

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 190.048, F.S.; providing disclosure requirements for
4 certain contracts for the initial sale of a parcel of real
5 property and each contract for the initial sale of a
6 residential unit; amending s. 718.104, F.S.; revising
7 required contents of a condominium declaration; amending
8 s. 718.110, F.S.; requiring notice of proposed amendments
9 to be provided to unit owners; amending s. 718.111, F.S.;
10 providing requirements for condominium associations to
11 access units for specified purposes; requiring official
12 records of the association to be made available at certain
13 locations; providing that certain records shall not be
14 accessible to unit owners; removing the requirement that
15 the association's annual financial report be provided only
16 to unit owners providing a written request for the report;
17 restricting a condominium association from waiving a
18 financial report for more than 2 years; providing duties
19 for condominium boards of administration in the event of
20 certain casualties; providing that certain assessments may
21 be made against unit owners under certain conditions;
22 amending s. 718.112, F.S.; authorizing the board or
23 membership to determine the composition of the board of
24 administration under certain circumstances; requiring
25 members of the board of administration to be unit owners,
26 absent provisions indicating board member requirements;
27 requiring the board to respond to certain inquiries by
28 certified mail, return receipt requested; removing a

29 provision allowing a condominium association to only
30 respond once every 30 days to unit owner inquiries;
31 providing board of administration and unit owners' meeting
32 requirements; providing that no action shall be taken or
33 resolution made without an open meeting of the board;
34 requiring the board to address agenda items proposed by a
35 petition of 20 percent of the unit owners; revising notice
36 procedures; revising the terms of office and reelection of
37 the members of a condominium association board; providing
38 that certain persons providing notice of a meeting must
39 provide an affidavit affirming that the notices were
40 delivered; authorizing the association's representative to
41 provide certain notices; removing a provision allowing an
42 association to print or duplicate certain information
43 sheets on both sides of the paper; providing for the
44 securing of ballots; revising procedures relating to the
45 filling of a vacancy on the board; removing a provision
46 allowing an association to provide for different voting
47 and election procedures in its bylaws; providing unit
48 owners with the right to have items placed on the agenda
49 of the annual meeting and voted upon under certain
50 conditions; requiring the association to prepare an annual
51 budget of estimated revenues and expenses; requiring the
52 budget to include reserve accounts for certain purposes;
53 requiring certain ballot statements to contain certain
54 statements; requiring a vote to provide for no reserves or
55 percentage of reserves to be made at certain times;
56 authorizing the association to use reserve funds for

57 nonscheduled purposes under certain conditions;
58 prohibiting the board from applying for or accepting
59 certain loans or lines of credit; requiring common
60 expenses to be paid by the developer during a specified
61 time; requiring that assessments be made against units on
62 a quarter-annual or more frequent basis; providing that
63 certain provisions shall not preclude the right of an
64 association to accelerate assessments of certain owners
65 delinquent in payment of common expenses; providing that
66 accelerated assessments shall be due and payable after the
67 claim of lien is filed; revising assessment requirements;
68 revising procedures relating to the recall of a board
69 member; deleting the requirement that the bylaws include
70 an element for mandatory nonbinding arbitration; amending
71 s. 718.113, F.S.; requiring boards of administration to
72 adopt or restate hurricane shutter specifications yearly
73 at the annual meeting; authorizing the board to install
74 hurricane protection that complies with the applicable
75 building code; requiring the board to have the condominium
76 buildings periodically inspected for structural and
77 electrical soundness by a professional engineer or
78 professional architect registered in the state; requiring
79 the inspector to provide a report to the association;
80 prohibiting the board from impairing certain
81 constitutional rights of unit owners; prohibiting the
82 board from prohibiting the display of certain religiously
83 mandated objects on the front-door area of a unit;
84 amending s. 718.115, F.S.; providing that a bulk contract

85 | for basic service may be deemed a common expense; creating
86 | s. 718.1123, F.S.; requiring any complaint of abuse filed
87 | with the Division of Florida Land Sales, Condominiums,
88 | Homeowners' Associations, and Mobile Homes to be
89 | immediately investigated by the division; requiring the
90 | division to institute enforcement proceedings under
91 | certain circumstances; defining the term "abuse"; creating
92 | s. 718.1224, F.S.; prohibiting certain lawsuits arising
93 | from unit owners' appearances and presentations before a
94 | governmental entity; providing a definition; providing for
95 | award of damages and attorney's fees; amending s.
96 | 718.1255, F.S.; requiring the division to promptly refer
97 | certain cases to mediation; amending s. 718.302, F.S.;
98 | conforming provisions; amending s. 718.3025, F.S.;
99 | providing requirements for certain contracts between a
100 | party contracting to provide maintenance or management
101 | services and an association; amending s. 718.3026, F.S.;
102 | providing that certain contracts between a service
103 | provider and an association shall not be for a term in
104 | excess of 3 years and shall not contain an automatic
105 | renewal clause; requiring that certain contracts for
106 | construction have approval from an attorney hired by the
107 | association; amending s. 718.303, F.S.; requiring hearings
108 | to levy fines to be held before a committee of unit owners
109 | who are not members of the board; requiring that persons
110 | subject to certain actions be notified of their violations
111 | in a certain manner; providing a timeframe in which a
112 | person must respond; authorizing the budget to include

113 | reserve accounts for capital expenditures and deferred
114 | maintenance; providing a formula for calculating the
115 | amount to be reserved; authorizing the association to
116 | adjust replacement reserve assessments annually;
117 | authorizing the developer to vote to waive the reserves or
118 | reduce the funding of reserves for a certain period;
119 | revising provisions relating to financial reporting;
120 | revising time periods in which the association must
121 | complete its reporting; amending s. 718.501, F.S.;
122 | requiring the division to prepare and disseminate a
123 | prospectus and other information for use by owners,
124 | purchasers, lessees, and developers of residential
125 | condominiums; providing that the board member training
126 | provided by the division shall be provided in conjunction
127 | with recommendations by the ombudsman; providing powers
128 | and duties of the division with respect to association
129 | violations; requiring associations to provide certain
130 | notice and to participate in certain educational training;
131 | providing a fine for failure to comply; requiring certain
132 | fees deposited by the division to be allocated and
133 | transferred to the Office of the Condominium Ombudsman;
134 | amending s. 718.5011, F.S.; restricting location of the
135 | Office of the Condominium Ombudsman; providing that the
136 | ombudsman shall exercise his or her policymaking and other
137 | functions independently of the Department of Business and
138 | Professional Regulation and without approval or control of
139 | the department; requiring the department to render
140 | administrative support for certain matters; requiring that

141 revenues collected by the department for the Office of the
142 Condominium Ombudsman be deposited in a separate fund or
143 account under specified conditions; removing provisions
144 prohibiting the ombudsman and staff from engaging in any
145 other profession, serving as a representative or employee
146 of any political party, or receiving remuneration for
147 activities on behalf of political candidates; removing
148 provisions prohibiting the ombudsman and staff from
149 seeking public office unless resigned from the Office of
150 the Condominium Ombudsman; amending s. 718.5012, F.S.;
151 removing requirements that the ombudsman develop certain
152 policies and procedures; providing additional powers and
153 duties of the ombudsman; providing that the division shall
154 process the ombudsman's recommendations and petitions in
155 an expedited manner and defer to his or her findings;
156 authorizing the ombudsman to order meetings between
157 certain parties; authorizing the ombudsman to make
158 recommendations to the division to pursue enforcement
159 action in circuit court on behalf of a class of unit
160 owners, lessees, or purchasers for certain purposes;
161 authorizing the ombudsman to order that any aspect of an
162 association election be conducted by an election monitor;
163 authorizing the ombudsman to order an association to
164 implement certain remedies; authorizing the ombudsman to
165 order certain persons to cease and desist from unlawful
166 practices; amending s. 718.504, F.S.; revising and
167 providing information to be contained in the condominium
168 prospectus or offering circular; amending s. 719.1055,

169 F.S.; providing application of amendments restricting
170 cooperative owners' rights relating to the rental of
171 units; amending s. 720.301, F.S.; revising and providing
172 definitions; amending s. 720.302, F.S.; revising the
173 purpose, scope, and application of the chapter; providing
174 legislative findings and intent; requiring the office to
175 establish a process for collecting an annual fee for
176 association members; requiring governing documents
177 transferred from the developer to parcel owners to be
178 approved by a two-thirds vote; amending s. 720.303, F.S.;
179 revising powers and duties of homeowners' associations;
180 prohibiting officers and directors from taking any action
181 inconsistent with the declaration of covenants; revising
182 requirements authorizing the association to participate in
183 litigation; creating liability for officers and directors
184 under certain circumstances; providing criteria for
185 setback limits; revising procedures relating to board
186 meetings; providing for notice of board meetings and the
187 agenda; revising voting procedures; requiring board
188 director votes to be recorded in the minutes; requiring
189 the association to maintain certain documents; revising
190 procedures relating to the inspection and copying of
191 records; authorizing a fee; revising procedures used in
192 preparing the association's annual financial report;
193 prohibiting developers in control of a homeowners'
194 association from commingling association funds with funds
195 of a corporation for profit created by the developer;
196 revising board director recall procedures, including

197 voting procedures of such recalls; amending s. 720.304,
198 F.S.; authorizing homeowners to display certain flags;
199 providing criteria for the display of signs in certain
200 areas; prohibiting associations from abridging the
201 constitutional rights of homeowners relating to use of
202 common areas; providing penalties; amending s. 720.305,
203 F.S.; revising remedies at law or in equity against
204 certain association officers or directors; amending s.
205 720.3055, F.S.; removing a requirement that governing
206 documents be in writing; providing that certain contracts
207 are subject to competitive bid; amending s. 720.306, F.S.;
208 deleting provisions relating to quorum at a meeting of
209 members; revising provisions relating to the voting on an
210 amendment of governing documents; requiring amendments to
211 be submitted in their entirety; providing a timeframe for
212 registered covenants and restrictions to be in a certain
213 form; removing authority of governing documents to provide
214 for the election of directors, to provide for special
215 meetings, and to require notice of the annual meeting;
216 requiring an annual meeting notice to include an agenda;
217 providing members with the right to speak about any item
218 on the agenda; authorizing members to speak at least once
219 on each agenda item for a specified time; authorizing vote
220 by limited proxy; providing guidelines for elections;
221 requiring members to be provided with certain information
222 regarding the elections; providing voting requirements;
223 authorizing directors to fill vacancies; authorizing a
224 specified amount of voting interests to petition the

225 | division to appoint an election monitor; providing
226 | eligibility requirements for candidates; authorizing any
227 | parcel owner to electronically record any meeting of the
228 | board or members; providing that the directors may adopt
229 | certain rules governing such recording but may not
230 | restrict an owner's right to record the meeting; amending
231 | s. 720.307, F.S., relating to transition of association
232 | control in a community; revising criteria with respect to
233 | election of members to the board of directors; requiring
234 | certain developers and owners to convey title to all
235 | common areas prior to turnover; revising requirements for
236 | turnover of documents; requiring certain information to be
237 | included in the records and for the records to be prepared
238 | in a specified manner; revising application to include
239 | certain associations; creating s. 720.3071, F.S.;
240 | requiring training of homeowners' association board
241 | members; amending s. 720.3075, F.S.; prohibiting
242 | association documents at the time of transition from
243 | preventing associations from functioning; prohibiting
244 | association documents at the time of transition from
245 | restricting an association's ability to amend association
246 | documents; prohibiting associations from restricting the
247 | use of hurricane shutters in certain circumstances;
248 | providing guidelines for the use of hurricane shutters;
249 | authorizing associations to enforce certain hurricane
250 | shutter restrictions; amending s. 720.3086, F.S.;
251 | requiring the annual financial report to be mailed to
252 | certain parcel owners; providing for the exclusive use of

253 certain properties; amending s. 720.401, F.S.; requiring
254 certain documents to be provided to prospective
255 purchasers; revising information to be contained in a
256 disclosure summary; creating s. 720.501, F.S.; providing
257 powers and duties of the Division of Florida Land Sales,
258 Condominiums, Homeowners' Associations, and Mobile Homes;
259 authorizing the division to conduct certain
260 investigations; authorizing certain officers and employees
261 to administer oaths or affirmations and to subpoena
262 witnesses and compel their attendance; authorizing the
263 division to issue certain orders; authorizing the division
264 to bring certain actions in circuit court; authorizing the
265 division to impose civil penalties; authorizing the
266 division to prepare and disseminate a prospectus;
267 requiring the division to provide associations with
268 certain documents; requiring the division to provide
269 training programs for association board members and lot
270 owners; requiring the division to develop a mediation
271 certification program; requiring homeowners' associations
272 to pay an annual fee to the division; creating s. 720.505,
273 F.S.; creating the Advisory Council on Mandated
274 Properties; providing for appointments by the President of
275 the Senate, the Speaker of the House of Representatives,
276 and the Governor; providing limited compensation and other
277 terms of service; specifying functions; amending s.
278 20.165, F.S.; redesignating the Division of Florida Land
279 Sales, Condominiums, and Mobile Homes as the Division of
280 Florida Land Sales, Condominiums, Homeowners'

281 Associations, and Mobile Homes; amending ss. 73.073,
 282 190.009, 190.0485, 192.037, 213.053, 215.20, 326.002,
 283 326.006, 380.0651, 455.116, 475.455, 498.005, 498.019,
 284 498.047, 498.049, 509.512, 559.935, 718.103, 718.105,
 285 718.502, 718.504, 718.508, 718.509, 718.608, 719.103,
 286 719.1255, 719.501, 719.502, 719.504, 719.508, 719.608,
 287 721.05, 721.07, 721.08, 721.26, 721.28, 721.301, 723.003,
 288 723.006, 723.009, and 723.0611, F.S.; conforming
 289 provisions; requiring condominium developers to pay
 290 monthly maintenance fees on unsold condominium units that
 291 are rented; providing an effective date.

