

1 A bill to be entitled
2 An act relating to the Department of Business
3 and Professional Regulation; amending ss.
4 326.001, 326.002, 326.003, 326.004, 326.006,
5 F.S.; transferring the regulation of yacht and
6 ship brokers and salespersons from the Division
7 of Florida Land Sales, Condominiums, and Mobile
8 Homes to the Division of Professions; revising
9 provisions relating to criminal history checks
10 and administrative and civil penalties;
11 requiring that all funds collected pursuant to
12 such regulation be deposited into the
13 Professional Regulation Trust Fund; revising
14 references; amending s. 399.061, F.S.; revising
15 provisions relating to the inspection of
16 elevators; amending s. 455.213, F.S.; providing
17 for the content of licensure and renewal
18 documents; providing for the electronic
19 submission of information to the department;
20 providing that all legal obligations must be
21 met before the issuance or renewal of a
22 license; amending s. 455.224, F.S.; authorizing
23 any division of the department to issue
24 citations in the enforcement of its regulatory
25 provisions in accordance with the provisions
26 established for such purposes for the
27 regulation of professions; amending s.
28 718.1255, F.S., relating to alternative dispute
29 resolution procedures; providing for the
30 expedited handling of any allegation of an
31 irregularity in the election of any director of

1 the board of administration of a condominium;
2 amending s. 702.09, F.S.; revising the
3 definitions of the terms "mortgage" and
4 "foreclosure proceedings"; amending s. 718.104,
5 F.S., revising language with respect to
6 declarations for the creation of a condominium;
7 amending s. 718.106, F.S.; revising language
8 with respect to appurtenances that pass with a
9 condominium unit; amending s. 718.110, F.S.;
10 revising language with respect to amendments to
11 a declaration of condominium; amending s.
12 718.111, F.S.; revising language with respect
13 to the association; amending s. 718.112, F.S.;
14 revising language with respect to bylaws;
15 amending s. 718.113, F.S.; revising language
16 with respect to material alterations of common
17 elements or association real property operated
18 by a multicondominium association; amending s.
19 718.115, F.S.; revising language with respect
20 to common expenses; amending s. 718.405, F.S.;
21 revising language with respect to
22 multicondominiums and multicondominium
23 associations; amending s. 718.503, F.S.,
24 relating to disclosure requirements for the
25 sale of certain condominiums; removing the
26 requirement that question and answer sheets be
27 part of the closing documents; amending s.
28 718.504, F.S.; revising language with respect
29 to the prospectus or offering circular;
30 amending s. 468.452, F.S.; revising a
31 definition; amending s. 468.453, F.S.; revising

1 licensure requirements; providing for service
2 of process on nonresident agents; providing for
3 temporary licenses; amending s. 468.454, F.S.;
4 revising contract requirements; providing for
5 cancellation of contracts; amending s. 468.456,
6 F.S.; providing for increased administrative
7 fines; amending s. 468.45615, F.S.; providing
8 additional criminal penalties for certain acts;
9 amending s. 468.4562, F.S.; revising provisions
10 relating to civil remedies available to
11 colleges and universities for violations of
12 athlete agent regulations; amending s.
13 468.4565, F.S.; revising business record
14 requirements; repealing s. 468.4563, F.S.,
15 relating to authority to require continuing
16 education by athlete agents; repealing s.
17 468.4564, relating to license display
18 requirements; providing effective dates.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 326.001, Florida Statutes, is
23 amended to read:

24 326.001 Short title.--This chapter ~~Sections~~
25 ~~326.001-326.006~~ may be cited as the "Yacht and Ship Brokers"
26 Act."

27 Section 2. Section 326.002, Florida Statutes, is
28 amended to read:

29 326.002 Definitions.--As used in this chapter ~~ss.~~
30 ~~326.001-326.006~~, the term:

31

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

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

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

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

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

17 Section 3. Section 326.003, Florida Statutes, is
18 amended to read:

19 326.003 Administration.--The department ~~division~~
20 shall:

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

23 (2) Adopt rules pursuant to ss. 120.536(1) and 120.54
24 necessary to administer this chapter ~~implement ss.~~
25 ~~326.001-326.006~~ and to classify brokers and salespersons and
26 regulate their activities.

27 (3) Enforce the provisions of this chapter ~~ss.~~
28 ~~326.001-326.006~~ against any person who operates as a broker or
29 salesperson without a license.

30 Section 4. Section 326.004, Florida Statutes, is
31 amended to read:

1 326.004 Licensing.--

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

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

9 (3) A license is not required for:

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

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

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

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

16 (e) A transaction involving the foreclosure of a
17 security interest in a yacht.

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

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

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

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

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

3 (c) Post the bond required by the Yacht and Ship
4 Brokers' Act.

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

7 (e) Furnish a full set of fingerprints taken within
8 the 6 months immediately preceding the submission of the
9 application.

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

12 (7)(a) Before any license may be issued to a yacht or
13 ship broker, he or she must deliver to the department ~~division~~
14 a good and sufficient surety bond or irrevocable letter of
15 credit, executed by the broker as principal, in the sum of
16 \$25,000.

17 (b) Surety bonds and irrevocable letters of credit
18 must be in a form to be approved by the department ~~division~~
19 and must be conditioned upon the broker complying with the
20 terms of any written contract made by such broker in
21 connection with the sale or exchange of any yacht or ship and
22 not violating any of the provisions of the Yacht and Ship
23 Brokers' Act in the conduct of the business for which he or
24 she is licensed. The bonds and letters of credit must be
25 delivered to the department ~~division~~ and in favor of any
26 person in a transaction who suffers any loss as a result of
27 any violation of the conditions in this chapter ~~ss.~~
28 ~~326.001-326.006~~. When the department ~~division~~ determines that
29 a person has incurred a loss as a result of a violation of the
30 Yacht and Ship Brokers' Act, it shall notify the person in
31 writing of the existence of the bond or letter of credit. The

1 bonds and letters of credit must cover the license period, and
2 a new bond or letter of credit or a proper continuation
3 certificate must be delivered to the department ~~division~~ at
4 the beginning of each license period. However, the aggregate
5 liability of the surety in any one year may not exceed the sum
6 of the bond or, in the case of a letter of credit, the
7 aggregate liability of the issuing bank may not exceed the sum
8 of the credit.

