

28 2. Contains information substantially similar to or  
29 more comprehensive than that required in an application  
30 submitted in this state; and

31 3. Was signed by the applicant under penalty of

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

Amendment No. \_\_\_\_ Barcode 843900

1 perjury.

2 (b) An applicant applying under this subsection must  
3 meet all other requirements for licensure as provided by this  
4 part.

5 Section 111. Effective July 1, 2001, section 468.454,  
6 Florida Statutes, is amended to read:

7 468.454 Contracts.--

8 (1) An agent contract must be in a record, signed, or  
9 otherwise authenticated by the parties.

10 (2) An agent contract must state:

11 (a) The amount and method of calculating the  
12 consideration to be paid by the student-athlete for services  
13 to be provided by the athlete agent and any other  
14 consideration the agent has received or will receive from any  
15 other source under the contract;

16 (b) The name of any person not listed in the licensure  
17 application who will be compensated because the  
18 student-athlete signed the agent contract;

19 (c) A description of any expenses that the  
20 student-athlete agrees to reimburse;

21 (d) A description of the services to be provided to  
22 the student-athlete;

23 (e) The duration of the contract; and

24 (f) The date of execution.

25 (3) An agent contract must contain, in close proximity  
26 to the signature of the student-athlete, a conspicuous notice  
27 in boldface type in capital letters stating:

28

29 WARNING TO STUDENT-ATHLETE

30

31 IF YOU SIGN THE CONTRACT:

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

Amendment No. \_\_\_\_ Barcode 843900

- 1           1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS  
2           A STUDENT-ATHLETE IN YOUR SPORT;  
3           2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72  
4           HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND  
5           YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC  
6           DIRECTOR; AND  
7           3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS  
8           AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS  
9           CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

10

11           (4) An agent contract that does not conform to this  
12 section is voidable by the student-athlete. If a  
13 student-athlete voids an agent contract, the student-athlete  
14 is not required to pay any consideration or return any  
15 consideration received from the athlete agent to induce the  
16 student-athlete to enter into the contract.

17           (5) The athlete agent shall give a record of the  
18 signed or authenticated agent contract to the student-athlete  
19 at the time of execution.

20           (6) Within 72 hours after entering into an agent  
21 contract or before the next scheduled athletic event in which  
22 the student-athlete may participate, whichever occurs first,  
23 the athlete agent must give notice in a record of the  
24 existence of the contract to the athletic director of the  
25 educational institution at which the student-athlete is  
26 enrolled or the athlete agent has reasonable grounds to  
27 believe the student-athlete intends to enroll.

28           (7) Within 72 hours after entering into an agent  
29 contract or before the next athletic event in which the  
30 student-athlete may participate, whichever occurs first, the  
31 student-athlete must inform the athletic director of the

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

Amendment No. \_\_\_\_ Barcode 843900

1 educational institution at which the student-athlete is  
2 enrolled that he or she has entered into an agent contract.

3 (8) A student-athlete may cancel an agent contract by  
4 giving notice of the cancellation to the athlete agent in a  
5 record within 14 days after the contract is signed.

6 (9) A student-athlete may not waive the right to  
7 cancel an agent contract.

8 (10) If a student-athlete cancels an agent contract,  
9 the student-athlete is not required to pay any consideration  
10 or return any consideration received from the athlete agent to  
11 induce the student-athlete to enter into the contract.

12 ~~(1) An athlete agent and a student athlete who enter~~  
13 ~~into an agent contract must provide written notice of the~~  
14 ~~contract to the athletic director or the president of the~~  
15 ~~college or university in which the student athlete is~~  
16 ~~enrolled. The athlete agent and the student must give the~~  
17 ~~notice before the contracting student athlete practices or~~  
18 ~~participates in any intercollegiate athletic event or within~~  
19 ~~72 hours after entering into said contract, whichever comes~~  
20 ~~first. Failure of the athlete agent to provide this~~  
21 ~~notification is a felony of the third degree, punishable as~~  
22 ~~provided in ss. 775.082, 775.083, 775.084, 775.089, and~~  
23 ~~775.091.~~

24 ~~(2) A written contract between a student athlete and~~  
25 ~~an athlete agent must state the fees and percentages to be~~  
26 ~~paid by the student athlete to the agent and must have a~~  
27 ~~notice printed near the student athlete's signature containing~~  
28 ~~the following statement in 10-point boldfaced type:~~

29 ~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS~~  
30 ~~CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO~~  
31 ~~COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL~~

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

Amendment No. \_\_\_\_ Barcode 843900

1 PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED  
2 INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF  
3 YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO  
4 THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE  
5 ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS  
6 NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL  
7 YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY  
8 CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING  
9 OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE  
10 DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS  
11 CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR  
12 CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT  
13 RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE  
14 ATHLETICS."

15 ~~(3) An agent contract which does not meet the~~  
16 ~~requirements of this section is void and unenforceable.~~

17 ~~(4) Within 15 days after the date the athletic~~  
18 ~~director or president of the college or university of the~~  
19 ~~student athlete receives the notice required by this section~~  
20 ~~that a student athlete has entered into an athlete agent~~  
21 ~~contract, the student athlete shall have the right to rescind~~  
22 ~~the contract with the athlete agent by giving written notice~~  
23 ~~to the athlete agent of the student athlete's rescission of~~  
24 ~~the contract. The student athlete may not under any~~  
25 ~~circumstances waive the student athlete's right to rescind the~~  
26 ~~agent contract.~~

27 ~~(5) A postdated agent contract is void and~~  
28 ~~unenforceable.~~

29 (11)~~(6)~~ An athlete agent shall not enter into an agent  
30 contract that purports to or takes effect at a future time  
31 after the student athlete no longer has remaining eligibility

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

Amendment No. \_\_\_\_ Barcode 843900

1 to participate in intercollegiate athletics. Such a contract  
2 is void and unenforceable.

3 (12)(7) An agent contract between a student athlete  
4 and a person not licensed under this part is void and  
5 unenforceable.

6 Section 112. Effective July 1, 2001, subsection (3) of  
7 section 468.456, Florida Statutes, is amended to read:

8 468.456 Prohibited acts.--

9 (3) When the department finds any person guilty of any  
10 of the prohibited acts set forth in subsection (1), the  
11 department may enter an order imposing one or more of the  
12 penalties provided for in s. 455.227, and an administrative  
13 fine not to exceed \$25,000 for each separate offense. In  
14 addition to any other penalties or disciplinary actions  
15 provided for in this part, the department shall suspend or  
16 revoke the license of any athlete agent licensed under this  
17 part who violates paragraph (1)(f) or paragraph (1)(o) or s.  
18 468.45615.

19 Section 113. Effective July 1, 2001, subsection (4) is  
20 added to section 468.45615, Florida Statutes, to read:

21 468.45615 Provision of illegal inducements to athletes  
22 prohibited; penalties; license suspension.--

23 (4)(a) An athlete agent, with the intent to induce a  
24 student-athlete to enter into an agent contract, may not:

25 1. Give any materially false or misleading information  
26 or make a materially false promise or representation;

27 2. Furnish anything of value to a student-athlete  
28 before the student-athlete enters into the agent contract; or

29 3. Furnish anything of value to any individual other  
30 than the student-athlete or another athlete agent.

31 (b) An athlete agent may not intentionally:

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

Amendment No. \_\_\_\_ Barcode 843900

1           1. Initiate contact with a student-athlete unless  
2 licensed under this part;

3           2. Refuse or fail to retain or permit inspection of  
4 the records required to be retained by s. 468.4565;

5           3. Provide materially false or misleading information  
6 in an application for licensure;

7           4. Predate or postdate an agent contract;

8           5. Fail to give notice of the existence of an agent  
9 contract as required by s. 468.454(6); or

10           6. Fail to notify a student-athlete before the  
11 student-athlete signs or otherwise authenticates an agent  
12 contract for a sport that the signing or authentication may  
13 make the student-athlete ineligible to participate as a  
14 student-athlete in that sport.

15           (c) An athlete agent who violates this subsection  
16 commits a felony of the second degree, punishable as provided  
17 in s. 775.082, s. 775.083, or s. 775.084.

18           Section 114. Effective July 1, 2001, section 468.4562,  
19 Florida Statutes, is amended to read:

20           468.4562 Civil action by institution.--

21           (1) A college or university may sue for damages, as  
22 provided by this section, any person who violates this part.  
23 A college or university may seek equitable relief to prevent  
24 or minimize harm arising from acts or omissions which are or  
25 would be a violation of this part.

26           (2) For purposes of this section, a college or  
27 university is damaged if, because of activities of the person,  
28 the college or university is penalized,~~or is~~ disqualified,~~or~~  
29 suspended from participation in intercollegiate athletics by a  
30 national association for the promotion and regulation of  
31 intercollegiate athletics,~~or~~ by an intercollegiate athletic



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

Amendment No. \_\_\_\_ Barcode 843900

1 conference or by reasonable self-imposed disciplinary action  
2 taken to mitigate sanctions likely to be imposed by such  
3 organization and, because of that penalty, disqualification,  
4 ~~or~~ suspension, or action the institution:

- 5 (a) Loses revenue from media coverage of a sports
- 6 contest;
- 7 (b) Loses the right to grant an athletic scholarship;
- 8 (c) Loses the right to recruit an athlete;
- 9 (d) Is prohibited from participating in postseason
- 10 athletic competition;
- 11 (e) Forfeits an athletic contest; or
- 12 (f) Otherwise suffers an adverse financial impact.