292

293 Be It Enacted by the Legislature of the State of Florida:

294

295 Section 1. Subsection (2) of section 20.165, Florida
 296 Statutes, is amended to read:

297 20.165 Department of Business and Professional
 298 Regulation.--There is created a Department of Business and
 299 Professional Regulation.

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

- 302 (a) Division of Administration.
- 303 (b) Division of Alcoholic Beverages and Tobacco.
- 304 (c) Division of Certified Public Accounting.

305 1. The director of the division shall be appointed by the
 306 secretary of the department, subject to approval by a majority
 307 of the Board of Accountancy.

308 2. The offices of the division shall be located in
309 Gainesville.

310 (d) Division of Florida Land Sales, Condominiums,
311 Homeowners' Associations, and Mobile Homes.

312 (e) Division of Hotels and Restaurants.

313 (f) Division of Mandated Properties.

314 (g)~~(f)~~ Division of Pari-mutuel Wagering.

315 (h)~~(g)~~ Division of Professions.

316 (i)~~(h)~~ Division of Real Estate.

317 1. The director of the division shall be appointed by the
318 secretary of the department, subject to approval by a majority
319 of the Florida Real Estate Commission.

320 2. The offices of the division shall be located in
321 Orlando.

322 (j)~~(i)~~ Division of Regulation.

323 (k)~~(j)~~ Division of Technology, Licensure, and Testing.

324 Section 2. Subsection (2) of section 73.073, Florida
325 Statutes, is amended to read:

326 73.073 Eminent domain procedure with respect to
327 condominium common elements.--

328 (2) With respect to the exercise of eminent domain or a
329 negotiated sale for the purchase or taking of a portion of the
330 common elements of a condominium, the condemning authority shall
331 have the responsibility of contacting the condominium
332 association and acquiring the most recent rolls indicating the
333 names of the unit owners or contacting the appropriate taxing
334 authority to obtain the names of the owners of record on the tax
335 rolls. Notification shall thereupon be sent by certified mail,

336 return receipt requested, to the unit owners of record of the
 337 condominium units by the condemning authority indicating the
 338 intent to purchase or take the required property and requesting
 339 a response from the unit owner. The condemning authority shall
 340 be responsible for the expense of sending notification pursuant
 341 to this section. Such notice shall, at a minimum, include:

- 342 (a) The name and address of the condemning authority.
- 343 (b) A written or visual description of the property.
- 344 (c) The public purpose for which the property is needed.
- 345 (d) The appraisal value of the property.
- 346 (e) A clear, concise statement relating to the unit
 347 owner's right to object to the taking or appraisal value and the
 348 procedures and effects of exercising that right.

349 (f) A clear, concise statement relating to the power of
 350 the association to convey the property on behalf of the unit
 351 owners if no objection to the taking or appraisal value is
 352 raised, and the effects of this alternative on the unit owner.

353
 354 The Division of Florida Land Sales, Condominiums, Homeowners'
 355 Associations, and Mobile Homes of the Department of Business and
 356 Professional Regulation may adopt, by rule, a standard form for
 357 such notice and may require the notice to include any additional
 358 relevant information.

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

361 190.009 Disclosure of public financing.--

362 (2) The Division of Florida Land Sales, Condominiums,
 363 Homeowners' Associations, and Mobile Homes of the Department of

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364 Business and Professional Regulation shall ensure that
 365 disclosures made by developers pursuant to chapter 498 meet the
 366 requirements of subsection (1).

367 Section 4. Section 190.048, Florida Statutes, is amended
 368 to read:

369 190.048 Sale of real estate within a district; required
 370 disclosure to purchaser.--

371 (1) (a) Subsequent to the establishment of a district under
 372 this chapter, each contract for the initial sale of a parcel of
 373 real property and each contract for the initial sale of a
 374 residential unit within the district shall include as a separate
 375 addendum to the contract, immediately prior to the space
 376 reserved in the contract for the signature of the purchaser, the
 377 following disclosure statement in boldfaced and conspicuous type
 378 which is larger than the type in the remaining text of the
 379 contract: "THE (Name of District) COMMUNITY DEVELOPMENT
 380 DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES
 381 AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS
 382 PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF
 383 CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE
 384 SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES
 385 AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL
 386 GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND
 387 ASSESSMENTS PROVIDED FOR BY LAW."

388 (b) The disclosure statement in paragraph (a) shall also
 389 fully disclose all covenants and restrictions to which the
 390 property is subject. This addendum shall disclose any existing
 391 agreement between a developer and other party that obligates the

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392 purchaser of the unit to additional taxes, assessments, or fees
393 within 10 years following the sale of the unit. Such disclosure
394 shall provide a reasonable estimate of the first 3 years for
395 each tax, assessment, or fee. Such disclosure shall be provided
396 to the purchaser within 10 days after the execution of the sales
397 contract; otherwise, the contract may be voided at the election
398 of the purchaser and any deposits shall be returned in full.
399 However, such disclosure may be provided to the purchaser later
400 than 10 days after the execution of the sales contract if the
401 closing date has been extended by an additional 10 days.

402 (2) (a) Failure to provide the disclosure statement as
403 required in subsection (1) within 10 days shall constitute a
404 rebuttable presumption of willful noncompliance with subsection
405 (1) and shall result in a fine of \$2,500 for each violation, up
406 to a maximum of \$10,000, payable to the prospective buyer, and
407 shall include reasonable attorney's fees and collection costs,
408 due 30 days after the execution or voiding of the sales
409 contract.

410 (b) The developer and sales agent shall submit an annual
411 report to the Department of Community Affairs that certifies
412 compliance with this section and payment of any related fines
413 and criminal penalties for such noncompliance as may be passed
414 by the Legislature. Failure by the developer or sales agent to
415 provide an annual report shall result in a \$50,000 fine payable
416 to the department.

417 Section 5. Section 190.0485, Florida Statutes, is amended
418 to read:

419 190.0485 Notice of establishment.--Within 30 days after
 420 the effective date of a rule or ordinance establishing a
 421 community development district under this act, the district
 422 shall cause to be recorded in the property records in the county
 423 in which it is located a "Notice of Establishment of the
 424 _____ Community Development District." The notice shall, at
 425 a minimum, include the legal description of the district and a
 426 copy of the disclosure statement specified in s. 190.048(1)(a).

427 Section 6. Paragraph (e) of subsection (6) of section
 428 192.037, Florida Statutes, is amended to read:

429 192.037 Fee timeshare real property; taxes and
 430 assessments; escrow.--

431 (6)

432 (e) On or before May 1 of each year, a statement of
 433 receipts and disbursements of the escrow account must be filed
 434 with the Division of Florida Land Sales, Condominiums,
 435 Homeowners' Associations, and Mobile Homes of the Department of
 436 Business and Professional Regulation, which may enforce this
 437 paragraph pursuant to s. 721.26. This statement must
 438 appropriately show the amount of principal and interest in such
 439 account.

440 Section 7. Paragraph (i) of subsection (8) of section
 441 213.053, Florida Statutes, is amended to read:

442 213.053 Confidentiality and information sharing.--

443 (8) Notwithstanding any other provision of this section,
 444 the department may provide:

445 (i) Information relative to chapters 212 and 326 to the
 446 Division of Florida Land Sales, Condominiums, Homeowners'

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447 Associations, and Mobile Homes of the Department of Business and
 448 Professional Regulation in the conduct of its official duties.

449
 450 Disclosure of information under this subsection shall be
 451 pursuant to a written agreement between the executive director
 452 and the agency. Such agencies, governmental or nongovernmental,
 453 shall be bound by the same requirements of confidentiality as
 454 the Department of Revenue. Breach of confidentiality is a
 455 misdemeanor of the first degree, punishable as provided by s.
 456 775.082 or s. 775.083.

457 Section 8. Paragraph (d) of subsection (4) of section
 458 215.20, Florida Statutes, is amended to read:

459 215.20 Certain income and certain trust funds to
 460 contribute to the General Revenue Fund.--

461 (4) The income of a revenue nature deposited in the
 462 following described trust funds, by whatever name designated, is
 463 that from which the appropriations authorized by subsection (3)
 464 shall be made:

465 (d) Within the Department of Business and Professional
 466 Regulation:

- 467 1. The Administrative Trust Fund.
- 468 2. The Alcoholic Beverage and Tobacco Trust Fund.
- 469 3. The Cigarette Tax Collection Trust Fund.
- 470 4. The Division of Florida Land Sales, Condominiums,
 471 Homeowners' Associations, and Mobile Homes Trust Fund.
- 472 5. The Hotel and Restaurant Trust Fund, with the exception
 473 of those fees collected for the purpose of funding of the
 474 hospitality education program as stated in s. 509.302.

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475 6. The Professional Regulation Trust Fund.

476 7. The trust funds administered by the Division of Pari-
477 mutuel Wagering.

478
479 The enumeration of the foregoing moneys or trust funds shall not
480 prohibit the applicability thereto of s. 215.24 should the
481 Governor determine that for the reasons mentioned in s. 215.24
482 the money or trust funds should be exempt herefrom, as it is the
483 purpose of this law to exempt income from its force and effect
484 when, by the operation of this law, federal matching funds or
485 contributions or private grants to any trust fund would be lost
486 to the state.

487 Section 9. Subsection (2) of section 326.002, Florida
488 Statutes, is amended to read:

489 326.002 Definitions.--As used in ss. 326.001-326.006, the
490 term:

491 (2) "Division" means the Division of Florida Land Sales,
492 Condominiums, Homeowners' Associations, and Mobile Homes of the
493 Department of Business and Professional Regulation.

494 Section 10. Paragraph (d) of subsection (2) and subsection
495 (3) of section 326.006, Florida Statutes, are amended to read:

496 326.006 Powers and duties of division.--

497 (2) The division has the power to enforce and ensure
498 compliance with the provisions of this chapter and rules adopted
499 under this chapter relating to the sale and ownership of yachts
500 and ships. In performing its duties, the division has the
501 following powers and duties:

502 (d) Notwithstanding any remedies available to a yacht or
503 ship purchaser, if the division has reasonable cause to believe
504 that a violation of any provision of this chapter or rule
505 adopted under this chapter has occurred, the division may
506 institute enforcement proceedings in its own name against any
507 broker or salesperson or any of his or her assignees or agents,
508 or against any unlicensed person or any of his or her assignees
509 or agents, as follows:

510 1. The division may permit a person whose conduct or
511 actions are under investigation to waive formal proceedings and
512 enter into a consent proceeding whereby orders, rules, or
513 letters of censure or warning, whether formal or informal, may
514 be entered against the person.

515 2. The division may issue an order requiring the broker or
516 salesperson or any of his or her assignees or agents, or
517 requiring any unlicensed person or any of his or her assignees
518 or agents, to cease and desist from the unlawful practice and
519 take such affirmative action as in the judgment of the division
520 will carry out the purposes of this chapter.

521 3. The division may bring an action in circuit court on
522 behalf of a class of yacht or ship purchasers for declaratory
523 relief, injunctive relief, or restitution.