9 (c) Surety bonds must be executed by a surety company
10 authorized to do business in the state as surety, and
11 irrevocable letters of credit must be issued by a bank
12 authorized to do business in the state as a bank.

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

16
17 The security for a broker must remain on deposit for a period
18 of 1 year after he or she ceases to be a broker.

19 (8) A person may not be licensed as a broker unless he
20 or she has been a salesperson for at least 2 consecutive
21 years, and may not be licensed as a broker after October 1,
22 1990, unless he or she has been licensed as a salesperson for
23 at least 2 consecutive years.

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

28 (10) Upon a final judgment being rendered against a
29 yacht broker or salesperson for a violation of this chapter
30 ~~ss. 326.001-326.006~~ which results in any action being
31 commenced on the bond or letter of credit, the department

1 ~~division~~ may require the filing of a new bond or letter of
2 credit and immediately on the recovery in any action on such
3 bond or letter of credit, the broker or salesperson involved
4 must file a new bond or letter of credit. His or her failure
5 to do so within 10 days constitutes grounds for the suspension
6 or revocation of his or her license.

7 (11) Any person injured by the fraud, deceit, or
8 willful negligence of any broker or salesperson or by the
9 failure of any broker or salesperson to comply with the Yacht
10 and Ship Brokers' Act or other law may file an action for
11 damages upon the respective bonds against the principals and
12 the surety.

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

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

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

27 (b) Each salesperson's license must remain in the
28 possession of the employing broker until canceled or until the
29 salesperson leaves such employment. Immediately upon a
30 salesperson's withdrawal from the employment of a broker, the
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1 broker must return the salesperson's license to the department
2 ~~division~~ for cancellation.

3 (15) The department ~~division~~ shall provide by rule for
4 the issuance of a temporary 90-day license to an applicant
5 while the Florida Department of Law Enforcement and the
6 Federal Bureau of Investigation ~~conduct~~ ~~conducts~~ a national
7 criminal history analysis of the applicant by means of
8 fingerprint identification.

9 Section 5. Section 326.006, Florida Statutes, is
10 amended to read:

11 326.006 Powers and duties of department ~~division~~.--

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

14 (2) The department ~~may~~ ~~division~~ ~~has~~ ~~the~~ ~~power~~ ~~to~~
15 enforce and ensure compliance with the provisions of this
16 chapter and rules adopted under this chapter relating to the
17 sale and ownership of yachts and ships. In performing its
18 duties, the department ~~division~~ has the following powers and
19 duties:

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

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

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

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

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

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

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

11 4. The department ~~division~~ may impose a civil penalty
12 against a broker or salesperson or any of his or her assignees
13 or agents, or against an unlicensed person or any of his or
14 her assignees or agents, for any violation of this chapter or
15 a rule adopted under this chapter. A penalty may be imposed
16 for each day of continuing violation, but in no event may the
17 penalty for any offense exceed \$10,000. All amounts collected
18 must be deposited with the Treasurer to the credit of the
19 Professional Regulation Division of Florida Land Sales,
20 ~~Condominiums, and Mobile Homes~~ Trust Fund. If a broker,
21 salesperson, or unlicensed person working for a broker, fails
22 to pay the civil penalty, the department ~~division~~ shall
23 thereupon issue an order suspending the broker's license until
24 such time as the civil penalty is paid or may pursue
25 enforcement of the penalty in a court of competent
26 jurisdiction. The order imposing the civil penalty or the
27 order of suspension may not become effective until 20 days
28 after the date of such order. Any action commenced by the
29 department ~~division~~ must be brought in the county in which the
30 department ~~division~~ has its executive offices or in the county
31 where the violation occurred.

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

3 1. Makes a substantial and intentional
4 misrepresentation, with respect to a transaction involving a
5 yacht, upon which any person has relied.

6 2. Makes a false warranty, with respect to a
7 transaction involving a yacht, of a character likely to
8 influence, persuade, or induce any person with whom business
9 is transacted.

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

13 4. Acts for both the buyer and seller in a transaction
14 involving a yacht without the knowledge and written consent of
15 both parties.

16 5. Commingles the money or other property of his or
17 her principal with his or her own.

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

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

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

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

27 10. Is convicted of a felony.

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

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

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

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

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

8 Section 6. The regulation of yacht and ship brokers
9 and salespersons is reassigned within the Department of
10 Business and Professional Regulation from the Division of
11 Florida Land Sales, Condominiums, and Mobile Homes to the
12 Division of Professions. All funds collected by the department
13 pursuant to the regulation of yacht and ship brokers and
14 salespersons and all funds in the account created within the
15 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund
16 for such regulation shall be deposited in an account created
17 within the Professional Regulation Trust Fund for the same
18 purpose.