13 (3) An institution that prevails in a suit brought  
14 under this section may recover:

- 15 (a) Actual damages;
- 16 (b) Punitive damages;
- 17 (c) Treble damages;
- 18 (d) Court costs; and
- 19 (e) Reasonable attorney's fees.

20 (4) A right of action under this section does not  
21 accrue until the educational institution discovers or by the  
22 exercise of reasonable diligence would have discovered the  
23 violation by the athlete agent or former student-athlete.

24 (5) Any liability of the athlete agent or the former  
25 student-athlete under this section is several and not joint.

26 (6) This part does not restrict rights, remedies, or  
27 defenses of any person under law or equity.

28 Section 115. Effective July 1, 2001, subsection (1) of  
29 section 468.4565, Florida Statutes, is amended to read:

30 468.4565 Business records requirement.--

31 (1) An athlete agent ~~who holds an active license and~~

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

Amendment No.      Barcode 843900

1 ~~engages in business as an athlete agent~~ shall establish and  
2 maintain complete financial and business records. The athlete  
3 agent shall save each entry into a financial or business  
4 record for at least 5 4 years from the date of entry. These  
5 records must include, but shall not be limited to:

6 (a) The name and address of each individual  
7 represented by the athlete agent;

8 (b) Any agent contract entered into by the athlete  
9 agent; and

10 (c) Any direct costs incurred by the athlete agent in  
11 the recruitment or solicitation of a student-athlete to enter  
12 into an agent contract.

13 Section 116. Effective July 1, 2001, sections 468.4563  
14 and 468.4564, Florida Statutes, are repealed.

15 Section 117. Section 702.09, Florida Statutes, is  
16 amended to read:

17 702.09 Definitions.--For the purposes of ss. 702.07  
18 and 702.08 the words "decree of foreclosure" shall include a  
19 judgment or order rendered or passed in the foreclosure  
20 proceedings in which the decree of foreclosure shall be  
21 rescinded, vacated, and set aside; the word "mortgage" shall  
22 mean any written instrument securing the payment of money or  
23 advances and shall include liens to secure payment of  
24 assessments arising under chapters 718, 719, and 720; the word  
25 "debt" shall include promissory notes, bonds, and all other  
26 written obligations given for the payment of money; the words  
27 "foreclosure proceedings" shall embrace every action in the  
28 circuit or county courts of this state wherein it is sought to  
29 foreclose a mortgage and sell the property covered by the  
30 same; and the word "property" shall mean and include both real  
31 and personal property.

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

Amendment No. \_\_\_\_ Barcode 843900

1           Section 118. Paragraph (h) of subsection (4) and  
2 subsection (5) of section 718.104, Florida Statutes, are  
3 amended to read:

4           718.104 Creation of condominiums; contents of  
5 declaration.--Every condominium created in this state shall be  
6 created pursuant to this chapter.

7           (4) The declaration must contain or provide for the  
8 following matters:

9           (h) If a developer reserves the right, in a  
10 declaration recorded on or after July 1, 2000, to create a  
11 multicondominium, the declaration must state, or provide a  
12 specific formula for determining, the fractional or percentage  
13 shares of liability for the common expenses of the association  
14 and of ownership of the common surplus of the association to  
15 be allocated to the units in each condominium to be operated  
16 by the association. If a the declaration recorded on or after  
17 July 1, 2000, for a condominium operated by a multicondominium  
18 association,as originally recorded,fails to so provide, the  
19 share of liability for the common expenses of the association  
20 and of ownership of the common surplus of the association  
21 allocated to each unit in each condominium operated by the  
22 association shall be a fraction of the whole, the numerator of  
23 which is the number "one" and the denominator of which is the  
24 total number of units in all condominiums operated by the  
25 association.

26           (5) The declaration as originally recorded, or as  
27 amended pursuant to the procedures provided therein,may  
28 include covenants and restrictions concerning the use,  
29 occupancy, and transfer of the units permitted by law with  
30 reference to real property. With the exception of amendments  
31 that materially modify unit appurtenances as provided in s.

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

Amendment No. \_\_\_\_ Barcode 843900

1 718.110(4), amendments may be applied to owners of units  
2 existing as of the effective date of the amendment. This  
3 section is intended to clarify existing law and applies to  
4 associations existing on the effective date of this act.

5 However, the rule against perpetuities shall not defeat a  
6 right given any person or entity by the declaration for the  
7 purpose of allowing unit owners to retain reasonable control  
8 over the use, occupancy, and transfer of units.

9 Section 119. Paragraph (b) of subsection (2) of  
10 section 718.106, Florida Statutes, is amended to read:

11 718.106 Condominium parcels; appurtenances; possession  
12 and enjoyment.--

13 (2) There shall pass with a unit, as appurtenances  
14 thereto:

15 (b) The exclusive right to use such portion of the  
16 common elements as may be provided by the declaration,  
17 including the right to transfer such right to other units or  
18 unit owners to the extent authorized by the declaration as  
19 originally recorded, or amendments to the declaration adopted  
20 pursuant to the provisions contained therein under s.  
21 718.110(2). Amendments to declarations of condominium  
22 providing for the transfer of use rights with respect to  
23 limited common elements are not amendments which materially  
24 modify unit appurtenances as described in s. 718.110(4).

25 However, in order to be effective, the transfer of use rights  
26 with respect to limited common elements must be effectuated in  
27 conformity with the procedures set forth in the declaration as  
28 originally recorded or as amended. Further, such transfers  
29 must be evidenced by a written instrument which must be  
30 executed with the formalities of a deed and recorded in the  
31 land records of the county in which the condominium is located

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

Amendment No. \_\_\_\_ Barcode 843900

1 in order to be effective. Such instrument of transfer must  
2 also specify the legal description of the unit which is  
3 transferring use rights, as well as the legal description of  
4 the unit obtaining the transfer of such rights. This section  
5 is intended to clarify existing law and applies to  
6 associations existing on the effective date of this act.

7 Section 120. Subsection (4) of section 718.110,  
8 Florida Statutes, is amended to read:

9 718.110 Amendment of declaration; correction of error  
10 or omission in declaration by circuit court.--

11 (4) Unless otherwise provided in the declaration as  
12 originally recorded, no amendment may change the configuration  
13 or size of any unit in any material fashion, materially alter  
14 or modify the appurtenances to the unit, or change the  
15 proportion or percentage by which the unit owner shares the  
16 common expenses of the condominium and owns the common surplus  
17 of the condominium unless the record owner of the unit and all  
18 record owners of liens on the unit join in the execution of  
19 the amendment and unless all the record owners of all other  
20 units in the same condominium approve the amendment. The  
21 acquisition of property by the association, and material  
22 alterations or substantial additions to such property or the  
23 common elements by the association in accordance with s.  
24 718.111(7) or s. 718.113, amendments providing for the  
25 transfer of use rights in limited common elements pursuant to  
26 s. 718.106(2)(b), and amendments restricting or modifying the  
27 right to lease condominium units shall not be deemed to  
28 constitute a material alteration or modification of the  
29 appurtenances to the units. With the exception of amendments  
30 that materially modify unit appurtenances as provided in this  
31 section, amendments may be applied to owners of units existing

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

Amendment No. \_\_\_\_ Barcode 843900

1 as of the effective date of the amendment. This section is  
2 intended to clarify existing law and applies to associations  
3 existing on the effective date of this act.A declaration  
4 recorded after April 1, 1992, may not require the approval of  
5 less than a majority of total voting interests of the  
6 condominium for amendments under this subsection, unless  
7 otherwise required by a governmental entity.

8 Section 121. Subsection (4), paragraph (a) of  
9 subsection (7), and subsection (13) of section 718.111,  
10 Florida Statutes, are amended to read:

11 718.111 The association.--

12 (4) ASSESSMENTS; MANAGEMENT OF COMMON ELEMENTS.--The  
13 association has the power to make and collect assessments and  
14 to lease, maintain, repair, and replace the common elements or  
15 association property; however, the association may not charge  
16 a use fee against a unit owner for the use of common elements  
17 or association property unless otherwise provided for in the  
18 declaration of condominium or by a majority vote of the  
19 association or unless the charges relate to ~~expenses incurred~~  
20 ~~by~~ an owner having exclusive use of the common elements or  
21 association property.

22 (7) TITLE TO PROPERTY.--

23 (a) The association has the power to acquire title to  
24 property or otherwise hold, convey, lease, and mortgage  
25 association property for the use and benefit of its members.  
26 The power to acquire personal property shall be exercised by  
27 the board of administration. Except as otherwise permitted in  
28 subsections (8) and (9) and in s. 718.114, no association may  
29 acquire, convey, ~~lease~~, or mortgage association real property  
30 except in the manner provided in the declaration, and if the  
31 declaration does not specify the procedure, then approval of

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

Amendment No. \_\_\_\_ Barcode 843900

1 75 percent of the total voting interests shall be required.

2 (13) FINANCIAL REPORTING.--Within 90 days after the  
3 end of the fiscal year, or annually on a date provided in the  
4 bylaws, the association shall prepare and complete, or  
5 contract for the preparation and completion of ~~cause to be~~  
6 ~~prepared and completed by a third party~~, a financial report  
7 for the preceding fiscal year. Within 21 days after the final  
8 financial report is completed by the association or received  
9 ~~by the association~~ from the third party, but in no event later  
10 than 120 days after the end of the fiscal year, or such other  
11 date as is provided in the bylaws, the association shall mail  
12 to each unit owner at the address last furnished to the  
13 association by the unit owner, or hand deliver to each unit  
14 owner, a copy of the financial report or a notice that a copy  
15 of the financial report will be mailed or hand delivered to  
16 the unit owner, without charge, upon receipt of a written  
17 request from the unit owner. The division shall adopt rules  
18 setting forth uniform accounting principles and standards to  
19 be used by all associations and shall adopt rules addressing  
20 financial reporting requirements for multicondominium  
21 associations. In adopting such rules, the division shall  
22 consider the number of members and annual revenues of an  
23 association. Financial reports shall be prepared as follows:

24 (a) An association that meets the criteria of this  
25 paragraph shall prepare or cause to be prepared a complete set  
26 of financial statements in accordance with generally accepted  
27 accounting principles. The financial statements shall be  
28 based upon the association's total annual revenues, as  
29 follows:

30 1. An association with total annual revenues of  
31 \$100,000 or more, but less than \$200,000, shall prepare

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

Amendment No. \_\_\_\_ Barcode 843900

1 compiled financial statements.