524 4. The division may impose a civil penalty against a
525 broker or salesperson or any of his or her assignees or agents,
526 or against an unlicensed person or any of his or her assignees
527 or agents, for any violation of this chapter or a rule adopted
528 under this chapter. A penalty may be imposed for each day of
529 continuing violation, but in no event may the penalty for any

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530 offense exceed \$10,000. All amounts collected must be deposited
531 with the Chief Financial Officer to the credit of the Division
532 of Florida Land Sales, Condominiums, Homeowners' Associations,
533 and Mobile Homes Trust Fund. If a broker, salesperson, or
534 unlicensed person working for a broker, fails to pay the civil
535 penalty, the division shall thereupon issue an order suspending
536 the broker's license until such time as the civil penalty is
537 paid or may pursue enforcement of the penalty in a court of
538 competent jurisdiction. The order imposing the civil penalty or
539 the order of suspension may not become effective until 20 days
540 after the date of such order. Any action commenced by the
541 division must be brought in the county in which the division has
542 its executive offices or in the county where the violation
543 occurred.

544 (3) All fees must be deposited in the Division of Florida
545 Land Sales, Condominiums, Homeowners' Associations, and Mobile
546 Homes Trust Fund as provided by law.

547 Section 11. Paragraph (a) of subsection (4) of section
548 380.0651, Florida Statutes, is amended to read:

549 380.0651 Statewide guidelines and standards.--

550 (4) Two or more developments, represented by their owners
551 or developers to be separate developments, shall be aggregated
552 and treated as a single development under this chapter when they
553 are determined to be part of a unified plan of development and
554 are physically proximate to one other.

555 (a) The criteria of two of the following subparagraphs
556 must be met in order for the state land planning agency to
557 determine that there is a unified plan of development:

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558 1.a. The same person has retained or shared control of the
559 developments;

560 b. The same person has ownership or a significant legal or
561 equitable interest in the developments; or

562 c. There is common management of the developments
563 controlling the form of physical development or disposition of
564 parcels of the development.

565 2. There is a reasonable closeness in time between the
566 completion of 80 percent or less of one development and the
567 submission to a governmental agency of a master plan or series
568 of plans or drawings for the other development which is
569 indicative of a common development effort.

570 3. A master plan or series of plans or drawings exists
571 covering the developments sought to be aggregated which have
572 been submitted to a local general-purpose government, water
573 management district, the Florida Department of Environmental
574 Protection, or the Division of Florida Land Sales, Condominiums,
575 Homeowners' Associations, and Mobile Homes for authorization to
576 commence development. The existence or implementation of a
577 utility's master utility plan required by the Public Service
578 Commission or general-purpose local government or a master
579 drainage plan shall not be the sole determinant of the existence
580 of a master plan.

581 4. The voluntary sharing of infrastructure that is
582 indicative of a common development effort or is designated
583 specifically to accommodate the developments sought to be
584 aggregated, except that which was implemented because it was
585 required by a local general-purpose government; water management

586 district; the Department of Environmental Protection; the
 587 Division of Florida Land Sales, Condominiums, Homeowners'
 588 Associations, and Mobile Homes; or the Public Service
 589 Commission.

590 5. There is a common advertising scheme or promotional
 591 plan in effect for the developments sought to be aggregated.

592 Section 12. Subsection (5) of section 455.116, Florida
 593 Statutes, is amended to read:

594 455.116 Regulation trust funds.--The following trust funds
 595 shall be placed in the department:

596 (5) Division of Florida Land Sales, Condominiums,
 597 Homeowners' Associations, and Mobile Homes Trust Fund.

598 Section 13. Section 475.455, Florida Statutes, is amended
 599 to read:

600 475.455 Exchange of disciplinary information.--The
 601 commission shall inform the Division of Florida Land Sales,
 602 Condominiums, Homeowners' Associations, and Mobile Homes of the
 603 Department of Business and Professional Regulation of any
 604 disciplinary action the commission has taken against any of its
 605 licensees. The division shall inform the commission of any
 606 disciplinary action the division has taken against any broker or
 607 sales associate registered with the division.

608 Section 14. Subsection (5) of section 498.005, Florida
 609 Statutes, is amended to read:

610 498.005 Definitions.--As used in this chapter, unless the
 611 context otherwise requires, the term:

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612 (5) "Division" means the Division of Florida Land Sales,
613 Condominiums, Homeowners' Associations, and Mobile Homes of the
614 Department of Business and Professional Regulation.

615 Section 15. Section 498.019, Florida Statutes, is amended
616 to read:

617 498.019 Division of Florida Land Sales, Condominiums,
618 Homeowners' Associations, and Mobile Homes Trust Fund.--

619 (1) There is created within the State Treasury the
620 Division of Florida Land Sales, Condominiums, Homeowners'
621 Associations, and Mobile Homes Trust Fund to be used for the
622 administration and operation of this chapter and chapters 718,
623 719, 721, and 723 by the division.

624 (2) All moneys collected by the division from fees, fines,
625 or penalties or from costs awarded to the division by a court
626 shall be paid into the Division of Florida Land Sales,
627 Condominiums, Homeowners' Associations, and Mobile Homes Trust
628 Fund. The Legislature shall appropriate funds from this trust
629 fund sufficient to carry out the provisions of this chapter and
630 the provisions of law with respect to each category of business
631 covered by this trust fund. The division shall maintain separate
632 revenue accounts in the trust fund for each of the businesses
633 regulated by the division. The division shall provide for the
634 proportionate allocation among the accounts of expenses incurred
635 by the division in the performance of its duties with respect to
636 each of these businesses. As part of its normal budgetary
637 process, the division shall prepare an annual report of revenue
638 and allocated expenses related to the operation of each of these
639 businesses which may be used to determine fees charged by the

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640 division. This subsection shall operate pursuant to the
641 provisions of s. 215.20.

642 Section 16. Paragraph (a) of subsection (8) of section
643 498.047, Florida Statutes, is amended to read:

644 498.047 Investigations.--

645 (8) (a) Information held by the Division of Florida Land
646 Sales, Condominiums, Homeowners' Associations, and Mobile Homes
647 relative to an investigation pursuant to this chapter, including
648 any consumer complaint, is confidential and exempt from s.
649 119.07(1) and s. 24(a), Art. I of the State Constitution, until
650 10 days after a notice to show cause has been filed by the
651 division, or, in the case in which no notice to show cause is
652 filed, the investigation is completed or ceases to be active.
653 For purposes of this section, an investigation shall be
654 considered "active" so long as the division or any law
655 enforcement or administrative agency or regulatory organization
656 is proceeding with reasonable dispatch and has a reasonable good
657 faith belief that the investigation may lead to the filing of an
658 administrative, civil, or criminal proceeding or to the denial
659 or conditional grant of a license or registration. However, in
660 response to a specific inquiry about the registration status of
661 a registered or unregistered subdivider, the division may
662 disclose the existence and the status of an active
663 investigation. This subsection shall not be construed to
664 prohibit disclosure of information which is required by law to
665 be filed with the division and which, but for the investigation,
666 would be subject to s. 119.07(1).

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

669 498.049 Suspension; revocation; civil penalties.--

670 (5) Each person who materially participates in any offer
671 or disposition of any interest in subdivided lands in violation
672 of this chapter or relevant rules involving fraud, deception,
673 false pretenses, misrepresentation, or false advertising or the
674 disposition, concealment, or diversion of any funds or assets of
675 any person which adversely affects the interests of a purchaser
676 of any interest in subdivided lands, and who directly or
677 indirectly controls a subdivider or is a general partner,
678 officer, director, agent, or employee of a subdivider shall also
679 be liable under this subsection jointly and severally with and
680 to the same extent as the subdivider, unless that person did not
681 know, and in the exercise of reasonable care could not have
682 known, of the existence of the facts creating the alleged
683 liability. Among these persons a right of contribution shall
684 exist, except that a creditor of a subdivider shall not be
685 jointly and severally liable unless the creditor has assumed
686 managerial or fiduciary responsibility in a manner related to
687 the basis for the liability of the subdivider under this
688 subsection. Civil penalties shall be limited to \$10,000 for each
689 offense, and all amounts collected shall be deposited with the
690 Chief Financial Officer to the credit of the Division of Florida
691 Land Sales, Condominiums, Homeowners' Associations, and Mobile
692 Homes Trust Fund. No order requiring the payment of a civil
693 penalty shall become effective until 20 days after the date of

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694 the order, unless otherwise agreed in writing by the person on
 695 whom the penalty is imposed.

696 Section 18. Section 509.512, Florida Statutes, is amended
 697 to read:

698 509.512 Timeshare plan developer and exchange company
 699 exemption.--Sections 509.501-509.511 do not apply to a developer
 700 of a timeshare plan or an exchange company approved by the
 701 Division of Florida Land Sales, Condominiums, Homeowners'
 702 Associations, and Mobile Homes pursuant to chapter 721, but only
 703 to the extent that the developer or exchange company engages in
 704 conduct regulated under chapter 721.

705 Section 19. Paragraph (h) of subsection (1) of section
 706 559.935, Florida Statutes, is amended to read:

707 559.935 Exemptions.--

708 (1) This part does not apply to:

709 (h) A developer of a timeshare plan or an exchange company
 710 approved by the Division of Florida Land Sales, Condominiums,
 711 Homeowners' Associations, and Mobile Homes pursuant to chapter
 712 721, but only to the extent that the developer or exchange
 713 company engages in conduct regulated under chapter 721; or

714 Section 20. Subsection (17) of section 718.103, Florida
 715 Statutes, is amended to read:

716 718.103 Definitions.--As used in this chapter, the term:

717 (17) "Division" means the Division of Florida Land Sales,
 718 Condominiums, Homeowners' Associations, and Mobile Homes of the
 719 Department of Business and Professional Regulation.

720 Section 21. Paragraph (f) of subsection (4) of section
 721 718.104, Florida Statutes, is amended to read:

722 718.104 Creation of condominiums; contents of
 723 declaration.--Every condominium created in this state shall be
 724 created pursuant to this chapter.

725 (4) The declaration must contain or provide for the
 726 following matters:

727 (f) The undivided share of ownership of the common
 728 elements and common surplus of the condominium that is
 729 appurtenant to each unit stated as a percentage or a fraction of
 730 the whole. In the declaration of condominium for residential
 731 condominiums created after April 1, 2007 ~~1992~~, the ownership
 732 share of the common elements assigned to each residential unit
 733 shall be based ~~either~~ upon the total square footage of each
 734 residential unit in uniform relationship to the total square
 735 footage of each other residential unit in the condominium ~~or on~~
 736 ~~an equal fractional basis.~~

737 Section 22. Paragraph (c) of subsection (4) of section
 738 718.105, Florida Statutes, is amended to read:

739 718.105 Recording of declaration.--

740 (4)

741 (c) If the sum of money held by the clerk has not been
 742 paid to the developer or association as provided in paragraph
 743 (b) by 3 years after the date the declaration was originally
 744 recorded, the clerk in his or her discretion may notify, in
 745 writing, the registered agent of the association that the sum is
 746 still available and the purpose for which it was deposited. If
 747 the association does not record the certificate within 90 days
 748 after the clerk has given the notice, the clerk may disburse the
 749 money to the developer. If the developer cannot be located, the

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750 clerk shall disburse the money to the Division of Florida Land
 751 Sales, Condominiums, Homeowners' Associations, and Mobile Homes
 752 for deposit in the Division of Florida Land Sales, Condominiums,
 753 Homeowners' Associations, and Mobile Homes Trust Fund.

754 Section 23. Paragraph (d) is added to subsection (1) of
 755 section 718.110, Florida Statutes, to read:

756 718.110 Amendment of declaration; correction of error or
 757 omission in declaration by circuit court.--

758 (1)

759 (d) Notice of a proposed amendment to the declaration
 760 shall be sent to the unit owner by certified mail.

761 Section 24. Subsection (5), paragraph (b) of subsection
 762 (7), paragraphs (b) and (c) of subsection (12), and subsection
 763 (13) of section 718.111, Florida Statutes, are amended, and
 764 subsection (15) is added to that section, to read:

765 718.111 The association.--

766 (5) RIGHT OF ACCESS TO UNITS.--The association has the
 767 irrevocable right of access to each unit during reasonable
 768 hours, when necessary for the maintenance, repair, or
 769 replacement of any common elements or of any portion of a unit
 770 to be maintained by the association pursuant to the declaration
 771 or as necessary to prevent damage to the common elements or to a
 772 unit or units. Except in cases of emergency, the association
 773 must give the unit owner 24 hours' advance written notice of
 774 intent to access the unit and such access must include two
 775 persons, one of whom must be a member of the board of
 776 administration.

777 (7) TITLE TO PROPERTY.--

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778 (b) Subject to the provisions of s. 718.112(2) (1) ~~(m)~~, the
779 association, through its board, has the limited power to convey
780 a portion of the common elements to a condemning authority for
781 the purposes of providing utility easements, right-of-way
782 expansion, or other public purposes, whether negotiated or as a
783 result of eminent domain proceedings.