19 Section 7. Effective upon this act becoming a law,
20 section 399.061, Florida Statutes, is amended to read:

21 399.061 Inspections; correction of deficiencies.--

22 (1)(a) All elevators or other conveyances subject to
23 this chapter must be annually inspected by a certified
24 elevator inspector through a third-party inspection service,
25 or by a municipality or county under contract with the
26 division pursuant to s. 399.13. If the elevator or other
27 conveyance is by a third-party inspection service certified as
28 a qualified elevator inspector or maintained pursuant to a
29 service maintenance contract continuously in force, it shall
30 be inspected at least once every two years by a certified
31 elevator inspector not employed by or otherwise associated

1 with the maintenance company; however, if the elevator is not
2 an escalator or a dumbwaiter and the elevator serves only two
3 adjacent floors and is covered by a service maintenance
4 contract, no inspection shall be required so long as the
5 service contract remains in effect. A statement verifying the
6 existence, performance, and cancellation of each service
7 maintenance contract must be filed annually with the division
8 as prescribed by rule. ~~All elevators covered by a service~~
9 ~~maintenance contract shall be inspected by a~~
10 ~~certificate of competency holder at least once every 2 years;~~
11 ~~however, if the elevator is not an escalator or a dumbwaiter~~
12 ~~and the elevator serves only two adjacent floors and is~~
13 ~~covered by a service maintenance contract, no inspection shall~~
14 ~~be required so long as the service contract remains in effect.~~

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

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

24 (3) Whenever the division determines from the results
25 of any inspection that, in the interest of the public safety,
26 an elevator is in an unsafe condition, the division may seal
27 the elevator or order the discontinuance of the use of the
28 elevator until the division determines by inspection that such
29 elevator has been satisfactorily repaired or replaced so that
30 the elevator may be operated in a safe manner.

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

4 Section 8. Effective July 1, 2001, subsection (1) of
5 section 455.213, Florida Statutes, is amended, and subsections
6 (11) and (12) are added to that section, to read:

7 455.213 General licensing provisions.--

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

12 Notwithstanding any other provision of law, the department is
13 the sole authority for determining the content of any
14 documents to be submitted for initial licensure and licensure
15 renewal. Such documents may contain information including, as
16 appropriate demographics, education, work history, personal
17 background, criminal history, finances, business information,
18 complaints, inspections, investigations, discipline, bonding,
19 signature notarization, photographs, performance periods,
20 reciprocity, local government approvals, supporting
21 documentation, periodic reporting requirements, fingerprint
22 requirements, continuing education requirements, and ongoing
23 education monitoring.The application shall be supplemented as
24 needed to reflect any material change in any circumstance or
25 condition stated in the application which takes place between
26 the initial filing of the application and the final grant or
27 denial of the license and which might affect the decision of
28 the department. In order to further the economic development
29 goals of the state, and notwithstanding any law to the
30 contrary, the department may enter into an agreement with the
31 county tax collector for the purpose of appointing the county

1 tax collector as the department's agent to accept applications
2 for licenses and applications for renewals of licenses. The
3 agreement must specify the time within which the tax collector
4 must forward any applications and accompanying application
5 fees to the department. In cases where a person applies or
6 schedules directly with a national examination organization or
7 examination vendor to take an examination required for
8 licensure, any organization- or vendor-related fees associated
9 with the examination may be paid directly to the organization
10 or vendor.

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

13 (12) The department may not issue or renew a license
14 to any person who is not in compliance with all provisions of
15 a final order of a board or the department until that person
16 is in compliance with all terms and conditions of the final
17 order. The department may not issue or renew a license to any
18 person who is not in compliance with all legal obligations
19 under this chapter or the relevant practice act, including,
20 but not limited to, the obligation to pay all fees and
21 assessments that are owed and to complete all continuing
22 education requirements. This subsection applies to all
23 divisions within the department.

24 Section 9. Section 455.224, Florida Statutes, is
25 amended to read:

26 455.224 Authority to issue citations.--

27 (1) Notwithstanding s. 455.225, the board or the
28 department shall adopt rules to permit the issuance of
29 citations. The citation shall be issued to the subject and
30 shall contain the subject's name and address, the subject's
31 license number if applicable, a brief factual statement, the

1 sections of the law allegedly violated, and the penalty
2 imposed. The citation must clearly state that the subject may
3 choose, in lieu of accepting the citation, to follow the
4 procedure under s. 455.225. If the subject disputes the matter
5 in the citation, the procedures set forth in s. 455.225 must
6 be followed. However, if the subject does not dispute the
7 matter in the citation with the department within 30 days
8 after the citation is served, the citation becomes a final
9 order and constitutes discipline. The penalty shall be a fine
10 or other conditions as established by rule.

11 (2) The board, or the department when there is no
12 board, shall adopt rules designating violations for which a
13 citation may be issued. Such rules shall designate as
14 citation violations those violations for which there is no
15 substantial threat to the public health, safety, and welfare.

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

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

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

26 (6) Within its jurisdiction, the department has
27 exclusive authority to, and shall adopt rules to, designate
28 those violations for which the licensee is subject to the
29 issuance of a citation and designate the penalties for those
30 violations if any board fails to incorporate this section into
31 rules by January 1, 1992. A board created on or after January

1 1, 1992, has 6 months in which to enact rules designating
2 violations and penalties appropriate for citation offenses.
3 Failure to enact such rules gives the department exclusive
4 authority to adopt rules as required for implementing this
5 section. A board has continuous authority to amend its rules
6 adopted pursuant to this section.

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

19 Section 10. Subsection (5) is added to section
20 718.1255, Florida Statutes, to read:

21 718.1255 Alternative dispute resolution; voluntary
22 mediation; mandatory nonbinding arbitration; disputes
23 involving election irregularities; legislative findings.--

24 (1) DEFINITIONS.--As used in this section, the term
25 "dispute" means any disagreement between two or more parties
26 that involves:

27 (a) The authority of the board of directors, under
28 this chapter or association document to:

29 1. Require any owner to take any action, or not to
30 take any action, involving that owner's unit or the
31 appurtenances thereto.

- 1 2. Alter or add to a common area or element.
2 (b) The failure of a governing body, when required by
3 this chapter or an association document, to:
4 1. Properly conduct elections.
5 2. Give adequate notice of meetings or other actions.
6 3. Properly conduct meetings.
7 4. Allow inspection of books and records.

8
9 "Dispute" does not include any disagreement that primarily
10 involves: title to any unit or common element; the
11 interpretation or enforcement of any warranty; the levy of a
12 fee or assessment, or the collection of an assessment levied
13 against a party; the eviction or other removal of a tenant
14 from a unit; alleged breaches of fiduciary duty by one or more
15 directors; or claims for damages to a unit based upon the
16 alleged failure of the association to maintain the common
17 elements or condominium property.