2 2. An association with total annual revenues of at  
3 least \$200,000, but less than \$400,000, shall prepare reviewed  
4 financial statements.

5 3. An association with total annual revenues of  
6 \$400,000 or more shall prepare audited financial statements.

7 (b)1. An association with total annual revenues of  
8 less than \$100,000 shall prepare a report of cash receipts and  
9 expenditures.

10 2. An association which operates less than 50 units,  
11 regardless of the association's annual revenues, shall prepare  
12 a report of cash receipts and expenditures in lieu of  
13 financial statements required by paragraph (a).

14 3. A report of cash receipts and disbursements must  
15 disclose the amount of receipts by accounts and receipt  
16 classifications and the amount of expenses by accounts and  
17 expense classifications, including, but not limited to, the  
18 following, as applicable: costs for security, professional and  
19 management fees and expenses, taxes, costs for recreation  
20 facilities, expenses for refuse collection and utility  
21 services, expenses for lawn care, costs for building  
22 maintenance and repair, insurance costs, administration and  
23 salary expenses, and reserves accumulated and expended for  
24 capital expenditures, deferred maintenance, and any other  
25 category for which the association maintains reserves.

26 (c) An association may prepare or cause to be  
27 prepared, without a meeting of or approval by the unit owners:

28 1. Compiled, reviewed, or audited financial  
29 statements, if the association is required to prepare a report  
30 of cash receipts and expenditures;

31 2. Reviewed or audited financial statements, if the



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

Amendment No. \_\_\_\_ Barcode 843900

1 association is required to prepare compiled financial  
2 statements; or

3 3. Audited financial statements if the association is  
4 required to prepare reviewed financial statements.

5 (d) If approved by a majority of the voting interests  
6 present at a properly called meeting of the association, an  
7 association may prepare or cause to be prepared:

8 1. A report of cash receipts and expenditures in lieu  
9 of a compiled, reviewed, or audited financial statement;

10 2. A report of cash receipts and expenditures or a  
11 compiled financial statement in lieu of a reviewed or audited  
12 financial statement; or

13 3. A report of cash receipts and expenditures, a  
14 compiled financial statement, or a reviewed financial  
15 statement in lieu of an audited financial statement.

16  
17 Such meeting and approval must occur prior to the end of the  
18 fiscal year and is effective only for the fiscal year in which  
19 the vote is taken. With respect to an association to which the  
20 developer has not turned over control of the association, all  
21 unit owners, including the developer, may vote on issues  
22 related to the preparation of financial reports for the first  
23 2 fiscal years of the association's operation, beginning with  
24 the fiscal year in which the declaration is recorded.  
25 Thereafter, all unit owners except the developer may vote on  
26 such issues until control is turned over to the association by  
27 the developer.

28 Section 122. Subsection (3) of section 718.112,  
29 Florida Statutes, is amended to read:

30 718.112 Bylaws.--

31 (3) OPTIONAL PROVISIONS.--The bylaws as originally

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

Amendment No. \_\_\_\_ Barcode 843900

1 recorded, or as amended pursuant to the procedure provided  
2 therein, may provide for the following:

3 (a) A method of adopting and amending administrative  
4 rules and regulations governing the details of the operation  
5 and use of the common elements.

6 (b) Restrictions on and requirements for the use,  
7 maintenance, and appearance of the units and the use of the  
8 common elements.

9 (c) Other provisions which are not inconsistent with  
10 this chapter or with the declaration, as may be desired. This  
11 subsection is intended to clarify existing law and applies to  
12 associations existing on the effective date of this act.

13 Section 123. Subsection (2) of section 718.113,  
14 Florida Statutes, is amended to read:

15 718.113 Maintenance; limitation upon improvement;  
16 display of flag; hurricane shutters.--

17 (2)(a) Except as otherwise provided in this section,  
18 there shall be no material alteration or substantial additions  
19 to the common elements or to real property which is  
20 association property, except in a manner provided in the  
21 declaration as originally recorded or as amended pursuant to  
22 the procedures provided therein. If the declaration as  
23 originally recorded or amended does not specify the procedure  
24 for approval of material alterations or substantial additions,  
25 75 percent of the total voting interests of the association  
26 must approve the alterations or additions. This paragraph is  
27 intended to clarify existing law and applies to associations  
28 existing on the effective date of this act.

29 (b) There shall not be any material alteration of, or  
30 substantial addition to, the common elements of any  
31 condominium operated by a multicondominium association unless

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

Amendment No. \_\_\_\_ Barcode 843900

1 approved in the manner provided in the declaration of the  
2 affected condominium or condominiums as originally recorded,  
3 or as amended pursuant to the procedures provided therein. If  
4 a declaration as originally recorded or amended does not  
5 specify a procedure for approving such an alteration or  
6 addition, the approval of 75 percent of the total voting  
7 interests of each affected condominium is required. This  
8 subsection does not prohibit a provision in any declaration,  
9 articles of incorporation, or bylaws as originally recorded or  
10 amended requiring the approval of unit owners in any  
11 condominium operated by the same association or requiring  
12 board approval before a material alteration or substantial  
13 addition to the common elements is permitted. This paragraph  
14 is intended to clarify existing law and applies to  
15 associations existing on the effective date of this act.

16 (c) There shall not be any material alteration or  
17 substantial addition made to association real property  
18 operated by a multicondominium association, except as provided  
19 in the declaration, articles of incorporation, or bylaws as  
20 said documents are originally recorded or amended pursuant to  
21 the procedures provided therein. If the declaration, articles  
22 of incorporation, or bylaws do not specify the procedure for  
23 approving an alteration or addition to association real  
24 property, the approval of 75 percent of the total voting  
25 interests of the association is required. This paragraph is  
26 intended to clarify existing law and applies to associations  
27 existing on the effective date of this act.

28 Section 124. Paragraphs (b) and (c) of subsection (1)  
29 of section 718.115, Florida Statutes, are amended to read:

30 718.115 Common expenses and common surplus.--

31 (1)

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

Amendment No. \_\_\_\_ Barcode 843900

1 (b) The common expenses of a condominium within a  
2 multicondominium are the common expenses directly attributable  
3 to the operation of that condominium. The common expenses of a  
4 multicondominium association do not include the common  
5 expenses directly attributable to the operation of any  
6 specific condominium or condominiums within the  
7 multicondominium. This paragraph is intended to clarify  
8 existing law and applies to associations existing on the  
9 effective date of this act.

10 (c) The common expenses of a multicondominium  
11 association may include categories of expenses related to the  
12 property or common elements within a specific condominium in  
13 the multicondominium if such property or common elements are  
14 areas in which all members of the multicondominium association  
15 have use rights or from which all members receive tangible  
16 economic benefits. Such common expenses of the association  
17 shall be identified in the declaration or bylaws of each  
18 condominium within the multicondominium association. This  
19 paragraph is intended to clarify existing law and applies to  
20 associations existing on the effective date of this act.

21 Section 125. Subsections (1) and (4) of section  
22 718.405, Florida Statutes, are amended to read:

23 718.405 Multicondominiums; multicondominium  
24 associations.--

25 (1) An association may operate more than one  
26 condominium. For multicondominiums created on or after July 1,  
27 2000, if the declaration for each condominium ~~to be~~ operated  
28 by that association shall provide ~~provides~~ for participation  
29 in a multicondominium, in conformity with this section, and  
30 disclose ~~discloses~~ or describe ~~describes~~:

31 (a) The manner or formula by which the assets,

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

Amendment No. \_\_\_\_ Barcode 843900

1 liabilities, common surplus, and common expenses of the  
2 association will be apportioned among the units within the  
3 condominiums operated by the association, in accordance with  
4 s. 718.104(4)(g) or (h), as applicable.

5 (b) Whether unit owners in any other condominium, or  
6 any other persons, will or may have the right to use  
7 recreational areas or any other facilities or amenities that  
8 are common elements of the condominium, and, if so, the  
9 specific formula by which the other users will share the  
10 common expenses related to those facilities or amenities.

11 (c) Recreational and other commonly used facilities or  
12 amenities which the developer has committed to provide that  
13 will be owned, leased by, or dedicated by a recorded plat to  
14 the association but which are not included within any  
15 condominium operated by the association. The developer may  
16 reserve the right to add additional facilities or amenities if  
17 the declaration and prospectus for each condominium to be  
18 operated by the association contains the following statement  
19 in conspicuous type and in substantially the following form:  
20 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT  
21 CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

22 (d) The voting rights of the unit owners in the  
23 election of directors and in other multicondominium  
24 association affairs when a vote of the owners is taken,  
25 including, but not limited to, a statement as to whether each  
26 unit owner will have a right to personally cast his or her own  
27 vote in all matters voted upon.