784 (12) OFFICIAL RECORDS.--

785 (b) The official records of the association shall be
786 maintained within the state. The records of the association
787 shall be made available to a unit owner, at a location within 30
788 miles' driving distance of the condominium property, within 5
789 working days after receipt of written request by the board or
790 its designee. This paragraph may be complied with by having a
791 copy of the official records of the association available for
792 inspection or copying on the condominium property or association
793 property.

794 (c) The official records of the association are open to
795 inspection by any association member or the authorized
796 representative of such member at all reasonable times. The right
797 to inspect the records includes the right to make or obtain
798 copies, at the reasonable expense, if any, of the association
799 member. The association may adopt reasonable rules regarding the
800 frequency, time, location, notice, and manner of record
801 inspections and copying. The failure of an association to
802 provide the records within 10 working days after receipt of a
803 written request shall create a rebuttable presumption that the
804 association willfully failed to comply with this paragraph. A
805 unit owner who is denied access to official records is entitled

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806 to the actual damages or minimum damages for the association's
807 willful failure to comply with this paragraph. The minimum
808 damages shall be \$50 per calendar day up to 10 days, the
809 calculation to begin on the 11th working day after receipt of
810 the written request. The failure to permit inspection of the
811 association records as provided herein entitles any person
812 prevailing in an enforcement action to recover reasonable
813 attorney's fees from the person in control of the records who,
814 directly or indirectly, knowingly denied access to the records
815 for inspection. The association shall maintain an adequate
816 number of copies of the declaration, articles of incorporation,
817 bylaws, and rules, and all amendments to each of the foregoing,
818 as well as the question and answer sheet provided for in s.
819 718.504 and year-end financial information required in this
820 section on the condominium property to ensure their availability
821 to unit owners and prospective purchasers, and may charge its
822 actual costs for preparing and furnishing these documents to
823 those requesting the same. Notwithstanding the provisions of
824 this paragraph, the following records shall not be accessible to
825 unit owners:

826 1. Any record protected by the lawyer-client privilege as
827 described in s. 90.502; and any record protected by the work-
828 product privilege, including any record prepared by an
829 association attorney or prepared at the attorney's express
830 direction; which reflects a mental impression, conclusion,
831 litigation strategy, or legal theory of the attorney or the
832 association, and which was prepared exclusively for civil or
833 criminal litigation or for adversarial administrative

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834 proceedings, or which was prepared in anticipation of imminent
835 civil or criminal litigation or imminent adversarial
836 administrative proceedings until the conclusion of the
837 litigation or adversarial administrative proceedings.

838 2. Information obtained by an association in connection
839 with the approval of the lease, sale, or other transfer of a
840 unit.

841 3. Medical records of unit owners.

842 4. Social security numbers, driver's license numbers,
843 credit card numbers, and other personal identifying information
844 of unit owners, occupants, or tenants.

845 (13) FINANCIAL REPORTING.--Within 90 days after the end of
846 the fiscal year, or annually on a date provided in the bylaws,
847 the association shall prepare and complete, or contract for the
848 preparation and completion of, a financial report for the
849 preceding fiscal year. Within 21 days after the final financial
850 report is completed by the association or received from the
851 third party, but not later than 120 days after the end of the
852 fiscal year or other date as provided in the bylaws, the
853 association shall mail to each unit owner at the address last
854 furnished to the association by the unit owner, or hand deliver
855 to each unit owner, a copy of the financial report or a notice
856 that a copy of the financial report will be mailed or hand
857 delivered to the unit owner, ~~without charge, upon receipt of a~~
858 ~~written request from the unit owner.~~ The division shall adopt
859 rules setting forth uniform accounting principles and standards
860 to be used by all associations and shall adopt rules addressing
861 financial reporting requirements for multicondominium

862 associations. In adopting such rules, the division shall
863 consider the number of members and annual revenues of an
864 association. Financial reports shall be prepared as follows:

865 (a) An association that meets the criteria of this
866 paragraph shall prepare or cause to be prepared a complete set
867 of financial statements in accordance with generally accepted
868 accounting principles. The financial statements shall be based
869 upon the association's total annual revenues, as follows:

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

873 2. An association with total annual revenues of at least
874 \$200,000, but less than \$400,000, shall prepare reviewed
875 financial statements.

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

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

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

885 3. A report of cash receipts and disbursements must
886 disclose the amount of receipts by accounts and receipt
887 classifications and the amount of expenses by accounts and
888 expense classifications, including, but not limited to, the
889 following, as applicable: costs for security, professional and

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890 management fees and expenses, taxes, costs for recreation
891 facilities, expenses for refuse collection and utility services,
892 expenses for lawn care, costs for building maintenance and
893 repair, insurance costs, administration and salary expenses, and
894 reserves accumulated and expended for capital expenditures,
895 deferred maintenance, and any other category for which the
896 association maintains reserves.

897 (c) An association may prepare or cause to be prepared,
898 without a meeting of or approval by the unit owners:

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

902 2. Reviewed or audited financial statements, if the
903 association is required to prepare compiled financial
904 statements; or

905 3. Audited financial statements if the association is
906 required to prepare reviewed financial statements.

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

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

912 2. A report of cash receipts and expenditures or a
913 compiled financial statement in lieu of a reviewed or audited
914 financial statement; or

915 3. A report of cash receipts and expenditures, a compiled
916 financial statement, or a reviewed financial statement in lieu
917 of an audited financial statement.

918
 919 Such meeting and approval must occur prior to the end of the
 920 fiscal year and is effective only for the fiscal year in which
 921 the vote is taken. With respect to an association to which the
 922 developer has not turned over control of the association, all
 923 unit owners, including the developer, may vote on issues related
 924 to the preparation of financial reports for the first 2 fiscal
 925 years of the association's operation, beginning with the fiscal
 926 year in which the declaration is recorded. Thereafter, all unit
 927 owners except the developer may vote on such issues until
 928 control is turned over to the association by the developer. An
 929 association or board of administration may not waive the
 930 financial reporting requirements of this section for more than 2
 931 years.

932 (15) RECONSTRUCTION AFTER CASUALTY.--

933 (a) In the event the condominium property and units are
 934 damaged after a casualty, the board of administration shall
 935 obtain reliable and detailed estimates of the cost necessary to
 936 repair and replace the damaged property to substantially the
 937 same condition existing immediately prior to the casualty and
 938 substantially in accordance with the original plans and
 939 specifications of the condominium as soon as possible and not
 940 later than 60 days after the casualty. If the damage to the
 941 condominium property exceeds 50 percent of the property's value,
 942 the condominium may be terminated unless 75 percent of the unit
 943 owners agree to reconstruction and repair within 90 days after
 944 the casualty.

945 (b) The board of administration shall engage the services
 946 of a registered architect and knowledgeable construction
 947 specialists to prepare any necessary plans and specifications
 948 and shall receive and approve bids for reconstruction, execute
 949 all necessary contracts for restoration, and arrange for
 950 disbursement of construction funds, the approval of work, and
 951 all other matters pertaining to the repairs and reconstruction
 952 required.

953 (c) If the proceeds of the hazard insurance policy
 954 maintained by the association pursuant to paragraph (11)(b) are
 955 insufficient to pay the estimated costs of reconstruction or at
 956 any time during reconstruction and repair, assessments shall be
 957 made against all unit owners according to their share of the
 958 common elements and expenses as set forth in the declaration of
 959 condominium.

960 (d) Assessments shall be made against unit owners for
 961 damage to their units according to the cost of reconstruction or
 962 repair of their respective units. The assessments shall be
 963 levied and collected as all other assessments are provided for
 964 in this chapter.

965 Section 25. Subsection (2) of section 718.112, Florida
 966 Statutes, is amended to read:

967 718.112 Bylaws.--

968 (2) REQUIRED PROVISIONS.--The bylaws of the association
 969 shall provide for the following and, if they do not do so, shall
 970 be deemed to include the following:

971 (a) Administration.--

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972 1. The form of administration of the association shall be
973 described indicating the title of the officers and board of
974 administration and specifying the powers, duties, manner of
975 selection and removal, and compensation, if any, of officers and
976 boards. In the absence of such a provision or determination by
977 the board or membership, the board of administration shall be
978 composed of five members who are unit owners, except in the case
979 of a condominium which has five or fewer units, in which case in
980 a not-for-profit corporation the board shall consist of not
981 fewer than three members who are unit owners. In the absence of
982 provisions to the contrary in the bylaws, the board of
983 administration shall have a president, a secretary, and a
984 treasurer, who shall perform the duties of such officers
985 customarily performed by officers of corporations. Unless
986 prohibited in the bylaws, the board of administration may
987 appoint other officers and grant them the duties it deems
988 appropriate. Unless otherwise provided in the bylaws, the
989 officers shall serve without compensation and at the pleasure of
990 the board of administration. Unless otherwise provided in the
991 bylaws, the members of the board shall serve without
992 compensation.

993 2. When a unit owner files a written inquiry by certified
994 mail with the board of administration, the board shall respond
995 in writing by certified mail, return receipt requested, to the
996 unit owner within 30 days after ~~of~~ receipt of the inquiry. The
997 board's response shall either give a substantive response to the
998 inquirer, notify the inquirer that a legal opinion has been
999 requested, or notify the inquirer that advice has been requested

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1000 from the division. If the board requests advice from the
 1001 division, the board shall, within 10 days after ~~of~~ its receipt
 1002 of the advice, provide in writing by certified mail a
 1003 substantive response to the inquirer. If a legal opinion is
 1004 requested, the board shall, within 60 days after the receipt of
 1005 the inquiry, provide in writing by certified mail a substantive
 1006 response to the inquiry. The failure to provide a substantive
 1007 response to the inquiry as provided herein precludes the board
 1008 from recovering attorney's fees and costs in any subsequent
 1009 litigation, administrative proceeding, or arbitration arising
 1010 out of the inquiry. ~~The association may through its board of~~
 1011 ~~administration adopt reasonable rules and regulations regarding~~
 1012 ~~the frequency and manner of responding to unit owner inquiries,~~
 1013 ~~one of which may be that the association is only obligated to~~
 1014 ~~respond to one written inquiry per unit in any given 30 day~~
 1015 ~~period. In such a case, any additional inquiry or inquiries must~~
 1016 ~~be responded to in the subsequent 30 day period, or periods, as~~
 1017 ~~applicable.~~

1018 (b) Quorum; voting requirements; proxies.--

1019 1. Unless a lower number is provided in the bylaws, the
 1020 percentage of voting interests required to constitute a quorum
 1021 at a meeting of the members shall be a majority of the voting
 1022 interests. Unless otherwise provided in this chapter or in the
 1023 declaration, articles of incorporation, or bylaws, and except as
 1024 provided in subparagraph (d)3., decisions shall be made by
 1025 owners of a majority of the voting interests represented at a
 1026 meeting at which a quorum is present.

1027 2. Except as specifically otherwise provided herein, after
 1028 January 1, 1992, unit owners may not vote by general proxy, but
 1029 may vote by limited proxies substantially conforming to a
 1030 limited proxy form adopted by the division. Limited proxies and
 1031 general proxies may be used to establish a quorum. Limited
 1032 proxies shall be used for votes taken to waive or reduce
 1033 reserves in accordance with subparagraph (f)2.; for votes taken
 1034 to waive the financial reporting requirements of s. 718.111(13);
 1035 for votes taken to amend the declaration pursuant to s. 718.110;
 1036 for votes taken to amend the articles of incorporation or bylaws
 1037 pursuant to this section; and for any other matter for which
 1038 this chapter requires or permits a vote of the unit owners.
 1039 ~~Except as provided in paragraph (d), after January 1, 1992, No~~
 1040 proxy, limited or general, shall be used in the election of
 1041 board members. General proxies may be used for other matters for
 1042 which limited proxies are not required, and may also be used in
 1043 voting for nonsubstantive changes to items for which a limited
 1044 proxy is required and given. Notwithstanding the provisions of
 1045 this subparagraph, unit owners may vote in person at unit owner
 1046 meetings. Nothing contained herein shall limit the use of
 1047 general proxies or require the use of limited proxies for any
 1048 agenda item or election at any meeting of a timeshare
 1049 condominium association.

1050 3. Any proxy given shall be effective only for the
 1051 specific meeting for which originally given and any lawfully
 1052 adjourned meetings thereof. In no event shall any proxy be valid
 1053 for a period longer than 90 days after the date of the first

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1054 meeting for which it was given. Every proxy is revocable at any
1055 time at the pleasure of the unit owner executing it.