18 (2) VOLUNTARY MEDIATION.--Voluntary mediation through
19 Citizen Dispute Settlement Centers as provided for in s.
20 44.201 is encouraged.

21 (3) LEGISLATIVE FINDINGS.--

22 (a) The Legislature finds that unit owners are
23 frequently at a disadvantage when litigating against an
24 association. Specifically, a condominium association, with its
25 statutory assessment authority, is often more able to bear the
26 costs and expenses of litigation than the unit owner who must
27 rely on his or her own financial resources to satisfy the
28 costs of litigation against the association.

29 (b) The Legislature finds that the courts are becoming
30 overcrowded with condominium and other disputes, and further
31 finds that alternative dispute resolution has been making

1 progress in reducing court dockets and trials and in offering
2 a more efficient, cost-effective option to court litigation.
3 However, the Legislature also finds that alternative dispute
4 resolution should not be used as a mechanism to encourage the
5 filing of frivolous or nuisance suits.

6 (c) There exists a need to develop a flexible means of
7 alternative dispute resolution that directs disputes to the
8 most efficient means of resolution.

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

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

1 binding. If such judicial proceedings are initiated, the final
2 decision of the arbitrator shall be admissible in evidence in
3 the trial de novo.

4 (a) Prior to the institution of court litigation, a
5 party to a dispute shall petition the division for nonbinding
6 arbitration. The petition must be accompanied by a filing fee
7 in the amount of \$50. Filing fees collected under this
8 section must be used to defray the expenses of the alternative
9 dispute resolution program.

10 (b) The petition must recite, and have attached
11 thereto, supporting proof that the petitioner gave the
12 respondents:

13 1. Advance written notice of the specific nature of
14 the dispute;

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

17 3. Notice of the intention to file an arbitration
18 petition or other legal action in the absence of a resolution
19 of the dispute.

20
21 Failure to include the allegations or proof of compliance with
22 these prerequisites requires dismissal of the petition without
23 prejudice.

24 (c) Upon receipt, the petition shall be promptly
25 reviewed by the division to determine the existence of a
26 dispute and compliance with the requirements of paragraphs (a)
27 and (b). If emergency relief is required and is not available
28 through arbitration, a motion to stay the arbitration may be
29 filed. The motion must be accompanied by a verified petition
30 alleging facts that, if proven, would support entry of a
31 temporary injunction, and if an appropriate motion and

1 supporting papers are filed, the division may abate the
2 arbitration pending a court hearing and disposition of a
3 motion for temporary injunction.

4 (d) Upon determination by the division that a dispute
5 exists and that the petition substantially meets the
6 requirements of paragraphs (a) and (b) and any other
7 applicable rules, a copy of the petition shall forthwith be
8 served by the division upon all respondents.

9 (e) Either before or after the filing of the
10 respondents' answer to the petition, any party may request
11 that the arbitrator refer the case to mediation under this
12 section and any rules adopted by the division. Upon receipt
13 of a request for mediation, the division shall promptly
14 contact the parties to determine if there is agreement that
15 mediation would be appropriate. If all parties agree, the
16 dispute must be referred to mediation. Notwithstanding a lack
17 of an agreement by all parties, the arbitrator may refer a
18 dispute to mediation at any time.

19 (f) Upon referral of a case to mediation, the parties
20 must select a mutually acceptable mediator. To assist in the
21 selection, the arbitrator shall provide the parties with a
22 list of both volunteer and paid mediators that have been
23 certified by the division under s. 718.501. If the parties
24 are unable to agree on a mediator within the time allowed by
25 the arbitrator, the arbitrator shall appoint a mediator from
26 the list of certified mediators. If a case is referred to
27 mediation, the parties shall attend a mediation conference, as
28 scheduled by the parties and the mediator. If any party fails
29 to attend a duly noticed mediation conference, without the
30 permission or approval of the arbitrator or mediator, the
31 arbitrator must impose sanctions against the party, including

1 the striking of any pleadings filed, the entry of an order of
2 dismissal or default if appropriate, and the award of costs
3 and attorneys' fees incurred by the other parties. Unless
4 otherwise agreed to by the parties or as provided by order of
5 the arbitrator, a party is deemed to have appeared at a
6 mediation conference by the physical presence of the party or
7 its representative having full authority to settle without
8 further consultation, provided that an association may comply
9 by having one or more representatives present with full
10 authority to negotiate a settlement and recommend that the
11 board of administration ratify and approve such a settlement
12 within 5 days from the date of the mediation conference. The
13 parties shall share equally the expense of mediation, unless
14 they agree otherwise.

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

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

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

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

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

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

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

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

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

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

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

14 Section 11. Section 702.09, Florida Statutes, is
15 amended to read:

16 702.09 Definitions.--For the purposes of ss. 702.07
17 and 702.08 the words "decree of foreclosure" shall include a
18 judgment or order rendered or passed in the foreclosure
19 proceedings in which the decree of foreclosure shall be
20 rescinded, vacated, and set aside; the word "mortgage" shall
21 mean any written instrument securing the payment of money or
22 advances and shall include liens to secure payment of
23 assessments arising under chapters 718, 719, and 720; the word
24 "debt" shall include promissory notes, bonds, and all other
25 written obligations given for the payment of money; the words
26 "foreclosure proceedings" shall embrace every action in the
27 circuit or county courts of this state wherein it is sought to
28 foreclose a mortgage and sell the property covered by the
29 same; and the word "property" shall mean and include both real
30 and personal property.

31

1 Section 12. 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.

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 13. Paragraph (b) of subsection (2) of section
10 718.106, 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

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 14. Subsection (4) of section 718.110, Florida
8 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

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 15. 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

1 declaration does not specify the procedure, then approval of
2 75 percent of the total voting interests shall be required.