28 (4) This section does not prevent or restrict the  
29 formation of a multicondominium by the merger or consolidation  
30 of two or more condominium associations. Mergers or  
31 consolidations of associations shall be accomplished in

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

Amendment No. \_\_\_\_ Barcode 843900

1 accordance with this chapter, the declarations of the  
 2 condominiums being merged or consolidated, and chapter 617.  
 3 Section 718.110(4) does not apply to amendments to  
 4 declarations necessary to effect a merger or consolidation.  
 5 This section is intended to clarify existing law and applies  
 6 to associations existing on the effective date of this act.

7 Section 126. Subsection (2) of section 718.503,  
 8 Florida Statutes, is amended to read:

9 718.503 Developer disclosure prior to sale;  
 10 nondeveloper unit owner disclosure prior to sale;  
 11 voidability.--

12 (2) NONDEVELOPER DISCLOSURE.--

13 (a) Each unit owner who is not a developer as defined  
 14 by this chapter shall comply with the provisions of this  
 15 subsection prior to the sale of his or her unit. Each  
 16 prospective purchaser who has entered into a contract for the  
 17 purchase of a condominium unit is entitled, at the seller's  
 18 expense, to a current copy of the declaration of condominium,  
 19 articles of incorporation of the association, bylaws, and  
 20 rules of the association, ~~as well as a copy of the question~~  
 21 ~~and answer sheet provided for by s. 718.504~~ and a copy of the  
 22 financial information required by s. 718.111.

23 (b) If a person licensed under part I of chapter 475  
 24 provides to or otherwise obtains for a prospective purchaser  
 25 the documents described in this subsection, the person is not  
 26 liable for any error or inaccuracy contained in the documents.

27 (c) Each contract entered into after July 1, 1992, for  
 28 the resale of a residential unit shall contain in conspicuous  
 29 type either:

30 1. A clause which states: THE BUYER HEREBY  
 31 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF

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

Amendment No. \_\_\_\_ Barcode 843900

1 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF  
2 THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, AND A COPY  
3 OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION ~~AND THE~~  
4 ~~QUESTION AND ANSWER SHEET~~ MORE THAN 3 DAYS, EXCLUDING  
5 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF  
6 THIS CONTRACT; or

7           2. A clause which states: THIS AGREEMENT IS VOIDABLE  
8 BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION  
9 TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND  
10 LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT  
11 BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE  
12 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS,  
13 ~~AND~~ RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT  
14 YEAR-END FINANCIAL INFORMATION ~~AND QUESTION AND ANSWER SHEET~~  
15 IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE  
16 VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND  
17 THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS,  
18 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE  
19 BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION,  
20 BYLAWS, AND RULES, ~~AND QUESTION AND ANSWER SHEET~~ IF REQUESTED  
21 IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL  
22 TERMINATE AT CLOSING.

23

24 A contract that does not conform to the requirements of this  
25 paragraph is voidable at the option of the purchaser prior to  
26 closing.

27           Section 127. Subsection (15) of section 718.504,  
28 Florida Statutes, is 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

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

Amendment No. \_\_\_\_ Barcode 843900

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



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

Amendment No. \_\_\_\_ Barcode 843900

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 (15) If a ~~the~~ condominium created on or after July 1,  
7 2000, is or may become part of a multicondominium, the  
8 following information must be provided:

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

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

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

29 (d) A statement as to whether any of the condominiums  
30 in the multicondominium may include units intended to be used  
31 for nonresidential purposes and the purpose or purposes

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

Amendment No. \_\_\_\_ Barcode 843900

1 permitted for such use.

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

5 Section 128. Subsections (4) through (17) of section  
6 548.002, Florida Statutes, are renumbered as subsections (5)  
7 through (17), respectively, present subsection (18) is  
8 renumbered as subsection (19), and new subsections (4) and  
9 (18) are added to said section to read:

10 548.002 Definitions.--As used in this act, the term:

11 (4) "Concessionaire" means any person or business  
12 entity not licensed as a promoter which receives revenues or  
13 other compensation from the sale of tickets or from the sale  
14 of souvenirs, programs, broadcast rights, or any other  
15 concessions in conjunction with the promotion of a match.

16 (18) "Second" or "cornerman" means a person who  
17 assists the fight participant between rounds and maintains the  
18 corner of the participant during the match.

19 Section 129. Section 548.015, Florida Statutes, is  
20 created to read:

21 548.015 Concessionaires; security.--The commission may  
22 require that before any license is issued or renewed to a  
23 concessionaire, or before the holding of a match, the  
24 concessionaire must file a surety bond, a cash deposit, or  
25 some other form of security with the commission in such  
26 reasonable amount as the commission determines.

27 Section 130. Subsections (1) and (2) of section  
28 548.003, Florida Statutes, are amended to read:

29 548.003 Florida State Boxing Commission; powers;  
30 organization; meetings; accountability of commission members;  
31 compensation and travel expenses; association membership and

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

Amendment No. \_\_\_\_ Barcode 843900

1 participation.--

2 (1) The Florida State Boxing Commission is created and  
3 is assigned to the Department of Business and Professional  
4 Regulation for administrative and fiscal accountability  
5 purposes only. The Florida State Boxing Commission shall  
6 consist of five members appointed by the Governor, subject to  
7 confirmation by the Senate. One member must be a physician  
8 licensed pursuant to chapter 458 or chapter 459, who must  
9 maintain an unencumbered license in good standing, and who  
10 must, at the time of her or his appointment, have practiced  
11 medicine for at least 5 years. Upon the expiration of the term  
12 of a commissioner, the Governor shall appoint a successor to  
13 serve for a 4-year term. A commissioner whose term has expired  
14 shall continue to serve on the commission until such time as a  
15 replacement is appointed. If a vacancy on the commission  
16 occurs prior to the expiration of the term, it shall be filled  
17 for the unexpired portion of the term in the same manner as  
18 the original appointment.

19 (2) The Florida State Boxing Commission, as created by  
20 subsection (1), shall administer the provisions of this  
21 chapter. The commission has authority to adopt rules pursuant  
22 to ss. 120.536(1) and 120.54 to implement the provisions of  
23 this chapter and to implement each of the duties and  
24 responsibilities conferred upon the commission, including, but  
25 not limited to:

26 (a) Development of an ethical code of conduct for  
27 commissioners, commission staff, and commission officials;

28 (b) Facility and safety requirements relating to the  
29 ring, floor plan and apron seating, emergency medical  
30 equipment and services, and other equipment and services  
31 necessary for the conduct of a program of matches;

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

Amendment No. \_\_\_\_ Barcode 843900

1           (c) Requirements regarding a participant's apparel,  
2 bandages, handwraps, gloves, mouthpiece, and appearance during  
3 a match;

4           (d) Requirements relating to a manager's  
5 participation, presence, and conduct during a match;

6           (e) Duties and responsibilities of all licensees under  
7 this chapter;

8           (f) Procedures for hearings and resolution of  
9 disputes;

10          (g) Qualifications for appointment of referees and  
11 judges;

12          (h) Qualifications for and appointment of chief  
13 inspectors and inspectors, and duties and responsibilities of  
14 chief inspectors and inspectors with respect to oversight and  
15 coordination of activities for each program of matches  
16 regulated under this chapter;

17          (i) Designation and duties of a knockdown timekeeper;  
18 and

19          (j) Setting fee and reimbursement schedules for  
20 referees and other officials appointed by the commission or  
21 the representative of the commission.

22           Section 131. The Florida State Boxing Commission shall  
23 conduct a review and analysis of boxing competitions not now  
24 regulated or sanctioned and shall provide recommendations to  
25 the Department of Business and Professional Regulation and the  
26 Legislature regarding any rules or legislation necessary to  
27 achieve effective regulation.

28           Section 132. Section 548.017, Florida Statutes, is  
29 amended to read:

30           548.017 Boxers, managers, and other persons required  
31 to have licenses.--

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

Amendment No. \_\_\_\_ Barcode 843900

1           (1) A professional participant, manager, trainer,  
2 second, timekeeper, referee, judge, announcer, physician,  
3 matchmaker, concessionaire, or booking agent or representative  
4 of a booking agent shall be licensed before directly or  
5 indirectly acting in such capacity in connection with any  
6 match involving a professional. A physician must be licensed  
7 pursuant to chapter 458 or chapter 459, must maintain an  
8 unencumbered license in good standing, and must demonstrate  
9 satisfactory medical training or experience in boxing, or a  
10 combination of both, to the executive director prior to  
11 working as the ringside physician.

12           (2) A violation of this section is a misdemeanor of  
13 the second degree, punishable as provided in s. 775.082 or s.  
14 775.083.

15           Section 133. Section 548.021, Florida Statutes, is  
16 amended to read:

17           548.021 Applications for licenses and permits.--

18           (1) An application for a license or a permit must:

19           (a)~~(1)~~ Be in writing on a form supplied by the  
20 commission which shall contain the applicant's social security  
21 number.

22           (b)~~(2)~~ Be verified by the applicant.

23           (c)~~(3)~~ Be complete and have attached to the  
24 application any photographs and other exhibits required.

25           (2)~~(4)~~ Pursuant to the federal Personal Responsibility  
26 and Work Opportunity Reconciliation Act of 1996, each party is  
27 required to provide his or her social security number in  
28 accordance with this section. Disclosure of social security  
29 numbers obtained through this requirement shall be limited to  
30 the purpose of administration of the Title IV-D program for  
31 child support enforcement.

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

Amendment No. \_\_\_\_ Barcode 843900

1           (3) Any person who seeks to obtain a license by means  
2 of a knowingly false or fraudulent representation made in any  
3 application or who otherwise knowingly makes false statements  
4 concerning her or his medical history, boxing record, or other  
5 personal information commits a misdemeanor of the second  
6 degree, punishable as provided in s. 775.082 or s. 775.083.