1056 4. A member of the board of administration or a committee
1057 may submit in writing his or her agreement or disagreement with
1058 any action taken at a meeting that the member did not attend.
1059 This agreement or disagreement may not be used as a vote for or
1060 against the action taken and may not be used for the purposes of
1061 creating a quorum.

1062 5. When any of the board or committee members meet by
1063 telephone conference, those board or committee members attending
1064 by telephone conference may be counted toward obtaining a quorum
1065 and may vote by telephone. A telephone speaker must be used so
1066 that the conversation of those board or committee members
1067 attending by telephone may be heard by the board or committee
1068 members attending in person as well as by any unit owners
1069 present at a meeting.

1070 (c) Board of administration meetings.--Meetings of the
1071 board of administration at which a quorum of the members is
1072 present shall be open to all unit owners. No action shall be
1073 taken or resolution made without an open meeting of the board of
1074 administration. The board of administration shall address agenda
1075 items proposed by a petition of 20 percent of the unit owners.
1076 Unless otherwise provided in the bylaws, boards of
1077 administration shall use rules of parliamentary procedure in
1078 conducting all association meetings and business. A unit owner's
1079 facsimile signature shall constitute the unit owner's original
1080 signature in any matter under this chapter that requires the
1081 unit owner's signature. Correspondence from the board of

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1082 administration to unit owners shall be accomplished by the same
1083 delivery method used by the unit owner except as otherwise
1084 provided in this paragraph. Any unit owner may tape record or
1085 videotape meetings of the board of administration. The right to
1086 attend such meetings includes the right to speak at such
1087 meetings with reference to all designated agenda items. The
1088 division shall adopt reasonable rules governing the tape
1089 recording and videotaping of the meeting. The association may
1090 adopt written reasonable rules governing the frequency,
1091 duration, and manner of unit owner statements. Adequate notice
1092 of all meetings, which notice shall specifically incorporate an
1093 identification of agenda items, shall be posted conspicuously on
1094 the condominium property at least 48 continuous hours preceding
1095 the meeting except in an emergency. Any item not included on the
1096 notice may be taken up on an emergency basis by at least a
1097 majority plus one of the members of the board or by a petition
1098 of 20 percent of the unit owners. Such emergency action shall be
1099 noticed and ratified at the next regular meeting of the board.
1100 However, written notice of any meeting at which nonemergency
1101 special assessments, or at which amendment to rules regarding
1102 unit use, will be considered shall be mailed, delivered, or
1103 electronically transmitted to the unit owners and posted
1104 conspicuously on the condominium property not less than 14 days
1105 prior to the meeting. Evidence of compliance with this 14-day
1106 notice shall be made by an affidavit executed by the person
1107 providing the notice and filed among the official records of the
1108 association. Upon notice to the unit owners, the board shall by
1109 duly adopted rule designate a specific location on the

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1110 condominium property or association property upon which all
1111 notices of board meetings shall be posted. If there is no
1112 condominium property or association property upon which notices
1113 can be posted, notices of board meetings shall be mailed,
1114 delivered, or electronically transmitted at least 14 days before
1115 the meeting to the owner of each unit. In lieu of or in addition
1116 to the physical posting of notice of any meeting of the board of
1117 administration on the condominium property, the association may,
1118 by reasonable rule, adopt a procedure for conspicuously posting
1119 and repeatedly broadcasting the notice and the agenda on a
1120 closed-circuit cable television system serving the condominium
1121 association. However, if broadcast notice is used in lieu of a
1122 notice posted physically on the condominium property, the notice
1123 and agenda must be broadcast at least four times every broadcast
1124 hour of each day that a posted notice is otherwise required
1125 under this section. When broadcast notice is provided, the
1126 notice and agenda must be broadcast in a manner and for a
1127 sufficient continuous length of time so as to allow an average
1128 reader to observe the notice and read and comprehend the entire
1129 content of the notice and the agenda. Notice of any meeting in
1130 which regular or special assessments against unit owners are to
1131 be considered for any reason shall specifically state ~~contain a~~
1132 ~~statement~~ that assessments will be considered and the nature,
1133 cost, and breakdown of any such assessments. Meetings of a
1134 committee to take final action on behalf of the board or make
1135 recommendations to the board regarding the association budget
1136 are subject to the provisions of this paragraph. Meetings of a
1137 committee that does not take final action on behalf of the board

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1138 or make recommendations to the board regarding the association
1139 budget are subject to the provisions of this section, unless
1140 those meetings are exempted from this section by the bylaws of
1141 the association. Notwithstanding any other law, the requirement
1142 that board meetings and committee meetings be open to the unit
1143 owners is inapplicable to meetings between the board or a
1144 committee and the association's attorney, with respect to
1145 proposed or pending litigation, when the meeting is held for the
1146 purpose of seeking or rendering legal advice.

1147 (d) Unit owner meetings.--

1148 1. There shall be an annual meeting of the unit owners.
1149 Unless the bylaws provide otherwise, a vacancy on the board
1150 caused by the expiration of a director's term shall be filled by
1151 electing a new board member, and the election shall be by secret
1152 ballot; however, if the number of vacancies equals or exceeds
1153 the number of candidates, no election is required. If there is
1154 no provision in the bylaws for terms of the members of the
1155 board, the terms of all members of the board shall expire upon
1156 the election of their successors at the annual meeting. Any unit
1157 owner desiring to be a candidate for board membership shall
1158 comply with subparagraph 3. The only prohibition against
1159 eligibility for board membership shall be for a person who has
1160 been convicted of any felony by any court of record in the
1161 United States and who has not had his or her right to vote
1162 restored pursuant to law in the jurisdiction of his or her
1163 residence ~~is not eligible for board membership~~. The validity of
1164 an action by the board is not affected if it is later determined

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1165 that a member of the board is ineligible for board membership
1166 due to having been convicted of a felony.

1167 2. The bylaws shall provide the method of calling meetings
1168 of unit owners, including annual meetings. Written notice, which
1169 notice must include an agenda, shall be mailed, hand delivered,
1170 or electronically transmitted to each unit owner at least 14
1171 days prior to the annual meeting and shall be posted in a
1172 conspicuous place on the condominium property at least 14
1173 continuous days preceding the annual meeting. Upon notice to the
1174 unit owners, the board shall by duly adopted rule designate a
1175 specific location on the condominium property or association
1176 property upon which all notices of unit owner meetings shall be
1177 posted; however, if there is no condominium property or
1178 association property upon which notices can be posted, this
1179 requirement does not apply. In lieu of or in addition to the
1180 physical posting of notice of any meeting of the unit owners on
1181 the condominium property, the association may, by reasonable
1182 rule, adopt a procedure for conspicuously posting and repeatedly
1183 broadcasting the notice and the agenda on a closed-circuit cable
1184 television system serving the condominium association. However,
1185 if broadcast notice is used in lieu of a notice posted
1186 physically on the condominium property, the notice and agenda
1187 must be broadcast at least four times every broadcast hour of
1188 each day that a posted notice is otherwise required under this
1189 section. When broadcast notice is provided, the notice and
1190 agenda must be broadcast in a manner and for a sufficient
1191 continuous length of time so as to allow an average reader to
1192 observe the notice and read and comprehend the entire content of

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1193 the notice and the agenda. Unless a unit owner waives in writing
1194 the right to receive notice of the annual meeting, such notice
1195 shall be hand delivered, mailed, or electronically transmitted
1196 to each unit owner. Notice for meetings and notice for all other
1197 purposes shall be mailed to each unit owner at the address last
1198 furnished to the association by the unit owner, or hand
1199 delivered to each unit owner. However, if a unit is owned by
1200 more than one person, the association shall provide notice, for
1201 meetings and all other purposes, to that one address which the
1202 developer initially identifies for that purpose and thereafter
1203 as one or more of the owners of the unit shall so advise the
1204 association in writing, or if no address is given or the owners
1205 of the unit do not agree, to the address provided on the deed of
1206 record. An officer of the association, or the manager or other
1207 person providing the first notice of the association meeting,
1208 and the second notice as provided for in subparagraph 3., shall
1209 provide an affidavit or United States Postal Service certificate
1210 of mailing, to be included in the official records of the
1211 association affirming that the notices were ~~notice was~~ mailed or
1212 hand delivered, in accordance with this provision.

1213 3. The members of the board shall be elected by written
1214 ballot or voting machine. Proxies shall in no event be used in
1215 electing the board, either in general elections or elections to
1216 fill vacancies caused by recall, resignation, or otherwise,
1217 unless otherwise provided in this chapter. Not less than 60 days
1218 before a scheduled election, the association or its
1219 representative shall mail, deliver, or electronically transmit,
1220 whether by separate association mailing or included in another

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1221 association mailing, delivery, or transmission, including
1222 regularly published newsletters, to each unit owner entitled to
1223 a vote, a first notice of the date of the election. Any unit
1224 owner or other eligible person desiring to be a candidate for
1225 the board must give written notice to the association or its
1226 representative not less than 40 days before a scheduled
1227 election. Together with the written notice and agenda as set
1228 forth in subparagraph 2., the association or its representative
1229 shall mail, deliver, or electronically transmit a second notice
1230 of the election to all unit owners entitled to vote therein,
1231 together with a ballot which shall list all candidates. Upon
1232 request of a candidate, the association or its representative
1233 shall include an information sheet, no larger than 8 1/2 inches
1234 by 11 inches, which must be furnished by the candidate not less
1235 than 35 days before the election, to be included with the
1236 mailing, delivery, or transmission of the ballot, with the costs
1237 of mailing, delivery, or electronic transmission and copying to
1238 be borne by the association. The association or its
1239 representative is not liable for the contents of the information
1240 sheets prepared by the candidates. ~~In order to reduce costs, the~~
1241 ~~association may print or duplicate the information sheets on~~
1242 ~~both sides of the paper.~~ The division shall by rule establish
1243 voting procedures consistent with the provisions contained
1244 herein, including rules establishing procedures for giving
1245 notice by electronic transmission and rules providing for the
1246 secrecy of ballots. All ballot envelopes must be placed in a
1247 locked or sealed ballot drop box immediately upon receipt, and
1248 the box shall not be opened in advance of the election meeting.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1249 Elections shall be decided by a plurality of those ballots cast.
1250 There shall be no quorum requirement; however, at least 20
1251 percent of the eligible voters must cast a ballot in order to
1252 have a valid election of members of the board. No unit owner
1253 shall permit any other person to vote his or her ballot, and any
1254 such ballots improperly cast shall be deemed invalid, provided
1255 any unit owner who violates this provision may be fined by the
1256 association in accordance with s. 718.303. A unit owner who
1257 needs assistance in casting the ballot for the reasons stated in
1258 s. 101.051 may obtain assistance in casting the ballot. The
1259 regular election shall occur on the date of the annual meeting.
1260 The provisions of this subparagraph shall not apply to timeshare
1261 condominium associations. Notwithstanding the provisions of this
1262 subparagraph, an election is not required unless more candidates
1263 file notices of intent to run or are nominated than board
1264 vacancies exist.

1265 4. Any approval by unit owners called for by this chapter
1266 or the applicable declaration or bylaws, including, but not
1267 limited to, the approval requirement in s. 718.111(8), shall be
1268 made at a duly noticed meeting of unit owners and shall be
1269 subject to all requirements of this chapter or the applicable
1270 condominium documents relating to unit owner decisionmaking,
1271 except that unit owners may take action by written agreement,
1272 without meetings, on matters for which action by written
1273 agreement without meetings is expressly allowed by the
1274 applicable bylaws or declaration or any statute that provides
1275 for such action.

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1276 5. Unit owners may waive notice of specific meetings if
1277 allowed by the applicable bylaws or declaration or any statute.
1278 If authorized by the bylaws, notice of meetings of the board of
1279 administration, unit owner meetings, except unit owner meetings
1280 called to recall board members under paragraph (j), and
1281 committee meetings may be given by electronic transmission to
1282 unit owners who consent to receive notice by electronic
1283 transmission.

1284 6. Unit owners shall have the right to participate in
1285 meetings of unit owners with reference to all designated agenda
1286 items. However, the association may adopt reasonable rules
1287 governing the frequency, duration, and manner of unit owner
1288 participation.

1289 7. Any unit owner may tape record or videotape a meeting
1290 of the unit owners subject to reasonable rules adopted by the
1291 division.