3 (13) FINANCIAL REPORTING.--Within 90 days after the
4 end of the fiscal year, or annually on a date provided in the
5 bylaws, the association shall prepare and complete, or
6 contract for the preparation and completion of ~~cause to be~~
7 ~~prepared and completed by a third party~~, a financial report
8 for the preceding fiscal year. Within 21 days after the final
9 financial report is completed by the association or received
10 ~~by the association~~ from the third party, but in no event later
11 than 120 days after the end of the fiscal year, or such other
12 date as is provided in the bylaws, the association shall mail
13 to each unit owner at the address last furnished to the
14 association by the unit owner, or hand deliver to each unit
15 owner, a copy of the financial report or a notice that a copy
16 of the financial report will be mailed or hand delivered to
17 the unit owner, without charge, upon receipt of a written
18 request from the unit owner. The division shall adopt rules
19 setting forth uniform accounting principles and standards to
20 be used by all associations and shall adopt rules addressing
21 financial reporting requirements for multicondominium
22 associations. In adopting such rules, the division shall
23 consider the number of members and annual revenues of an
24 association. Financial reports shall be prepared as follows:

25 (a) An association that meets the criteria of this
26 paragraph shall prepare or cause to be prepared a complete set
27 of financial statements in accordance with generally accepted
28 accounting principles. The financial statements shall be
29 based upon the association's total annual revenues, as
30 follows:

31

1 1. An association with total annual revenues of
2 \$100,000 or more, but less than \$200,000, shall prepare
3 compiled financial statements.

4 2. An association with total annual revenues of at
5 least \$200,000, but less than \$400,000, shall prepare reviewed
6 financial statements.

7 3. An association with total annual revenues of
8 \$400,000 or more shall prepare audited financial statements.

9 (b)1. An association with total annual revenues of
10 less than \$100,000 shall prepare a report of cash receipts and
11 expenditures.

12 2. An association which operates less than 50 units,
13 regardless of the association's annual revenues, shall prepare
14 a report of cash receipts and expenditures in lieu of
15 financial statements required by paragraph (a).

16 3. A report of cash receipts and disbursements must
17 disclose the amount of receipts by accounts and receipt
18 classifications and the amount of expenses by accounts and
19 expense classifications, including, but not limited to, the
20 following, as applicable: costs for security, professional and
21 management fees and expenses, taxes, costs for recreation
22 facilities, expenses for refuse collection and utility
23 services, expenses for lawn care, costs for building
24 maintenance and repair, insurance costs, administration and
25 salary expenses, and reserves accumulated and expended for
26 capital expenditures, deferred maintenance, and any other
27 category for which the association maintains reserves.

28 (c) An association may prepare or cause to be
29 prepared, without a meeting of or approval by the unit owners:
30
31

1 1. Compiled, reviewed, or audited financial
2 statements, if the association is required to prepare a report
3 of cash receipts and expenditures;

4 2. Reviewed or audited financial statements, if the
5 association is required to prepare compiled financial
6 statements; or

7 3. Audited financial statements if the association is
8 required to prepare reviewed financial statements.

9 (d) If approved by a majority of the voting interests
10 present at a properly called meeting of the association, an
11 association may prepare or cause to be prepared:

12 1. A report of cash receipts and expenditures in lieu
13 of a compiled, reviewed, or audited financial statement;

14 2. A report of cash receipts and expenditures or a
15 compiled financial statement in lieu of a reviewed or audited
16 financial statement; or

17 3. A report of cash receipts and expenditures, a
18 compiled financial statement, or a reviewed financial
19 statement in lieu of an audited financial statement.

20
21 Such meeting and approval must occur prior to the end of the
22 fiscal year and is effective only for the fiscal year in which
23 the vote is taken. With respect to an association to which the
24 developer has not turned over control of the association, all
25 unit owners, including the developer, may vote on issues
26 related to the preparation of financial reports for the first
27 2 fiscal years of the association's operation, beginning with
28 the fiscal year in which the declaration is recorded.
29 Thereafter, all unit owners except the developer may vote on
30 such issues until control is turned over to the association by
31 the developer.

1 Section 16. Subsection (3) of section 718.112, Florida
2 Statutes, is amended to read:

3 718.112 Bylaws.--

4 (3) OPTIONAL PROVISIONS.--The bylaws as originally
5 recorded, or as amended pursuant to the procedure provided
6 therein, may provide for the following:

7 (a) A method of adopting and amending administrative
8 rules and regulations governing the details of the operation
9 and use of the common elements.

10 (b) Restrictions on and requirements for the use,
11 maintenance, and appearance of the units and the use of the
12 common elements.

13 (c) Other provisions which are not inconsistent with
14 this chapter or with the declaration, as may be desired. This
15 subsection is intended to clarify existing law and applies to
16 associations existing on the effective date of this act.

17 Section 17. Subsection (2) of section 718.113, Florida
18 Statutes, is amended to read:

19 718.113 Maintenance; limitation upon improvement;
20 display of flag; hurricane shutters.--

21 (2)(a) Except as otherwise provided in this section,
22 there shall be no material alteration or substantial additions
23 to the common elements or to real property which is
24 association property, except in a manner provided in the
25 declaration as originally recorded or as amended pursuant to
26 the procedures provided therein. If the declaration as
27 originally recorded or amended does not specify the procedure
28 for approval of material alterations or substantial additions,
29 75 percent of the total voting interests of the association
30 must approve the alterations or additions. This paragraph is
31

1 intended to clarify existing law and applies to associations
2 existing on the effective date of this act.

3 (b) There shall not be any material alteration of, or
4 substantial addition to, the common elements of any
5 condominium operated by a multicondominium association unless
6 approved in the manner provided in the declaration of the
7 affected condominium or condominiums as originally recorded,
8 or as amended pursuant to the procedures provided therein. If
9 a declaration as originally recorded or amended does not
10 specify a procedure for approving such an alteration or
11 addition, the approval of 75 percent of the total voting
12 interests of each affected condominium is required. This
13 subsection does not prohibit a provision in any declaration,
14 articles of incorporation, or bylaws as originally recorded or
15 amended requiring the approval of unit owners in any
16 condominium operated by the same association or requiring
17 board approval before a material alteration or substantial
18 addition to the common elements is permitted. This paragraph
19 is intended to clarify existing law and applies to
20 associations existing on the effective date of this act.