7           Section 134. Section 548.024, Florida Statutes, is  
8 created to read:

9           548.024 Background investigation of applicants for  
10 licensure.--

11           (1) The commission is authorized to adopt rules  
12 pursuant to ss. 120.536(1) and 120.54 which provide for  
13 background investigations of applicants for licensure under  
14 this chapter for the purpose of ensuring the accuracy of the  
15 information provided in the application; ensuring that there  
16 are no active or pending criminal or civil indictments against  
17 the applicant; and ensuring satisfaction of all other  
18 requirements of this chapter. The background investigation may  
19 include, but is not limited to, the criminal and financial  
20 history of the applicant.

21           (2) If the commission requires a background criminal  
22 history investigation of any applicant, it shall require the  
23 applicant to submit to the department a fingerprint card for  
24 this purpose. The fingerprint card shall be forwarded to the  
25 Division of Criminal Justice Information Systems within the  
26 Department of Law Enforcement and the Federal Bureau of  
27 Investigation for purposes of processing the fingerprint card  
28 to determine if the applicant has a criminal history record.  
29 The information obtained by the processing of the fingerprint  
30 card by the Department of Law Enforcement and the Federal  
31 Bureau of Investigation shall be sent to the department for

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

Amendment No. \_\_\_\_ Barcode 843900

1 the purpose of determining if the applicant is statutorily  
2 qualified for licensure.

3 Section 135. Section 548.028, Florida Statutes, is  
4 amended to read:

5 548.028 Refusal to issue license.--The commission  
6 shall not issue a license to:

7 (1) Any person or business entity that ~~who in any~~  
8 ~~jurisdiction~~ has been convicted of any act, or who has a  
9 trustee, partner, officer, director, or owner that has been  
10 convicted of any act, which would constitute a violation of  
11 this chapter or which would constitute any of the grounds set  
12 forth in this chapter for suspension or revocation of a  
13 license or against whom such charges are pending before any  
14 regulatory body; or

15 (2) Any person or business entity that ~~who~~ has been  
16 named in any an information or indictment, or who has a  
17 trustee, partner, officer, director, or owner that has been  
18 named in an information or indictment, for any act which would  
19 constitute a violation of this chapter or a ground for  
20 suspension or revocation of a license.

21 Section 136. Section 548.041, Florida Statutes, is  
22 amended to read:

23 (Substantial rewording of section. See  
24 s. 548.041, F.S., for present text.)

25 548.041 Age, condition, and suspension of boxers.--

26 (1) A person shall not be licensed as a participant,  
27 and the license of any participant shall be suspended or  
28 revoked, if such person:

29 (a) Is under the age of 18;

30 (b) Has participated in a match in this state which

31 was not sanctioned by the commission or sanctioned by a Native

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

Amendment No. \_\_\_\_ Barcode 843900

1 American commission properly constituted under federal law; or  
2 (c) Does not meet certain health and medical  
3 examination conditions as required by rule of the commission.  
4 (2)(a) A participant losing by knockout as a result of  
5 being counted out in any jurisdiction shall be automatically  
6 suspended for a period of time as determined by the attending  
7 physician or commission representative, or 60 calendar days  
8 from the date of the knockout, whichever is longer. A  
9 participant shall not engage in any match, contact exhibition,  
10 or contact sparring for training purposes during the  
11 suspension period. After the suspension period and prior to  
12 engaging in any match, contact exhibition, or contact sparring  
13 for training purposes, the participant shall be examined by a  
14 physician. The participant shall advise the physician of the  
15 previous knockout or technical draw and shall provide medical  
16 records or his or her permission for the physician to consult  
17 with the treating physician at the time of the previous  
18 knockout or technical draw. The results of this examination  
19 shall be filed with the commission prior to any further  
20 matches being approved for the participant.  
21 (b) A participant losing by technical knockout,  
22 technical draw, or disqualification shall be automatically  
23 suspended for a period of time to be determined by the  
24 physician or commission representative, or 30 calendar days  
25 from the date of the technical knockout, technical draw, or  
26 disqualification, whichever is longer. A participant shall not  
27 engage in any match, contact exhibition, or contact sparring  
28 for training purposes during the suspension period without the  
29 approval of the physician. After the suspension period and  
30 prior to engaging in any match, contact exhibition, or contact  
31 sparring for training purposes, the participant shall be



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

Amendment No. \_\_\_\_ Barcode 843900

1 examined by a physician. The participant shall advise the  
2 physician of the previous knockout or technical draw and shall  
3 provide medical records or his or her permission for the  
4 physician to consult with the treating physician at the time  
5 of the previous knockout or technical draw. The results of  
6 this examination shall be filed with the commission prior to  
7 any further matches being approved for the participant. In the  
8 case of a disqualification, the commission representative  
9 shall determine whether a medical clearance shall be required  
10 following suspension.

11 (c) Any participant who has been suspended by any  
12 state as a result of a recent knockout or series of  
13 consecutive losses, an injury, requirement for a medical  
14 procedure, physician denial of certification, failure of a  
15 drug test, the use of false aliases, or the falsifying or  
16 attempting to falsify official identification cards or  
17 documents shall not be permitted to participate in this state  
18 until such time as the state in which the participant is  
19 suspended removes his or her name from the suspension list or  
20 until the requirements of such suspension have been fulfilled  
21 and proof of such has been provided to this state. If a  
22 participant has been suspended in another state for any reason  
23 other than those stated in this paragraph, the participant may  
24 be permitted to participate if the state in which the  
25 participant is suspended is notified and consulted with by  
26 this state prior to the granting of approval to participate or  
27 the participant appeals to the Association of Boxing  
28 Commissions and the association determines that the suspension  
29 of such participant was without sufficient grounds, for an  
30 improper purpose, or not related to the health and safety of  
31 the participant.

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

Amendment No. \_\_\_\_ Barcode 843900

1           (d) Any participant who fails to appear at a match or  
2 fails to appear at a match at the designated time for which  
3 the participant or the participant's manager has contracted  
4 and does not provide a valid reason or, in the case of  
5 physical disability, furnish a physician's certificate, shall  
6 be suspended for a period to be determined by the commission  
7 or shall be fined or both, as determined by the commission.

8           (e) The license of any participant shall be revoked  
9 and shall not be reinstated if such participant intentionally  
10 strikes, strikes at, or touches in any way or threatens to  
11 touch in any way, any official.

12           Section 137. Subsection (4) is added to section  
13 548.043, Florida Statutes, to read:

14           548.043 Weights and classes, limitations; gloves.--

15           (4) Participants in a match shall be weighed on the  
16 same scale at a time and place to be determined by the  
17 commission or a commission representative. The weigh-in shall  
18 be conducted in the presence of the opponent of the  
19 participant and a commission representative. If a participant  
20 fails to arrive at the weigh-in at the scheduled time and  
21 place, the opponent of the late-arriving participant will be  
22 permitted to be weighed without the late-arriving participant  
23 present. The participant who arrived at the weigh-in on time  
24 shall not lose his right of observing the weighing in of his  
25 opponent. The weigh-in shall occur no sooner than 4:00 p.m.  
26 on the day preceding the date of the program of matches or at  
27 such other time as designated by the commission or commission  
28 representative.

29           Section 138. Section 548.046, Florida Statutes, is  
30 amended to read:

31           548.046 Physician's attendance at match; examinations;

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

Amendment No. \_\_\_\_ Barcode 843900

1 cancellation of match.--

2           (1) The commission, or the commission representative,  
3 shall assign to each match at least one ~~a~~ physician who shall  
4 observe the physical condition of the participants and advise  
5 the commissioner or commission representative ~~deputy~~ in charge  
6 and the referee of the participants' conditions before, ~~and~~  
7 during, and after the match. The commission shall establish a  
8 schedule of fees for the physician's services. The  
9 physician's fee shall be paid by the promoter of the match  
10 attended by the physician. The physician shall be considered  
11 an agent of the commission in determining the state insurance  
12 coverage and sovereign immunity protection applicability of  
13 ss. 284.31 and 768.28.

14           (2)(a) In addition to any other required examination,  
15 each participant shall be examined by the attending physician  
16 at the time of weigh-in. If the physician determines that a  
17 participant is physically or mentally unfit to proceed, the  
18 physician shall notify any commissioner or the commission  
19 representative who shall immediately cancel the match. The  
20 examination shall conform to rules adopted by the commission  
21 ~~based on the advice of the medical advisory council.~~ The  
22 result of the examination shall be reported in a writing  
23 signed by the physician and filed with the commission prior to  
24 completion of the weigh-in.

25           (b) The commission may require, by rule, each  
26 participant to present to the commission representative at the  
27 time of the weigh-in an original copy of blood test results  
28 which demonstrate whether the participant is free from any  
29 communicable disease. If the rules of the commission require  
30 the presentation of such results and the blood test results  
31 are not presented as required by commission rule or reveal the

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

Amendment No. \_\_\_\_ Barcode 843900

1 participant has a communicable disease, the commission  
2 representative shall immediately cancel the match. The  
3 commission may adopt, by rule, protocols and procedures for  
4 the blood tests and the cancellation of a match, a list of  
5 communicable diseases covered by this paragraph, and a time  
6 period within which the blood test must be taken prior to the  
7 match.