1292 8. Unless otherwise provided in the bylaws, any vacancy
1293 occurring on the board before the expiration of a term may be
1294 filled by the affirmative vote of the majority of the remaining
1295 directors, even if the remaining directors constitute less than
1296 a quorum, or by the sole remaining director. In the alternative,
1297 a board may hold an election to fill the vacancy, in which case
1298 the election procedures must conform to the requirements of
1299 subparagraph 3. ~~unless the association has opted out of the~~
1300 ~~statutory election process, in which case the bylaws of the~~
1301 ~~association control.~~ Unless otherwise provided in the bylaws, a
1302 board member appointed or elected under this section shall fill
1303 the vacancy for the unexpired term of the seat being filled.

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1304 Filling vacancies created by recall is governed by paragraph (j)
 1305 and rules adopted by the division.

1306 9. Unit owners shall have the right to have items placed
 1307 on the agenda of the annual meeting and voted upon if a written
 1308 request is made to the board of administration by 20 percent or
 1309 more of all voting interests at least 90 days before the date of
 1310 the annual meeting.

1311
 1312 ~~Notwithstanding subparagraphs (b)2. and (d)3., an association~~
 1313 ~~may, by the affirmative vote of a majority of the total voting~~
 1314 ~~interests, provide for different voting and election procedures~~
 1315 ~~in its bylaws, which vote may be by a proxy specifically~~
 1316 ~~delineating the different voting and election procedures. The~~
 1317 ~~different voting and election procedures may provide for~~
 1318 ~~elections to be conducted by limited or general proxy.~~

1319 (e) Budget meeting.--

1320 1. Any meeting at which a proposed annual budget of an
 1321 association will be considered by the board or unit owners shall
 1322 be open to all unit owners. At least 14 days prior to such a
 1323 meeting, the board shall hand deliver to each unit owner, mail
 1324 to each unit owner at the address last furnished to the
 1325 association by the unit owner, or electronically transmit to the
 1326 location furnished by the unit owner for that purpose a notice
 1327 of such meeting and a copy of the proposed annual budget. An
 1328 officer or manager of the association, or other person providing
 1329 notice of such meeting, shall execute an affidavit evidencing
 1330 compliance with such notice requirement, and such affidavit
 1331 shall be filed among the official records of the association.

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1332 2.a. If a board adopts in any fiscal year an annual budget
1333 which requires assessments against unit owners which exceed 115
1334 percent of assessments for the preceding fiscal year, the board
1335 shall conduct a special meeting of the unit owners to consider a
1336 substitute budget if the board receives, within 21 days after
1337 adoption of the annual budget, a written request for a special
1338 meeting from at least 10 percent of all voting interests. The
1339 special meeting shall be conducted within 60 days after adoption
1340 of the annual budget. At least 14 days prior to such special
1341 meeting, the board shall hand deliver to each unit owner, or
1342 mail to each unit owner at the address last furnished to the
1343 association, a notice of the meeting. An officer or manager of
1344 the association, or other person providing notice of such
1345 meeting shall execute an affidavit evidencing compliance with
1346 this notice requirement, and such affidavit shall be filed among
1347 the official records of the association. Unit owners may
1348 consider and adopt a substitute budget at the special meeting. A
1349 substitute budget is adopted if approved by a majority of all
1350 voting interests unless the bylaws require adoption by a greater
1351 percentage of voting interests. If there is not a quorum at the
1352 special meeting or a substitute budget is not adopted, the
1353 annual budget previously adopted by the board shall take effect
1354 as scheduled.

1355 b. Any determination of whether assessments exceed 115
1356 percent of assessments for the prior fiscal year shall exclude
1357 any authorized provision for reasonable reserves for repair or
1358 replacement of the condominium property, anticipated expenses of
1359 the association which the board does not expect to be incurred

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1360 on a regular or annual basis, or assessments for betterments to
 1361 the condominium property.

1362 c. If the developer controls the board, assessments shall
 1363 not exceed 115 percent of assessments for the prior fiscal year
 1364 unless approved by a majority of all voting interests.

1365 (f) Annual budget.--

1366 1. The association shall prepare an annual budget of
 1367 estimated revenues and expenses. The adopted budget of the prior
 1368 fiscal year shall remain in effect until the association has
 1369 adopted a new budget for the current fiscal year. The proposed
 1370 annual budget of estimated revenues and ~~common~~ expenses shall be
 1371 detailed and shall show the amounts budgeted by accounts and
 1372 expense classifications, including, if applicable, but not
 1373 limited to, those expenses listed in s. 718.504(21). A
 1374 multicondominium association shall adopt a separate budget of
 1375 common expenses for each condominium the association operates
 1376 and shall adopt a separate budget of common expenses for the
 1377 association. In addition, if the association maintains limited
 1378 common elements with the cost to be shared only by those
 1379 entitled to use the limited common elements as provided for in
 1380 s. 718.113(1), the budget or a schedule attached thereto shall
 1381 show amounts budgeted therefor. If, after turnover of control of
 1382 the association to the unit owners, any of the expenses listed
 1383 in s. 718.504(21) are not applicable, they need not be listed.

1384 2. In addition to annual operating expenses, the budget
 1385 shall include reserve accounts for capital expenditures and
 1386 deferred maintenance. These accounts shall include, but are not
 1387 limited to, structural repairs, roof replacement, building

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1388 painting, and pavement resurfacing, regardless of the amount of
1389 deferred maintenance expense or replacement cost, and for any
1390 other item for which the deferred maintenance expense or
1391 replacement cost exceeds \$10,000. The amount to be reserved
1392 shall be computed by means of a formula which is based upon
1393 estimated remaining useful life and estimated replacement cost
1394 or deferred maintenance expense of each reserve item. The
1395 association may adjust replacement reserve assessments annually
1396 to take into account any changes in estimates or extension of
1397 the useful life of a reserve item caused by deferred
1398 maintenance. This subsection does not apply to an adopted budget
1399 in which the members of an association have determined, by a
1400 majority vote at a duly called meeting of the association, to
1401 provide no reserves or less reserves than required by this
1402 subsection. However, prior to turnover of control of an
1403 association by a developer to unit owners other than a developer
1404 pursuant to s. 718.301, the developer may vote to waive the
1405 reserves or reduce the funding of reserves for the first 2
1406 fiscal years of the association's operation, beginning with the
1407 fiscal year in which the initial declaration is recorded, after
1408 which time reserves may be waived or reduced only upon the vote
1409 of a majority of all nondeveloper voting interests voting in
1410 person or by limited proxy at a duly called meeting of the
1411 association. If a meeting of the unit owners has been called to
1412 determine whether to waive or reduce the funding of reserves,
1413 and no such result is achieved or a quorum is not attained, the
1414 reserves as included in the budget shall go into effect. After

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1415 the turnover, the developer may vote its voting interest to
1416 waive or reduce the funding of reserves.

1417 3. Reserve funds and any interest accruing thereon shall
1418 remain in the reserve account or accounts, and shall be used
1419 only for authorized reserve expenditures unless their use for
1420 other purposes is approved in advance by a majority vote at a
1421 duly called meeting of the association. Prior to turnover of
1422 control of an association by a developer to unit owners other
1423 than the developer pursuant to s. 718.301, the developer-
1424 controlled association shall not vote to use reserves for
1425 purposes other than that for which they were intended without
1426 the approval of a majority of all nondeveloper voting interests,
1427 voting in person or by limited proxy at a duly called meeting of
1428 the association.

1429 4. The only voting interests which are eligible to vote on
1430 questions that involve waiving or reducing the funding of
1431 reserves, or using existing reserve funds for purposes other
1432 than purposes for which the reserves were intended, are the
1433 voting interests of the units subject to assessment to fund the
1434 reserves in question. The face of all ballots that involve
1435 questions relating to waiving or reducing the funding of
1436 reserves, or using existing reserve funds for purposes other
1437 than purposes for which the reserves were intended, shall
1438 contain the following statement in capitalized, bold letters in
1439 a font size larger than any other used on the face of the
1440 ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING
1441 ALTERNATE USES OF EXISTING RESERVES, MAY RESULT IN UNIT OWNER

1442 LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS
 1443 REGARDING THOSE RESERVE ITEMS.

1444 5. A vote to provide for no reserves or a percentage of
 1445 reserves shall be made at the annual meeting of the unit owners
 1446 called under paragraph (d). The division shall adopt the form
 1447 for the ballot for no reserves and a percentage of reserves.

1448 6. Notwithstanding subparagraph 3., the association after
 1449 turnover of control of the association may, in case of a
 1450 catastrophic event, use reserve funds for nonscheduled purposes
 1451 to mitigate further damage to units or common elements or to
 1452 make the condominium accessible for repairs.

1453 7. Except in cases of emergency, or unless otherwise
 1454 provided for in the bylaws or approved by a vote of a majority
 1455 of the unit owners in advance, the board of administration may
 1456 not apply for or accept a loan or line of credit in an amount
 1457 that exceeds 10 percent of the association's annual budget for
 1458 the current year.

1459 (g) Assessments.--After the declaration has been recorded,
 1460 and until such time as the association has been created, all
 1461 common expenses shall be paid by the developer. Assessments
 1462 shall be levied in an amount determined by the adopted budget or
 1463 an authorized special assessment. The manner of collecting from
 1464 the unit owners their shares of the common expenses shall be
 1465 stated in the bylaws. Assessments shall be made against units on
 1466 a quarter-annual, or more frequent, basis ~~not less frequently~~
 1467 ~~than quarterly~~ in an amount which is not less than that required
 1468 to provide funds in advance for payment of all of the
 1469 anticipated current operating expenses and for all of the unpaid

1470 | operating expenses previously incurred. Nothing in this
 1471 | paragraph shall preclude the right of an association to
 1472 | accelerate assessments of an owner delinquent in payment of
 1473 | common expenses against whom a lien has been filed. Accelerated
 1474 | assessments shall be due and payable after ~~on the date~~ the claim
 1475 | of lien is filed. Such accelerated assessments shall include the
 1476 | amounts due for the remainder of the budget year in which the
 1477 | claim of lien was filed.

1478 | (h) Amendment of bylaws.--

1479 | 1. The method by which the bylaws may be amended
 1480 | consistent with the provisions of this chapter shall be stated.
 1481 | If the bylaws fail to provide a method of amendment, the bylaws
 1482 | may be amended if the amendment is approved by the owners of not
 1483 | less than two-thirds of the voting interests.

1484 | 2. No bylaw shall be revised or amended by reference to
 1485 | its title or number only. Proposals to amend existing bylaws
 1486 | shall contain the full text of the bylaws to be amended; new
 1487 | words shall be inserted in the text underlined, and words to be
 1488 | deleted shall be lined through with hyphens. However, if the
 1489 | proposed change is so extensive that this procedure would
 1490 | hinder, rather than assist, the understanding of the proposed
 1491 | amendment, it is not necessary to use underlining and hyphens as
 1492 | indicators of words added or deleted, but, instead, a notation
 1493 | must be inserted immediately preceding the proposed amendment in
 1494 | substantially the following language: "Substantial rewording of
 1495 | bylaw. See bylaw _____ for present text."

1496 | 3. Nonmaterial errors or omissions in the bylaw process
 1497 | will not invalidate an otherwise properly promulgated amendment.

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1498 (i) Transfer fees.--No charge shall be made by the
1499 association or any body thereof in connection with the sale,
1500 mortgage, lease, sublease, or other transfer of a unit unless
1501 the association is required to approve such transfer and a fee
1502 for such approval is provided for in the declaration, articles,
1503 or bylaws. Any such fee may be preset, but in no event may such
1504 fee exceed \$100 per applicant other than husband/wife or
1505 parent/dependent child, which are considered one applicant.
1506 However, if the lease or sublease is a renewal of a lease or
1507 sublease with the same lessee or sublessee, no charge shall be
1508 made. The foregoing notwithstanding, an association may, if the
1509 authority to do so appears in the declaration or bylaws, require
1510 that a prospective lessee place a security deposit, in an amount
1511 not to exceed the equivalent of 1 month's rent, into an escrow
1512 account maintained by the association. The security deposit
1513 shall protect against damages to the common elements or
1514 association property. Payment of interest, claims against the
1515 deposit, refunds, and disputes under this paragraph shall be
1516 handled in the same fashion as provided in part II of chapter
1517 83.

1518 (j) Recall of board members.--Subject to the provisions of
1519 s. 718.301, any member of the board of administration may be
1520 recalled and removed from office with or without cause by the
1521 vote or agreement in writing by a majority of all the voting
1522 interests. A special meeting of the unit owners to recall a
1523 member or members of the board of administration may be called
1524 by 10 percent of the voting interests giving notice of the
1525 meeting as required for a meeting of unit owners, and the notice

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1526 shall state the purpose of the meeting. Electronic transmission
1527 may not be used as a method of giving notice of a meeting called
1528 in whole or in part for this purpose.