21 (c) There shall not be any material alteration or
22 substantial addition made to association real property
23 operated by a multicondominium association, except as provided
24 in the declaration, articles of incorporation, or bylaws as
25 said documents are originally recorded or amended pursuant to
26 the procedures provided therein. If the declaration, articles
27 of incorporation, or bylaws do not specify the procedure for
28 approving an alteration or addition to association real
29 property, the approval of 75 percent of the total voting
30 interests of the association is required. This paragraph is
31

1 intended to clarify existing law and applies to associations
2 existing on the effective date of this act.

3 Section 18. Paragraphs (b) and (c) of subsection (1)
4 of section 718.115, Florida Statutes, are amended to read:

5 718.115 Common expenses and common surplus.--

6 (1)

7 (b) The common expenses of a condominium within a
8 multicondominium are the common expenses directly attributable
9 to the operation of that condominium. The common expenses of a
10 multicondominium association do not include the common
11 expenses directly attributable to the operation of any
12 specific condominium or condominiums within the
13 multicondominium. This paragraph is intended to clarify
14 existing law and applies to associations existing on the
15 effective date of this act.

16 (c) The common expenses of a multicondominium
17 association may include categories of expenses related to the
18 property or common elements within a specific condominium in
19 the multicondominium if such property or common elements are
20 areas in which all members of the multicondominium association
21 have use rights or from which all members receive tangible
22 economic benefits. Such common expenses of the association
23 shall be identified in the declaration or bylaws of each
24 condominium within the multicondominium association. This
25 paragraph is intended to clarify existing law and applies to
26 associations existing on the effective date of this act.

27 Section 19. Subsections (1) and (4) of section
28 718.405, Florida Statutes, are amended to read:

29 718.405 Multicondominiums; multicondominium
30 associations.--

31

1 (1) An association may operate more than one
2 condominium. For multicondominiums created on or after July 1,
3 2000, ~~if~~ the declaration for each condominium ~~to be~~ operated
4 by that association shall provide ~~provides~~ for participation
5 in a multicondominium, in conformity with this section, and
6 disclose ~~discloses~~ or describe ~~describes~~:

7 (a) The manner or formula by which the assets,
8 liabilities, common surplus, and common expenses of the
9 association will be apportioned among the units within the
10 condominiums operated by the association, in accordance with
11 s. 718.104(4)(g) or (h), as applicable.

12 (b) Whether unit owners in any other condominium, or
13 any other persons, will or may have the right to use
14 recreational areas or any other facilities or amenities that
15 are common elements of the condominium, and, if so, the
16 specific formula by which the other users will share the
17 common expenses related to those facilities or amenities.

18 (c) Recreational and other commonly used facilities or
19 amenities which the developer has committed to provide that
20 will be owned, leased by, or dedicated by a recorded plat to
21 the association but which are not included within any
22 condominium operated by the association. The developer may
23 reserve the right to add additional facilities or amenities if
24 the declaration and prospectus for each condominium to be
25 operated by the association contains the following statement
26 in conspicuous type and in substantially the following form:
27 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT
28 CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

29 (d) The voting rights of the unit owners in the
30 election of directors and in other multicondominium
31 association affairs when a vote of the owners is taken,

1 including, but not limited to, a statement as to whether each
2 unit owner will have a right to personally cast his or her own
3 vote in all matters voted upon.

4 (4) This section does not prevent or restrict the
5 formation of a multicondominium by the merger or consolidation
6 of two or more condominium associations. Mergers or
7 consolidations of associations shall be accomplished in
8 accordance with this chapter, the declarations of the
9 condominiums being merged or consolidated, and chapter 617.

10 Section 718.110(4) does not apply to amendments to
11 declarations necessary to effect a merger or consolidation.
12 This section is intended to clarify existing law and applies
13 to associations existing on the effective date of this act.

14 Section 20. Subsection (2) of section 718.503, Florida
15 Statutes, is amended to read:

16 718.503 Developer disclosure prior to sale;
17 nondeveloper unit owner disclosure prior to sale;
18 voidability.--

19 (2) NONDEVELOPER DISCLOSURE.--

20 (a) Each unit owner who is not a developer as defined
21 by this chapter shall comply with the provisions of this
22 subsection prior to the sale of his or her unit. Each
23 prospective purchaser who has entered into a contract for the
24 purchase of a condominium unit is entitled, at the seller's
25 expense, to a current copy of the declaration of condominium,
26 articles of incorporation of the association, bylaws, and
27 rules of the association, ~~as well as a copy of the question~~
28 ~~and answer sheet provided for by s. 718.504~~ and a copy of the
29 financial information required by s. 718.111.

30 (b) If a person licensed under part I of chapter 475
31 provides to or otherwise obtains for a prospective purchaser

1 the documents described in this subsection, the person is not
2 liable for any error or inaccuracy contained in the documents.

3 (c) Each contract entered into after July 1, 1992, for
4 the resale of a residential unit shall contain in conspicuous
5 type either:

6 1. A clause which states: THE BUYER HEREBY
7 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF
8 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF
9 THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, AND A COPY
10 OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION ~~AND THE~~
11 ~~QUESTION AND ANSWER SHEET~~ MORE THAN 3 DAYS, EXCLUDING
12 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF
13 THIS CONTRACT; or

14 2. A clause which states: THIS AGREEMENT IS VOIDABLE
15 BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION
16 TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND
17 LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT
18 BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE
19 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS,
20 ~~AND~~ RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT
21 YEAR-END FINANCIAL INFORMATION ~~AND QUESTION AND ANSWER SHEET~~
22 IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE
23 VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND
24 THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS,
25 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE
26 BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION,
27 BYLAWS, AND RULES, ~~AND QUESTION AND ANSWER SHEET~~ IF REQUESTED
28 IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL
29 TERMINATE AT CLOSING.