8 (3)(a) In a match which is a sanctioned championship  
9 title fight, or whenever the commission representative has  
10 reason to believe that a participant has ingested or used a  
11 prohibited drug or foreign substance, the commission  
12 representative shall request and the participant shall  
13 provide, under the supervision of the attending physician,  
14 commission representative, or inspector, a sample or samples  
15 of his or her urine taken not less than 1 hour before the  
16 commencement of the match nor more than 1 hour after the  
17 conclusion of the match. No participant shall use substances  
18 or methods which could alter the integrity of the urine  
19 sample. Urine samples shall be taken in accordance with the  
20 protocol as agreed upon in writing between the commission and  
21 the laboratory used for processing the urine samples.

22 (b) The commission may require urine samples, as  
23 provided in paragraph (a), to be conducted randomly. In the  
24 event one participant in a match is tested randomly, then the  
25 other participant in the match shall be tested also.

26 (c) Failure or refusal to provide a urine sample  
27 immediately upon request shall result in the revocation of the  
28 participant's license. Any participant who has been adjudged  
29 the loser of a match and who subsequently refuses to or is  
30 unable to provide a urine sample shall forfeit his or her  
31 share of the purse to the commission. Any participant who is

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

Amendment No. \_\_\_\_ Barcode 843900

1 adjudged the winner of a match and who subsequently refuses to  
2 or is unable to provide a urine sample shall forfeit the win  
3 and shall not be allowed to engage in any future match in  
4 Florida. A no decision result shall be entered into the  
5 official record as the result of the match. The purse shall be  
6 redistributed as though the participant found to be in  
7 violation of this subsection had lost the match. If  
8 redistribution of the purse is not necessary or after  
9 redistribution of the purse is completed, the participant  
10 found to be in violation of this subsection shall forfeit his  
11 or her share of the purse to the commission.

12 (4) The attending physician or physicians shall  
13 provide medical assistance at the facility, to the commission  
14 representative, and medical advice to the referee during the  
15 match, and shall be accorded the cooperation of all commission  
16 representatives and licensees present for the purpose of  
17 performing his or her medical duties. If, in the opinion of  
18 the attending physician, the referee has received an injury  
19 which prohibits the referee from continuing to officiate, the  
20 physician shall notify the commission representative who shall  
21 temporarily halt the match. The injured referee shall be  
22 attended to by the physician until the referee is no longer in  
23 danger or has been transferred to the care of another  
24 qualified person. The commission representative shall then  
25 direct the match to continue under the supervision of the  
26 referee or under the supervision of another referee, if the  
27 referee is unable to continue.

28 Section 139. Section 548.049, Florida Statutes, is  
29 amended to read:

30 548.049 Medical, surgical, and hospital insurance;  
31 life insurance.--

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

Amendment No. \_\_\_\_ Barcode 843900

1           (1) The commission shall, by rule, require  
2 participants to be covered by not less than ~~\$20,000~~\$2,500 of  
3 insurance for medical, surgical, and hospital care required as  
4 a result of injuries sustained while engaged in matches. The  
5 insured shall be the beneficiary of such policies. Any  
6 deductible associated with the insurance policy shall be paid  
7 by the promoter and shall not be paid by or charged to the  
8 participant.

9           (2) The commission may also require participants to be  
10 covered by not less than ~~\$20,000~~\$5,000 of life insurance  
11 covering deaths caused by injuries received while engaged in  
12 matches.

13           Section 140. Subsection (1) of section 548.05, Florida  
14 Statutes, is amended to read:

15           548.05 Control of contracts.--

16           (1) The commission shall adopt rules governing the  
17 form and content of contracts executed in this state between  
18 managers between promoters, foreign copromoters, and  
19 professionals. All such contracts shall be in writing and  
20 shall contain all provisions specifically worded as required  
21 by rules of the commission. Contracts which do not contain all  
22 provisions specifically worded as required by rules of the  
23 commission shall be deemed to contain such provisions. A copy  
24 of all such contracts shall be filed with the commission  
25 within 7 calendar days of execution.

26           Section 141. Subsections (6) through (11) are added to  
27 section 548.057, Florida Statutes, to read:

28           548.057 ~~Attendance of Referee and judges; attendance~~  
29 ~~at match; scoring; seconds.--~~

30           (6) No judge licensed in this state shall act as a  
31 judge at any match in a state, territory, commonwealth, or

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

Amendment No. \_\_\_\_ Barcode 843900

1 Native American Reservation that is not regulated by a state  
2 boxing commission unless the match is supervised by a state  
3 boxing commission or a Native American commission properly  
4 constituted under federal law.

5 (7) No judge shall also serve as a supervisor or on  
6 the ratings committee or recommend boxers to the ratings  
7 committee for a sanctioning body.

8 (8) Any person whose application for a judge's license  
9 has been denied shall not be permitted to reapply for a  
10 judge's license for a period of 6 months. Any person whose  
11 application for a judge's license has been denied on three  
12 occasions shall not be permitted to reapply.

13 (9) The number of judges shall be assigned in  
14 accordance with rules of the commission. The number of  
15 unofficial judges at each event shall be limited to three by  
16 the commission.

17 (10) The judges shall be located in seats designated  
18 for them by the commission representative.

19 (11) In the event that sufficient judges are not  
20 available, a referee shall be selected to act as a judge for  
21 that specific program of matches.

22 Section 142. Present subsections (2) and (3) of  
23 section 548.06, Florida Statutes, are renumbered as  
24 subsections (5) and (6), respectively, and new subsections  
25 (2), (3), and (4) are added to said section to read:

26 548.06 Payments to state; exemptions.--

27 (2) Where the rights to telecast a match or matches  
28 held in Florida to be viewed in Florida or outside of Florida  
29 are in whole owned by, sold to, acquired by, or held by any  
30 person who intends to sell, subsequently sells, or, in some  
31 other manner, extends such rights in part to another, such

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

Amendment No. \_\_\_\_ Barcode 843900

1 person is deemed to be a promoter and must be licensed as such  
2 in this state. Such person shall, within 72 hours after the  
3 match, file with the commission a written report that includes  
4 the number of tickets sold, the amount of gross receipts, and  
5 any other facts the commission may require.

6 (3) A concessionaire shall, within 72 hours after the  
7 match, file with the commission a written report that includes  
8 the number of tickets sold, the amount of gross receipts, and  
9 any other facts the commission may require.

10 (4) Any written report required to be filed with the  
11 commission under this section shall be postmarked within 72  
12 hours after the conclusion of the match, and an additional 5  
13 days shall be allowed for mailing.

14 Section 143. Section 548.074, Florida Statutes, is  
15 amended to read:

16 548.074 Power to administer oaths, take depositions,  
17 and issue subpoenas.--For the purpose of any investigation or  
18 proceeding conducted pursuant to this chapter, the department  
19 shall have the power to administer oaths, take depositions,  
20 make inspections when authorized by statute, issue subpoenas  
21 which shall be supported by affidavit, serve subpoenas and  
22 other process, and compel the attendance of witnesses and the  
23 production of books, papers, documents, and other evidence.  
24 The department shall exercise this power on its own initiative  
25 or whenever requested by the commission. Challenges to, and  
26 enforcement of, subpoenas and orders shall be handled as  
27 provided in s. 120.569.~~In addition to the powers of subpoena~~  
28 ~~in chapter 120, each member of the commission may issue~~  
29 ~~subpoenas requiring the attendance and testimony of, or the~~  
30 ~~production of books and papers by, any person whom the~~  
31 ~~commission believes to have information or documents of~~



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

Amendment No. \_\_\_\_ Barcode 843900

1 ~~importance to any commission investigation.~~

2 Section 144. Section 548.075, Florida Statutes, is  
3 amended to read:

4 548.075 Administrative fines; citations.--

5 (1) The commission may impose a fine of not more than  
6 \$5,000 for any violation of this chapter in lieu of or in  
7 addition to any other punishment provided for such violation.

8 (2) The commission may adopt rules pursuant to ss.  
9 120.54 and 120.536(1) to permit the issuance of citations for  
10 any violation of this chapter in lieu of or in addition to any  
11 other punishment provided for such violation.

12 Section 145. Section 548.045, Florida Statutes, is  
13 repealed.

14 Section 146. Section 455.2281, Florida Statutes, is  
15 amended to read:

16 455.2281 Unlicensed activities; fees; disposition.--In  
17 order to protect the public and to ensure a consumer-oriented  
18 department, it is the intent of the Legislature that vigorous  
19 enforcement of regulation for all professional activities is a  
20 state priority. All enforcement costs should be covered by  
21 professions regulated by the department. Therefore, the  
22 department shall impose, upon initial licensure and each  
23 renewal thereof, a special fee of \$5 per licensee. Such fee  
24 shall be in addition to all other fees collected from each  
25 licensee and shall fund efforts to combat unlicensed activity.  
26 Any profession regulated by the department which offers  
27 services that are not subject to regulation when provided by  
28 an unlicensed person may use funds in its unlicensed activity  
29 account to inform the public of such situation.The board with  
30 concurrence of the department, or the department when there is  
31 no board, may earmark \$5 of the current licensure fee for this

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

Amendment No. \_\_\_\_ Barcode 843900

1 purpose, if such board, or profession regulated by the  
2 department, is not in a deficit and has a reasonable cash  
3 balance. A board or profession regulated by the department may  
4 authorize the transfer of funds from the operating fund  
5 account to the unlicensed activity account of that profession  
6 if the operating fund account is not in a deficit and has a  
7 reasonable cash balance.The department shall make direct  
8 charges to this fund by profession and shall not allocate  
9 indirect overhead. The department shall seek board advice  
10 regarding enforcement methods and strategies prior to  
11 expenditure of funds; however, the department may, without  
12 board advice, allocate funds to cover the costs of continuing  
13 education compliance monitoring under s. 455.2177. The  
14 department shall directly credit, by profession, revenues  
15 received from the department's efforts to enforce licensure  
16 provisions, including revenues received from fines collected  
17 under s. 455.2177. The department shall include all financial  
18 and statistical data resulting from unlicensed activity  
19 enforcement and from continuing education compliance  
20 monitoring as separate categories in the quarterly management  
21 report provided for in s. 455.219. The department shall not  
22 charge the account of any profession for the costs incurred on  
23 behalf of any other profession. For an unlicensed activity  
24 account, a balance which remains at the end of a renewal cycle  
25 may, with concurrence of the applicable board and the  
26 department, be transferred to the operating fund account of  
27 that profession.