1529 1. If the recall is approved by a majority of all voting
1530 interests by a vote at a meeting, the recall will be effective
1531 ~~as provided herein. The board shall duly notice and hold a board~~
1532 ~~meeting within 5 full business days of the adjournment of the~~
1533 ~~unit owner meeting to recall one or more board members. At the~~
1534 ~~meeting, the board shall either certify the recall, in which~~
1535 ~~ease such member or members shall be recalled effective~~
1536 immediately, and the member or members recalled shall turn over
1537 to the board within 5 full business days any and all records and
1538 property of the association in their possession, ~~or shall~~
1539 ~~proceed as set forth in subparagraph 3.~~

1540 2. Beginning January 1, 2008, if the proposed recall is by
1541 an agreement in writing by a majority of all voting interests,
1542 the agreement in writing or a copy thereof shall be served on
1543 the association and the ombudsman appointed pursuant to s.
1544 718.5011, together with a current copy of the unit owner roster,
1545 by certified mail or by personal service, Monday through Friday,
1546 excluding legal holidays, between the hours of 8:00 a.m. and
1547 5:00 p.m., in the manner authorized by chapter 48 and the
1548 Florida Rules of Civil Procedure. The board of administration or
1549 any board member named in the agreement may submit rebuttal
1550 argument and supporting evidence to the ombudsman within 5
1551 business days from the date of service of the agreement. The
1552 ombudsman shall certify or not certify the recall within 10
1553 business days after receipt of the written agreement and the

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1554 current unit owner roster. If the ombudsman determines to ~~The~~
1555 ~~board of administration shall duly notice and hold a meeting of~~
1556 ~~the board within 5 full business days after receipt of the~~
1557 ~~agreement in writing. At the meeting, the board shall either~~
1558 certify the written agreement to recall a member or members of
1559 the board, the in which case such member or members shall be
1560 recalled effective immediately and shall turn over to the board
1561 within 5 full business days any and all records and property of
1562 the association in their possession, ~~or proceed as described in~~
1563 ~~subparagraph 3.~~

1564 3. If the ombudsman board ~~board~~ determines not to certify the
1565 written agreement to recall a member or members of the board, ~~or~~
1566 ~~does not certify the recall by a vote at a meeting,~~ the
1567 ombudsman board shall, within 5 full business days after the
1568 decision, notify the member or members of the board and the
1569 board president of the reasons for not certifying the agreement,
1570 and the unit owners shall be afforded an additional period of 5
1571 business days to correct the defect or deficiency. The board or
1572 members named in the agreement shall have 5 business days to
1573 submit rebuttal argument and supporting evidence, and the
1574 ombudsman shall have 5 business days thereafter to render a
1575 decision. If the ombudsman certifies the corrected or amended
1576 written recall agreement to recall a member or members of the
1577 board, such member or members shall be recalled effective
1578 immediately and shall turn over to the board within 5 full
1579 business days any and all records and property of the
1580 association in their possession. If the ombudsman does not
1581 certify the recall as to any or all board members, the board

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1582 member or members not certified by the corrected or amended
1583 written recall agreement shall remain in office for the
1584 remainder of their unexpired terms or until properly recalled or
1585 resignation otherwise occurs meeting, file with the division a
1586 petition for arbitration pursuant to the procedures in s.
1587 718.1255. For the purposes of this section, the unit owners who
1588 voted at the meeting or who executed the agreement in writing
1589 shall constitute one party under the petition for arbitration.
1590 If the arbitrator certifies the recall as to any member or
1591 members of the board, the recall will be effective upon mailing
1592 of the final order of arbitration to the association. If the
1593 association fails to comply with the order of the arbitrator,
1594 the division may take action pursuant to s. 718.501. Any member
1595 or members so recalled shall deliver to the board any and all
1596 records of the association in their possession within 5 full
1597 business days of the effective date of the recall.

1598 4. If the board fails to duly notice and hold a board
1599 meeting within 5 full business days of service of an agreement
1600 in writing or within 5 full business days of the adjournment of
1601 the unit owner recall meeting, the recall shall be deemed
1602 effective and the board members so recalled shall immediately
1603 turn over to the board any and all records and property of the
1604 association.

1605 ~~4.5.~~ If a vacancy occurs on the board as a result of a
1606 recall and less than a majority of the board members are
1607 removed, the vacancy may be filled by the affirmative vote of a
1608 majority of the remaining directors, notwithstanding any
1609 provision to the contrary contained in this subsection. If

1610 vacancies occur on the board as a result of a recall and a
 1611 majority or more of the board members are removed, the vacancies
 1612 shall be filled in accordance with procedural rules to be
 1613 adopted by the division, which rules need not be consistent with
 1614 this subsection. The rules must provide procedures governing the
 1615 conduct of the recall election as well as the operation of the
 1616 association during the period after a recall but prior to the
 1617 recall election.

1618 ~~(k) Arbitration. There shall be a provision for mandatory~~
 1619 ~~nonbinding arbitration as provided for in s. 718.1255.~~

1620 (k) ~~(l)~~ Certificate of compliance.--There shall be a
 1621 provision that a certificate of compliance from a licensed
 1622 electrical contractor or electrician may be accepted by the
 1623 association's board as evidence of compliance of the condominium
 1624 units with the applicable fire and life safety code.
 1625 Notwithstanding the provisions of chapter 633 or of any other
 1626 code, statute, ordinance, administrative rule, or regulation, or
 1627 any interpretation of the foregoing, an association,
 1628 condominium, or unit owner is not obligated to retrofit the
 1629 common elements or units of a residential condominium with a
 1630 fire sprinkler system or other engineered lifesafety system in a
 1631 building that has been certified for occupancy by the applicable
 1632 governmental entity, if the unit owners have voted to forego
 1633 such retrofitting and engineered lifesafety system by the
 1634 affirmative vote of two-thirds of all voting interests in the
 1635 affected condominium. However, a condominium association may not
 1636 vote to forego the retrofitting with a fire sprinkler system of
 1637 common areas in a high-rise building. For purposes of this

1638 subsection, the term "high-rise building" means a building that
 1639 is greater than 75 feet in height where the building height is
 1640 measured from the lowest level of fire department access to the
 1641 floor of the highest occupiable story. For purposes of this
 1642 subsection, the term "common areas" means any enclosed hallway,
 1643 corridor, lobby, stairwell, or entryway. In no event shall the
 1644 local authority having jurisdiction require completion of
 1645 retrofitting of common areas with a sprinkler system before the
 1646 end of 2014.

1647 1. A vote to forego retrofitting may be obtained by
 1648 limited proxy or by a ballot personally cast at a duly called
 1649 membership meeting, or by execution of a written consent by the
 1650 member, and shall be effective upon the recording of a
 1651 certificate attesting to such vote in the public records of the
 1652 county where the condominium is located. The association shall
 1653 mail, hand deliver, or electronically transmit to each unit
 1654 owner written notice at least 14 days prior to such membership
 1655 meeting in which the vote to forego retrofitting of the required
 1656 fire sprinkler system is to take place. Within 30 days after the
 1657 association's opt-out vote, notice of the results of the opt-out
 1658 vote shall be mailed, hand delivered, or electronically
 1659 transmitted to all unit owners. Evidence of compliance with this
 1660 30-day notice shall be made by an affidavit executed by the
 1661 person providing the notice and filed among the official records
 1662 of the association. After such notice is provided to each owner,
 1663 a copy of such notice shall be provided by the current owner to
 1664 a new owner prior to closing and shall be provided by a unit
 1665 owner to a renter prior to signing a lease.

1666 2. As part of the information collected annually from
 1667 condominiums, the division shall require condominium
 1668 associations to report the membership vote and recording of a
 1669 certificate under this subsection and, if retrofitting has been
 1670 undertaken, the per-unit cost of such work. The division shall
 1671 annually report to the Division of State Fire Marshal of the
 1672 Department of Financial Services the number of condominiums that
 1673 have elected to forego retrofitting.

1674 (1)~~(m)~~ Common elements; limited power to convey.--

1675 1. With respect to condominiums created on or after
 1676 October 1, 1994, the bylaws shall include a provision granting
 1677 the association a limited power to convey a portion of the
 1678 common elements to a condemning authority for the purpose of
 1679 providing utility easements, right-of-way expansion, or other
 1680 public purposes, whether negotiated or as a result of eminent
 1681 domain proceedings.

1682 2. In any case where the bylaws are silent as to the
 1683 association's power to convey common elements as described in
 1684 subparagraph 1., the bylaws shall be deemed to include the
 1685 provision described in subparagraph 1.

1686 Section 26. Section 718.113, Florida Statutes, is amended
 1687 to read:

1688 718.113 Maintenance; limitation upon improvement; display
 1689 of flag; display of religious decorations; hurricane shutters.--

1690 (1) Maintenance of the common elements is the
 1691 responsibility of the association. The declaration may provide
 1692 that certain limited common elements shall be maintained by
 1693 those entitled to use the limited common elements or that the

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1694 association shall provide the maintenance, ~~either as a common~~
1695 ~~expense or~~ with the cost shared only by those entitled to use
1696 the limited common elements. If the maintenance is to be by the
1697 association at the expense of only those entitled to use the
1698 limited common elements, the declaration shall describe in
1699 detail the method of apportioning such costs among those
1700 entitled to use the limited common elements, and the association
1701 may use the provisions of s. 718.116 to enforce payment of the
1702 shares of such costs by the unit owners entitled to use the
1703 limited common elements.

1704 (2) (a) Except as otherwise provided in this section, there
1705 shall be no material alteration or substantial additions to the
1706 common elements or to real property which is association
1707 property, except in a manner provided in the declaration as
1708 originally recorded or as amended under the procedures provided
1709 therein. If the declaration as originally recorded or as amended
1710 under the procedures provided therein does not specify the
1711 procedure for approval of material alterations or substantial
1712 additions, 75 percent of the total voting interests of the
1713 association must approve the alterations or additions.

1714 (b) There shall not be any material alteration of, or
1715 substantial addition to, the common elements of any condominium
1716 operated by a multicondominium association unless approved in
1717 the manner provided in the declaration of the affected
1718 condominium or condominiums as originally recorded or as amended
1719 under the procedures provided therein. If a declaration as
1720 originally recorded or as amended under the procedures provided
1721 therein does not specify a procedure for approving such an

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1722 alteration or addition, the approval of 75 percent of the total
1723 voting interests of each affected condominium is required. This
1724 subsection does not prohibit a provision in any declaration,
1725 articles of incorporation, or bylaws as originally recorded or
1726 as amended under the procedures provided therein requiring the
1727 approval of unit owners in any condominium operated by the same
1728 association or requiring board approval before a material
1729 alteration or substantial addition to the common elements is
1730 permitted. This paragraph is intended to clarify existing law
1731 and applies to associations existing on the effective date of
1732 this act.

1733 (c) There shall not be any material alteration or
1734 substantial addition made to association real property operated
1735 by a multicondominium association, except as provided in the
1736 declaration, articles of incorporation, or bylaws as originally
1737 recorded or as amended under the procedures provided therein. If
1738 the declaration, articles of incorporation, or bylaws as
1739 originally recorded or as amended under the procedures provided
1740 therein do not specify the procedure for approving an alteration
1741 or addition to association real property, the approval of 75
1742 percent of the total voting interests of the association is
1743 required. This paragraph is intended to clarify existing law and
1744 applies to associations existing on the effective date of this
1745 act.

1746 (3) A unit owner shall not do anything within his or her
1747 unit or on the common elements which would adversely affect the
1748 safety or soundness of the common elements or any portion of the
1749 association property or condominium property which is to be

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1750 maintained by the association.

1751 (4) Any unit owner may display one portable, removable
1752 United States flag in a respectful way and, on Armed Forces Day,
1753 Memorial Day, Flag Day, Independence Day, and Veterans Day, may
1754 display in a respectful way portable, removable official flags,
1755 not larger than 4 1/2 feet by 6 feet, that represent the United
1756 States Army, Navy, Air Force, Marine Corps, or Coast Guard,
1757 regardless of any declaration rules or requirements dealing with
1758 flags or decorations.