30
31

1 A contract that does not conform to the requirements of this
2 paragraph is voidable at the option of the purchaser prior to
3 closing.

4 Section 21. Subsection (15) of section 718.504,
5 Florida Statutes, is amended to read:

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

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

14 (15) If a ~~the~~ condominium created on or after July 1,
15 2000, is or may become part of a multicondominium, the
16 following information must be provided:

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

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

1 (c) A statement of the minimum and maximum number of
2 condominiums, and the minimum and maximum number of units in
3 each of those condominiums, which will or may be operated by
4 the association, and the latest date by which the exact number
5 will be finally determined.

6 (d) A statement as to whether any of the condominiums
7 in the multicondominium may include units intended to be used
8 for nonresidential purposes and the purpose or purposes
9 permitted for such use.

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

13 Section 22. Subsection (2) of section 468.452, Florida
14 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.

1 Section 23. Section 468.453, Florida Statutes, is
2 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

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.

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
17 athlete agent in another state may submit a copy of the
18 application and certificate, registration, or license from the
19 other state in lieu of submitting an application in the form
20 prescribed pursuant to this section. The department shall
21 accept the application and the certificate from the other
22 state as an application for registration in this state if the
23 application 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

1 3. Was signed by the applicant under penalty of
2 perjury.

3 (b) An applicant applying under this subsection must
4 meet all other requirements for licensure as provided by this
5 part.

6 Section 24. Section 468.454, Florida Statutes, is
7 amended to read:

8 468.454 Contracts.--

9 (1) An agent contract must be in a record, signed, or
10 otherwise authenticated by the parties.

11 (2) An agent contract must state:

12 (a) The amount and method of calculating the
13 consideration to be paid by the student-athlete for services
14 to be provided by the athlete agent and any other
15 consideration the agent has received or will receive from any
16 other source under the contract;

17 (b) The name of any person not listed in the licensure
18 application who will be compensated because the
19 student-athlete signed the agent contract;

20 (c) A description of any expenses that the
21 student-athlete agrees to reimburse;

22 (d) A description of the services to be provided to
23 the student-athlete;

24 (e) The duration of the contract; and

25 (f) The date of execution.

26 (3) An agent contract must contain, in close proximity
27 to the signature of the student-athlete, a conspicuous notice
28 in boldface type in capital letters stating:

29
30 WARNING TO STUDENT-ATHLETE
31

- 1 IF YOU SIGN THE CONTRACT:
- 2 1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS
- 3 A STUDENT-ATHLETE IN YOUR SPORT;
- 4 2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72
- 5 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND
- 6 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
- 7 DIRECTOR; AND
- 8 3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS
- 9 AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS
- 10 CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.
- 11
- 12 (4) An agent contract that does not conform to this
- 13 section is voidable by the student-athlete. If a
- 14 student-athlete voids an agent contract, the student-athlete
- 15 is not required to pay any consideration or return any
- 16 consideration received from the athlete agent to induce the
- 17 student-athlete to enter into the contract.
- 18 (5) The athlete agent shall give a record of the
- 19 signed or authenticated agent contract to the student-athlete
- 20 at the time of execution.
- 21 (6) Within 72 hours after entering into an agent
- 22 contract or before the next scheduled athletic event in which
- 23 the student-athlete may participate, whichever occurs first,
- 24 the athlete agent must give notice in a record of the
- 25 existence of the contract to the athletic director of the
- 26 educational institution at which the student-athlete is
- 27 enrolled or the athlete agent has reasonable grounds to
- 28 believe the student-athlete intends to enroll.
- 29 (7) Within 72 hours after entering into an agent
- 30 contract or before the next athletic event in which the
- 31 student-athlete may participate, whichever occurs first, the

1 student-athlete must inform the athletic director of the
2 educational institution at which the student-athlete is
3 enrolled that he or she has entered into an agent contract.

4 (8) A student-athlete may cancel an agent contract by
5 giving notice of the cancellation to the athlete agent in a
6 record within 14 days after the contract is signed.

7 (9) A student-athlete may not waive the right to
8 cancel an agent contract.

9 (10) If a student-athlete cancels an agent contract,
10 the student-athlete is not required to pay any consideration
11 or return any consideration received from the athlete agent to
12 induce the student-athlete to enter into the contract.

13 ~~(1) An athlete agent and a student athlete who enter~~
14 ~~into an agent contract must provide written notice of the~~
15 ~~contract to the athletic director or the president of the~~
16 ~~college or university in which the student athlete is~~
17 ~~enrolled. The athlete agent and the student must give the~~
18 ~~notice before the contracting student athlete practices or~~
19 ~~participates in any intercollegiate athletic event or within~~
20 ~~72 hours after entering into said contract, whichever comes~~
21 ~~first. Failure of the athlete agent to provide this~~
22 ~~notification is a felony of the third degree, punishable as~~
23 ~~provided in ss. 775.082, 775.083, 775.084, 775.089, and~~
24 ~~775.091.~~

25 ~~(2) A written contract between a student athlete and~~
26 ~~an athlete agent must state the fees and percentages to be~~
27 ~~paid by the student athlete to the agent and must have a~~
28 ~~notice printed near the student athlete's signature containing~~
29 ~~the following statement in 10-point boldfaced type:~~

30 ~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS~~
31 ~~CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO~~

1 ~~COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL~~
2 ~~PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED~~
3 ~~INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF~~
4 ~~YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO~~
5 ~~THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE~~
6 ~~ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS~~
7 ~~NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL~~
8 ~~YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY~~
9 ~~CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING~~
10 ~~OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE~~
11 ~~DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS~~
12 ~~CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR~~
13 ~~CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT~~
14 ~~RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE~~
15 ~~ATHLETICS."~~