28 Section 147. Subsection (4) is added to section  
29 473.313, Florida Statutes, to read:

30 473.313 Inactive status.--

31 (4) Notwithstanding the provisions of s. 455.271, the

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

Amendment No. \_\_\_\_ Barcode 843900

1 board may, at its discretion, reinstate the license of an  
2 individual whose license has become null and void if the  
3 individual has made a good-faith effort to comply with this  
4 section but has failed to comply because of illness or unusual  
5 hardship. The individual shall apply to the board for  
6 reinstatement in a manner prescribed by rules of the board and  
7 shall pay an application fee in an amount determined by rule  
8 of the board. The board shall require that such an individual  
9 meet all continuing education requirements as provided in s.  
10 473.312, pay appropriate licensing fees, and otherwise be  
11 eligible for renewal of licensure under this chapter.

12       Section 148. Notwithstanding any other provision of  
13 law, Workforce Florida, Inc., shall develop strategies and  
14 policies for incorporating the use of private-sector staffing  
15 services firms into the operation of the state's workforce  
16 system, in order to reduce duplication in the delivery of  
17 workforce services to individuals and employers. Workforce  
18 Florida, Inc., shall incorporate provisions relating to the  
19 use of such staffing services firms into the strategic plan  
20 required under section 445.006, Florida Statutes. In  
21 addition, Workforce Florida, Inc., shall develop policies and  
22 guidelines for use by the regional workforce boards in  
23 fulfilling the ability of the boards to use private-sector  
24 staffing services firms to the maximum extent feasible in the  
25 one-stop delivery system, pursuant to section 445.009(9),  
26 Florida Statutes. In developing the strategies, policies, and  
27 guidelines under this section, Workforce Florida, Inc., shall  
28 consider the extent to which the use of private-sector  
29 staffing services firms could result in more efficient  
30 delivery of workforce services, including, but not limited to,  
31 the extent to which portions of the one-stop delivery system

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

Amendment No. \_\_\_\_ Barcode 843900

1 or specific activities of the one-stop delivery system could  
2 be reduced or replaced by activities conducted by such  
3 staffing services firms. By January 1, 2002, Workforce  
4 Florida, Inc., shall submit a report to the Governor, the  
5 President of the Senate, and the Speaker of the House of  
6 Representatives on its progress in fulfilling the requirements  
7 and on additional options for the state to increase the use of  
8 private-sector staffing services firms in the workforce  
9 system. The report shall also include recommendations on  
10 whether the membership of the board of Workforce Florida,  
11 Inc., and the regional workforce boards should be amended to  
12 include representatives from staffing services firms.

13 Section 149. Except as otherwise expressly provided in  
14 this act, this act shall take effect October 1, 2001.

15  
16

17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete everything before the enacting clause

20

21 and insert:

22 A bill to be entitled  
23 An act relating to the Department of Business  
24 and Professional Regulation; amending s.  
25 20.165, F.S.; renaming the Division of Florida  
26 Land Sales, Condominiums, and Mobile Homes as  
27 the Division of Condominiums, Timeshare, and  
28 Mobile Homes; including reference to the Board  
29 of Barbering and Cosmetology; revising minimum  
30 requirements for the number of consumer members  
31 on professional licensing boards; repealing

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

Amendment No. \_\_\_\_ Barcode 843900

1 provisions relating to the transfer of board  
2 locations; amending ss. 326.001, 326.002,  
3 326.003, 326.004, 326.006, F.S.; transferring  
4 the regulation of yacht and ship brokers and  
5 salespersons from the Division of Florida Land  
6 Sales, Condominiums, and Mobile Homes to the  
7 Division of Professions; revising provisions  
8 relating to criminal history checks and  
9 administrative and civil penalties; requiring  
10 that all funds collected pursuant to such  
11 regulation be deposited into the Professional  
12 Regulation Trust Fund; revising references;  
13 amending s. 399.061, F.S.; revising provisions  
14 relating to the inspection of elevators;  
15 amending s. 455.213, F.S.; providing for the  
16 content of licensure and renewal documents;  
17 providing for the electronic submission of  
18 information to the department; providing that  
19 all legal obligations must be met before the  
20 issuance or renewal of a license; amending s.  
21 455.224, F.S.; authorizing any division of the  
22 department to issue citations in the  
23 enforcement of its regulatory provisions in  
24 accordance with the provisions established for  
25 such purposes for the regulation of  
26 professions; amending ss. 468.401, 468.402,  
27 468.403, 468.404, 468.406, 468.407, 468.410,  
28 468.412, 468.413, 468.414, 468.415, F.S.;  
29 providing for registration of talent agencies  
30 in lieu of licensure; conforming provisions;  
31 providing penalties; repealing ss. 468.405 and

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

Amendment No. \_\_\_\_ Barcode 843900

1           468.408, F.S., relating to qualification for  
2           talent agency license and bonding requirements;  
3           amending s. 468.609, F.S.; authorizing direct  
4           supervision by building code administrators by  
5           telecommunications devices in certain  
6           localities and under specified circumstances;  
7           amending s. 468.627, F.S.; requiring the  
8           payment of costs for certain building code  
9           enforcement applicants who fail to appear for  
10          scheduled examinations, subject to waiver in  
11          case of hardship; amending s. 471.025, F.S.;  
12          allowing for more than one type of seal to be  
13          used by professional engineers; amending s.  
14          472.003, F.S.; providing exemption from ch.  
15          472, F.S., relating to land surveying and  
16          mapping, for certain subordinate employees;  
17          revising cross-references; amending s. 472.005,  
18          F.S.; revising and providing definitions;  
19          revising cross-references; amending s. 472.029,  
20          F.S.; revising provisions relating to access to  
21          lands of others for surveying or mapping  
22          purposes; providing applicability to  
23          subordinates; requiring certain notice;  
24          amending s. 810.12, F.S.; revising provisions  
25          relating to trespass, to conform; amending ss.  
26          472.001, 472.011, 472.015, 472.021, 472.027,  
27          472.031, 472.037, F.S.; revising  
28          cross-references; amending s. 475.01, F.S.;  
29          clarifying that chapter 475 is applicable to  
30          brokers acting as trustees or fiduciaries;  
31          amending s. 476.034, F.S.; redefining the term

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

Amendment No. \_\_\_\_ Barcode 843900

1 "board"; amending s. 476.054, F.S.; creating  
2 the Board of Barbering and Cosmetology;  
3 providing certain compensation; requiring an  
4 oath and providing for a certificate of  
5 appointment; providing for officers, meetings,  
6 and quorum; amending s. 476.064, F.S.;  
7 conforming provisions; amending ss. 476.014,  
8 476.074, 476.154, 476.194, 476.214, 476.234,  
9 F.S.; revising references; amending s. 477.013,  
10 F.S.; defining the term "board"; repealing s.  
11 477.015, F.S., relating to the Board of  
12 Cosmetology; abolishing the Barbers' Board and  
13 the Board of Cosmetology; providing for  
14 appointment of all members of the Board of  
15 Barbering and Cosmetology to staggered terms;  
16 providing savings clauses for rules and legal  
17 actions; amending s. 477.019, F.S.; revising  
18 requirements related to continuing education  
19 providers and courses; eliminating a  
20 requirement for refresher courses and  
21 examinations for failure of cosmetology  
22 licensees to comply with continuing education  
23 requirements; amending s. 477.026, F.S.;  
24 providing authority for registration renewal  
25 and delinquent fees for hair braiders, hair  
26 wrappers, and body wrappers; amending s.  
27 481.209, F.S.; revising requirements relating  
28 to education for licensure as an architect;  
29 amending s. 481.223, F.S.; providing for  
30 injunctive relief for certain violations  
31 relating to architecture and interior design;

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

Amendment No. \_\_\_\_ Barcode 843900

1           amending s. 489.107, F.S.; reducing the number  
2           of members on the Construction Industry  
3           Licensing Board; creating s. 489.1133, F.S.;  
4           providing for temporary certificates and  
5           registrations; amending s. 489.115, F.S.;  
6           eliminating references to divisions of the  
7           Construction Industry Licensing Board; amending  
8           s. 489.118, F.S.; revising grandfathering  
9           provisions for certification of registered  
10          contractors to qualify persons holding certain  
11          registered local specialty licenses; repealing  
12          s. 489.507(6), F.S., to delete a duplicate  
13          provision relating to appointment of committees  
14          of the Construction Industry Licensing Board  
15          and the Electrical Contractors' Licensing Board  
16          for the purpose of meeting jointly twice each  
17          year; requiring the Electrical Contractors'  
18          Licensing Board to develop a plan to reduce its  
19          annual operating budget by a specified amount  
20          and submit such plan to the department by a  
21          specified date; amending s. 489.511, F.S.;  
22          revising provisions relating to licensure as an  
23          electrical or alarm system contractor by  
24          endorsement; amending s. 489.537, F.S.;  
25          revising the power of municipalities and  
26          counties with respect to regulating electrical  
27          journeymen; amending ss. 498.005, 498.019,  
28          498.049, F.S.; reassigning the regulation of  
29          land sales from the Division of Florida Land  
30          Sales, Condominiums, and Mobile Homes to the  
31          Division of Real Estate; requiring all funds



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

Amendment No. \_\_\_\_ Barcode 843900

1 collected by the department pursuant to the  
2 regulation of land sales to be deposited in the  
3 Professional Regulation Trust Fund; amending s.  
4 190.009, F.S.; conforming terminology; amending  
5 ss. 718.103, 718.105, 718.112, 718.1255,  
6 718.501, 718.502, 718.504, 718.508, 718.509,  
7 718.608, 719.103, 719.1255, 719.501, 719.502,  
8 719.504, 719.508, 719.608, 721.05, 721.07,  
9 721.08, 721.26, 721.28, 721.301, 721.50,  
10 721.82, 721.84, 723.003, 723.006, 723.0065,  
11 723.009, F.S.; renaming the Division of Florida  
12 Land Sales, Condominiums, and Mobile Homes as  
13 the Division of Condominiums, Timeshare, and  
14 Mobile Homes; renaming the Division of Florida  
15 Land Sales, Condominiums, and Mobile Homes  
16 Trust Fund as the Division of Condominiums,  
17 Timeshare, and Mobile Homes Trust Fund;  
18 conforming provisions; revising language with  
19 respect to condominium association bylaws;  
20 revising language with respect to the annual  
21 budget; providing for reserves under certain  
22 circumstances; providing and limiting  
23 arbitration of disputes by the division to  
24 those regarding elections and the recall of  
25 board members; deleting reference to voluntary  
26 mediation; providing for the resolution of  
27 certain other complaints at the local level;  
28 providing exemptions; providing for expedited  
29 handling of election disputes; requiring the  
30 continuation of arbitration of cases filed by a  
31 certain date; providing a contingent

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

Amendment No. \_\_\_\_ Barcode 843900

1           appropriation; providing division enforcement  
2           powers and duties; providing for injunction,  
3           restitution, and civil penalties; providing  
4           certain immunity; providing for use of certain  
5           documents as evidence; providing for certain  
6           notice; providing for intervention in suits;  
7           locating the executive offices of the division  
8           in Tallahassee; authorizing branch offices;  
9           providing for adoption and use of a seal;  
10          providing applicability to specified chapters  
11          of the Florida Statutes; amending s. 721.82,  
12          F.S.; redefining the term "registered agent";  
13          amending s. 721.84, F.S.; providing for  
14          appointment of a successor registered agent;  
15          amending ss. 73.073, 192.037, 213.053, 215.20,  
16          380.0651, 455.116, 475.455, 509.512, 559.935,  
17          F.S.; conforming terminology; amending s.  
18          468.452, F.S.; revising definitions; amending  
19          s. 468.453, F.S.; revising licensure  
20          requirements; providing for service of process  
21          on nonresident agents; providing for temporary  
22          licenses; deleting a bond requirement;  
23          providing for reciprocity; amending s. 468.454,  
24          F.S.; revising contract requirements; providing  
25          for cancellation of contracts; amending s.  
26          468.456, F.S.; providing for increased  
27          administrative fines; amending s. 468.45615,  
28          F.S.; providing additional criminal penalties  
29          for certain acts; amending s. 468.4562, F.S.;  
30          revising provisions relating to civil remedies  
31          available to colleges and universities for

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

Amendment No. \_\_\_\_ Barcode 843900

1 violations of athlete agent regulations;  
2 amending s. 468.4565, F.S.; revising business  
3 record requirements; repealing s. 468.4563,  
4 F.S., relating to authority to require  
5 continuing education by athlete agents;  
6 repealing s. 468.4564, relating to license  
7 display requirements; amending s. 702.09, F.S.;  
8 revising the definitions of the terms  
9 "mortgage" and "foreclosure proceedings";  
10 amending s. 718.104, F.S., revising language  
11 with respect to declarations for the creation  
12 of a condominium; amending s. 718.106, F.S.;  
13 revising language with respect to appurtenances  
14 that pass with a condominium unit; amending s.  
15 718.110, F.S.; revising language with respect  
16 to amendments to a declaration of condominium;  
17 amending s. 718.111, F.S.; revising language  
18 with respect to the association; amending s.  
19 718.112, F.S.; revising language with respect  
20 to bylaws; amending s. 718.113, F.S.; revising  
21 language with respect to material alterations  
22 of common elements or association real property  
23 operated by a multicondominium association;  
24 amending s. 718.115, F.S.; revising language  
25 with respect to common expenses; amending s.  
26 718.405, F.S.; revising language with respect  
27 to multicondominiums and multicondominium  
28 associations; amending s. 718.503, F.S.,  
29 relating to disclosure requirements for the  
30 sale of certain condominiums; removing the  
31 requirement that question and answer sheets be

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

Amendment No. \_\_\_\_ Barcode 843900

1 part of the closing documents; amending s.  
2 718.504, F.S.; revising language with respect  
3 to the prospectus or offering circular;  
4 amending s. 548.002, F.S.; providing  
5 definitions; authorizing the Florida State  
6 Boxing Commission to require the posting of a  
7 bond or other form of security by  
8 concessionaires; amending s. 548.015, F.S.;  
9 authorizing the Florida State Boxing Commission  
10 to require surety bonds or other forms of  
11 security; amending s. 548.003, F.S.; requiring  
12 one member of the Florida State Boxing  
13 Commission to be a licensed physician;  
14 providing additional duties and  
15 responsibilities of the Florida State Boxing  
16 Commission; requiring the Florida State Boxing  
17 Commission to make recommendations with respect  
18 to unregulated and unsanctioned boxing  
19 competition; amending s. 548.017, F.S.;  
20 providing requirements for ringside physicians;  
21 requiring concessionaires to be licensed;  
22 amending s. 548.021, F.S.; providing a criminal  
23 penalty for attempting to obtain a license by  
24 means of fraudulent information; creating s.  
25 548.024, F.S.; authorizing the Florida State  
26 Boxing Commission to adopt rules which provide  
27 for background investigations of applicants for  
28 licensure; providing for the submission of  
29 fingerprint cards; providing procedure for  
30 processing fingerprint cards; amending s.  
31 548.028, F.S.; expanding provisions with

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

Amendment No. \_\_\_\_ Barcode 843900

1           respect to persons whom the Florida State  
2           Boxing Commission shall not license; amending  
3           s. 548.041, F.S.; providing requirements and  
4           restrictions with respect to age, condition,  
5           and suspension of boxers; providing for  
6           revocation of license under specified  
7           circumstances; amending s. 548.043, F.S.;  
8           providing requirements and procedure for the  
9           weighing of participants in a boxing match;  
10          amending s. 548.046, F.S.; revising provisions  
11          with respect to physicians' attendance at  
12          boxing matches; providing state insurance  
13          coverage and sovereign immunity protection for  
14          assigned physicians; requiring the provision of  
15          urine samples by participants under specified  
16          circumstances; providing for revocation of  
17          license for failure or refusal to provide a  
18          required urine sample; providing conditions  
19          with respect to forfeiture and redistribution  
20          of purse upon failure or refusal to provide a  
21          required urine sample; specifying authority of  
22          physicians at boxing matches; providing  
23          procedure in the event of injury of a referee;  
24          authorizing blood tests of participants prior  
25          to a match; providing for cancellation of the  
26          match for a test showing the presence of a  
27          communicable disease or for failure to present  
28          blood test results, if required; authorizing  
29          the Florida State Boxing Commission to adopt  
30          rules relating to blood tests; amending s.  
31          548.049, F.S.; increasing the minimum coverage

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

Amendment No. \_\_\_\_ Barcode 843900

1 amount of required insurance for participants  
2 in boxing matches; requiring promoters to pay  
3 any deductible for such insurance policy;  
4 amending s. 548.05, F.S.; providing additional  
5 requirements with respect to contracts between  
6 managers and professionals; amending s.  
7 548.057, F.S.; placing specified restrictions  
8 on judges of boxing matches; providing  
9 requirements with respect to number and  
10 location of judges; amending s. 548.06, F.S.;  
11 revising provisions relating to promoters and  
12 payments to the state; amending s. 548.074,  
13 F.S.; providing that the department shall have  
14 the power to administer oaths, take  
15 depositions, make inspections, serve subpoenas,  
16 and compel the attendance of witnesses and  
17 other evidence; amending s. 548.075, F.S.;  
18 authorizing the Florida State Boxing Commission  
19 to adopt rules to permit the issuance of  
20 citations; repealing s. 548.045, F.S., relating  
21 to the creation, qualifications, compensation,  
22 and powers and duties of the medical advisory  
23 council; amending s. 455.2281, F.S.;  
24 authorizing any profession regulated by the  
25 department which offers services that are not  
26 subject to regulation when provided by an  
27 unlicensed person to use funds in its  
28 unlicensed activity account to inform the  
29 public of such situation; authorizing a board  
30 or profession regulated by the department to  
31 transfer funds in its operating fund account to

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

Amendment No. \_\_\_\_ Barcode 843900

1 its unlicensed activity account under certain  
2 circumstances; amending s. 473.313, F.S.;  
3 providing authority for the reinstatement of  
4 certain licensees in public accountancy whose  
5 licenses have become void; providing for the  
6 use of private sector staffing services firms  
7 in the delivery of workforce services; requires  
8 the development of policies and guidelines by  
9 Workforce Florida, Inc., related to the use of  
10 staffing services in the operation of the  
11 workforce system; requires a report by  
12 Workforce Florida, Inc.; providing effective  
13 dates.

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