16 ~~(3) An agent contract which does not meet the~~
17 ~~requirements of this section is void and unenforceable.~~

18 ~~(4) Within 15 days after the date the athletic~~
19 ~~director or president of the college or university of the~~
20 ~~student athlete receives the notice required by this section~~
21 ~~that a student athlete has entered into an athlete agent~~
22 ~~contract, the student athlete shall have the right to rescind~~
23 ~~the contract with the athlete agent by giving written notice~~
24 ~~to the athlete agent of the student athlete's rescission of~~
25 ~~the contract. The student athlete may not under any~~
26 ~~circumstances waive the student athlete's right to rescind the~~
27 ~~agent contract.~~

28 ~~(5) A postdated agent contract is void and~~
29 ~~unenforceable.~~

30 (11)~~(6)~~ An athlete agent shall not enter into an agent
31 contract that purports to or takes effect at a future time

1 after the student athlete no longer has remaining eligibility
2 to participate in intercollegiate athletics. Such a contract
3 is void and unenforceable.

4 ~~(12)(7)~~ An agent contract between a student athlete
5 and a person not licensed under this part is void and
6 unenforceable.

7 Section 25. Subsection (3) of section 468.456, Florida
8 Statutes, is amended to read:

9 468.456 Prohibited acts.--

10 (3) When the department finds any person guilty of any
11 of the prohibited acts set forth in subsection (1), the
12 department may enter an order imposing one or more of the
13 penalties provided for in s. 455.227, and an administrative
14 fine not to exceed \$25,000 for each separate offense. In
15 addition to any other penalties or disciplinary actions
16 provided for in this part, the department shall suspend or
17 revoke the license of any athlete agent licensed under this
18 part who violates paragraph (1)(f) or paragraph (1)(o) or s.
19 468.45615.

20 Section 26. Subsection (4) is added to section
21 468.45615, Florida Statutes, to read:

22 468.45615 Provision of illegal inducements to athletes
23 prohibited; penalties; license suspension.--

24 (4)(a) An athlete agent, with the intent to induce a
25 student-athlete to enter into an agent contract, may not:

26 1. Give any materially false or misleading information
27 or make a materially false promise or representation;

28 2. Furnish anything of value to a student-athlete
29 before the student-athlete enters into the agent contract; or

30 3. Furnish anything of value to any individual other
31 than the student-athlete or another athlete agent.

- 1 (b) An athlete agent may not intentionally:
2 1. Initiate contact with a student-athlete unless
3 licensed under this part;
4 2. Refuse or fail to retain or permit inspection of
5 the records required to be retained by s. 468.4565;
6 3. Provide materially false or misleading information
7 in an application for licensure;
8 4. Predate or postdate an agent contract;
9 5. Fail to give notice of the existence of an agent
10 contract as required by s. 468.454(6); or
11 6. Fail to notify a student-athlete before the
12 student-athlete signs or otherwise authenticates an agent
13 contract for a sport that the signing or authentication may
14 make the student-athlete ineligible to participate as a
15 student-athlete in that sport.

16 (c) An athlete agent who violates this subsection
17 commits a felony of the second degree, punishable as provided
18 in s. 775.082, s. 775.083, or s. 775.084.

19 Section 27. Section 468.4562, Florida Statutes, is
20 amended to read:

21 468.4562 Civil action by institution.--

22 (1) A college or university may sue for damages, as
23 provided by this section, any person who violates this part.
24 A college or university may seek equitable relief to prevent
25 or minimize harm arising from acts or omissions which are or
26 would be a violation of this part.

27 (2) For purposes of this section, a college or
28 university is damaged if, because of activities of the person,
29 the college or university is penalized,~~or is~~ disqualified,~~or~~
30 suspended from participation in intercollegiate athletics by a
31 national association for the promotion and regulation of

1 intercollegiate athletics, ~~or~~ by an intercollegiate athletic
2 conference or by reasonable self-imposed disciplinary action
3 taken to mitigate sanctions likely to be imposed by such
4 organization and, because of that penalty, disqualification,
5 ~~or~~ suspension, or action the institution:

6 (a) Loses revenue from media coverage of a sports
7 contest;

8 (b) Loses the right to grant an athletic scholarship;

9 (c) Loses the right to recruit an athlete;

10 (d) Is prohibited from participating in postseason
11 athletic competition;

12 (e) Forfeits an athletic contest; or

13 (f) Otherwise suffers an adverse financial impact.

14 (3) An institution that prevails in a suit brought
15 under this section may recover:

16 (a) Actual damages;

17 (b) Punitive damages;

18 (c) Treble damages;

19 (d) Court costs; and

20 (e) Reasonable attorney's fees.

21 (4) A right of action under this section does not
22 accrue until the educational institution discovers or by the
23 exercise of reasonable diligence would have discovered the
24 violation by the athlete agent or former student-athlete.

25 (5) Any liability of the athlete agent or the former
26 student-athlete under this section is several and not joint.

27 (6) This part does not restrict rights, remedies, or
28 defenses of any person under law or equity.

29 Section 28. Subsection (1) of section 468.4565,
30 Florida Statutes, is amended to read:

31 468.4565 Business records requirement.--

1 (1) An athlete agent ~~who holds an active license and~~
2 ~~engages in business as an athlete agent~~ shall establish and
3 maintain complete financial and business records. The athlete
4 agent shall save each entry into a financial or business
5 record for at least 5 ~~4~~ years from the date of entry. These
6 records must include, but shall not be limited to:

7 (a) The name and address of each individual
8 represented by the athlete agent;

9 (b) Any agent contract entered into by the athlete
10 agent; and

11 (c) Any direct costs incurred by the athlete agent in
12 the recruitment or solicitation of a student-athlete to enter
13 into an agent contract.

14 Section 29. Sections 468.4563 and 468.4564, Florida
15 Statutes, are repealed.

16 Section 30. Except as otherwise provided in this act,
17 this act shall take effect July 1, 2001.