1759 (5) Each board of administration shall, at each annual
1760 meeting, adopt or restate hurricane shutter specifications for
1761 each building within each condominium operated by the
1762 association which shall include color, style, and other factors
1763 deemed relevant by the board. All specifications adopted or
1764 restated by the board shall comply with the applicable building
1765 code. Notwithstanding any provision to the contrary in the
1766 condominium documents, if approval is required by the documents,
1767 a board shall not refuse to approve the installation or
1768 replacement of hurricane shutters conforming to the
1769 specifications adopted by the board. The board may, subject to
1770 the provisions of s. 718.3026, and the approval of a majority of
1771 voting interests of the condominium, install hurricane shutters
1772 and may maintain, repair, or replace such approved hurricane
1773 shutters or hurricane protection that complies with the
1774 applicable building code, whether on or within common elements,
1775 limited common elements, units, or association property.
1776 However, where laminated glass or window film architecturally
1777 designed to function as hurricane protection which complies with

1778 the applicable building code has been installed, the board may
 1779 not install hurricane shutters. The board may operate shutters
 1780 installed pursuant to this subsection without permission of the
 1781 unit owners only where such operation is necessary to preserve
 1782 and protect the condominium property and association property.
 1783 The installation, replacement, operation, repair, and
 1784 maintenance of such shutters in accordance with the procedures
 1785 set forth herein shall not be deemed a material alteration to
 1786 the common elements or association property within the meaning
 1787 of this section.

1788 (6) Every 5 years, the board of administration shall have
 1789 the condominium buildings inspected by a professional engineer
 1790 or professional architect registered in the state for the
 1791 purpose of determining that the building is structurally and
 1792 electrically safe. The engineer or architect shall provide a
 1793 report indicating the manner and type of inspection forming the
 1794 basis for the report and description of any matters identified
 1795 as requiring remedial action. The report shall become an
 1796 official record of the association to be provided to the members
 1797 upon request pursuant to s. 718.111(12).

1798 (7) The board of administration may not adopt any rule or
 1799 regulation impairing any rights guaranteed by the First
 1800 Amendment to the Constitution of the United States or s. 3, Art.
 1801 I of the Florida Constitution, including, but not limited to,
 1802 the free exercise of religion, nor may any rules or regulations
 1803 conflict with the provisions of this chapter or the condominium
 1804 instruments. A rule or regulation may not prohibit any
 1805 reasonable accommodation for religious practices, including the

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1806 attachment of religiously mandated objects to the front-door
1807 area of a condominium unit.

1808 Section 27. Paragraph (d) of subsection (1) of section
1809 718.115, Florida Statutes, is amended to read:

1810 718.115 Common expenses and common surplus.--

1811 (1)

1812 (d) If so provided in the declaration, the cost of a
1813 master antenna television system or duly franchised cable
1814 television service obtained pursuant to a bulk contract for
1815 basic service shall be deemed a common expense. If the
1816 declaration does not provide for the cost of a master antenna
1817 television system or duly franchised basic cable television
1818 service obtained under a bulk contract as a common expense, the
1819 board may enter into such a contract, and the cost of the
1820 service will be a common expense but allocated on a per-unit
1821 basis rather than a percentage basis if the declaration provides
1822 for other than an equal sharing of common expenses, and any
1823 contract entered into before July 1, 1998, in which the cost of
1824 the service is not equally divided among all unit owners, may be
1825 changed by vote of a majority of the voting interests present at
1826 a regular or special meeting of the association, to allocate the
1827 cost equally among all units. The contract shall be for a term
1828 of not less than 2 years.

1829 1. Any contract made by the board after the effective date
1830 hereof for a community antenna system or duly franchised basic
1831 cable television service may be canceled by a majority of the
1832 voting interests present at the next regular or special meeting
1833 of the association. Any member may make a motion to cancel said

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1834 contract, but if no motion is made or if such motion fails to
 1835 obtain the required majority at the next regular or special
 1836 meeting, whichever is sooner, following the making of the
 1837 contract, then such contract shall be deemed ratified for the
 1838 term therein expressed.

1839 2. Any such contract shall provide, and shall be deemed to
 1840 provide if not expressly set forth, that any hearing-impaired or
 1841 legally blind unit owner who does not occupy the unit with a
 1842 non-hearing-impaired or sighted person, or any unit owner
 1843 receiving supplemental security income under Title XVI of the
 1844 Social Security Act or food stamps as administered by the
 1845 Department of Children and Family Services pursuant to s.
 1846 414.31, may discontinue the service without incurring disconnect
 1847 fees, penalties, or subsequent service charges, and, as to such
 1848 units, the owners shall not be required to pay any common
 1849 expenses charge related to such service. If less than all
 1850 members of an association share the expenses of cable
 1851 television, the expense shall be shared equally by all
 1852 participating unit owners. The association may use the
 1853 provisions of s. 718.116 to enforce payment of the shares of
 1854 such costs by the unit owners receiving cable television.

1855 Section 28. Section 718.1123, Florida Statutes, is created
 1856 to read:

1857 718.1123 Protection against abuse.--

1858 (1) In order to protect the safety, health, and welfare of
 1859 the people of this state, especially the infirm and elderly, and
 1860 to ensure the protection of condominium owners, any complaint of
 1861 abuse filed with the Division of Florida Land Sales,

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1862 Condominiums, Homeowners' Associations, and Mobile Homes shall
 1863 immediately be investigated by the division. When the division
 1864 has reasonable cause to believe that abuse has occurred against
 1865 any unit owner, the division shall institute enforcement
 1866 proceedings pursuant to its power and duties as set forth in s.
 1867 718.501.

1868 (2) For purposes of this section, the term "abuse" means
 1869 any willful act or threat by a member of the board of directors
 1870 of a condominium association or any member of a committee or
 1871 subcommittee appointed by the board of directors, or any
 1872 employee, volunteer, or agent purporting to act on behalf of the
 1873 board of directors, or any officer, director, employee, or agent
 1874 of any management company acting on behalf of a condominium
 1875 association who denies or is likely to deny a condominium unit
 1876 owner or dweller any of the rights and protections afforded to
 1877 them under applicable state and federal laws, administrative
 1878 rules, and the governing documents of their condominium
 1879 association.

1880 Section 29. Section 718.1224, Florida Statutes, is created
 1881 to read:

1882 718.1224 Prohibition against SLAPP suits.--

1883 (1) It is the intent of the Legislature to protect the
 1884 right of condominium unit owners to exercise their rights to
 1885 instruct their representatives and petition for redress of
 1886 grievances before the various governmental entities of this
 1887 state as protected by the First Amendment to the United States
 1888 Constitution and s. 5, Art. I of the State Constitution. The
 1889 Legislature recognizes that strategic lawsuits against public

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1890 participation, or "SLAPP" suits as they are typically referred
1891 to, have occurred when association members are sued by
1892 individuals, business entities, or governmental entities arising
1893 out of a condominium unit owner's appearance and presentation
1894 before a governmental entity on matters related to the
1895 condominium association. However, it is the public policy of
1896 this state that governmental entities, business organizations,
1897 and individuals not to engage in SLAPP suits, because such
1898 actions are inconsistent with the right of condominium unit
1899 owners to participate in the state's institutions of government.
1900 Therefore, the Legislature finds and declares that prohibiting
1901 such lawsuits by governmental entities, business entities, and
1902 individuals against condominium unit owners who address matters
1903 concerning their condominium association will preserve this
1904 fundamental state policy, preserve the constitutional rights of
1905 condominium unit owners, and ensure the continuation of
1906 representative government in this state. It is the intent of the
1907 Legislature that such lawsuits be expeditiously disposed of by
1908 the courts. As used in this subsection, the term "governmental
1909 entity" means the state, including the executive, legislative,
1910 and judicial branches of government, the independent
1911 establishments of the state, counties, municipalities,
1912 districts, authorities, boards, or commissions, or any agencies
1913 of these branches which are subject to chapter 286.

1914 (2) A governmental entity, business organization, or
1915 individual in this state may not file or cause to be filed
1916 through its employees or agents any lawsuit, cause of action,
1917 claim, cross-claim, or counterclaim against a condominium unit

1918 owner without merit and solely because such condominium unit
 1919 owner has exercised the right to instruct his or her
 1920 representatives or the right to petition for redress of
 1921 grievances before the various governmental entities of this
 1922 state, as protected by the First Amendment to the United States
 1923 Constitution and s. 5, Art. I of the State Constitution.

1924 (3) A condominium unit owner sued by a governmental
 1925 entity, business organization, or individual in violation of
 1926 this section has a right to an expeditious resolution of a claim
 1927 that the suit is in violation of this section. A condominium
 1928 unit owner may petition the court for an order dismissing the
 1929 action or granting final judgment in favor of that condominium
 1930 unit owner. The petitioner may file a motion for summary
 1931 judgment, together with supplemental affidavits, seeking a
 1932 determination that the governmental entity's, business
 1933 organization's, or individual's lawsuit has been brought in
 1934 violation of this section. The governmental entity, business
 1935 organization, or individual shall thereafter file its response
 1936 and any supplemental affidavits. As soon as practicable, the
 1937 court shall set a hearing on the petitioner's motion, which
 1938 shall be held at the earliest possible time after the filing of
 1939 the governmental entity's, business organization's or
 1940 individual's response. The court may award the condominium unit
 1941 owner sued by the governmental entity, business organization, or
 1942 individual actual damages arising from the governmental
 1943 entity's, individual's, or business organization's violation of
 1944 this section. A court may treble the damages awarded to a
 1945 prevailing condominium unit owner and shall state the basis for

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1946 | the treble damages award in its judgment. The court shall award
 1947 | the prevailing party reasonable attorney's fees and costs
 1948 | incurred in connection with a claim that an action was filed in
 1949 | violation of this section.

1950 | (4) Condominium associations may not expend association
 1951 | funds in prosecuting a SLAPP suit against a condominium unit
 1952 | owner.

1953 | Section 30. Subsection (4) of section 718.1255, Florida
 1954 | Statutes, is amended to read:

1955 | 718.1255 Alternative dispute resolution; voluntary
 1956 | mediation; mandatory nonbinding arbitration; legislative
 1957 | findings.--

1958 | (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
 1959 | DISPUTES.--The Division of Florida Land Sales, Condominiums,
 1960 | Homeowners' Associations, and Mobile Homes of the Department of
 1961 | Business and Professional Regulation shall employ full-time
 1962 | attorneys to act as arbitrators to conduct the arbitration
 1963 | hearings provided by this chapter. The division may also certify
 1964 | attorneys who are not employed by the division to act as
 1965 | arbitrators to conduct the arbitration hearings provided by this
 1966 | section. No person may be employed by the department as a full-
 1967 | time arbitrator unless he or she is a member in good standing of
 1968 | The Florida Bar. The department shall promulgate rules of
 1969 | procedure to govern such arbitration hearings including
 1970 | mediation incident thereto. The decision of an arbitrator shall
 1971 | be final; however, such a decision shall not be deemed final
 1972 | agency action. Nothing in this provision shall be construed to
 1973 | foreclose parties from proceeding in a trial de novo unless the

1974 parties have agreed that the arbitration is binding. If such
 1975 judicial proceedings are initiated, the final decision of the
 1976 arbitrator shall be admissible in evidence in the trial de novo.

1977 (a) Prior to the institution of court litigation, a party
 1978 to a dispute shall petition the division for nonbinding
 1979 arbitration. The petition must be accompanied by a filing fee in
 1980 the amount of \$50. Filing fees collected under this section must
 1981 be used to defray the expenses of the alternative dispute
 1982 resolution program.

1983 (b) The petition must recite, and have attached thereto,
 1984 supporting proof that the petitioner gave the respondents:

1985 1. Advance written notice of the specific nature of the
 1986 dispute;

1987 2. A demand for relief, and a reasonable opportunity to
 1988 comply or to provide the relief; and

1989 3. Notice of the intention to file an arbitration petition
 1990 or other legal action in the absence of a resolution of the
 1991 dispute.

1992
 1993 Failure to include the allegations or proof of compliance with
 1994 these prerequisites requires dismissal of the petition without
 1995 prejudice.

1996 (c) Upon receipt, the petition shall be promptly reviewed
 1997 by the division to determine the existence of a dispute and
 1998 compliance with the requirements of paragraphs (a) and (b). If
 1999 emergency relief is required and is not available through
 2000 arbitration, a motion to stay the arbitration may be filed. The
 2001 motion must be accompanied by a verified petition alleging facts

2002 that, if proven, would support entry of a temporary injunction,
 2003 and if an appropriate motion and supporting papers are filed,
 2004 the division may abate the arbitration pending a court hearing
 2005 and disposition of a motion for temporary injunction.

2006 (d) Upon determination by the division that a dispute
 2007 exists and that the petition substantially meets the
 2008 requirements of paragraphs (a) and (b) and any other applicable
 2009 rules, a copy of the petition shall forthwith be served by the
 2010 division upon all respondents.

2011 (e) Either before or after the filing of the respondents'
 2012 answer to the petition, any party may request that the
 2013 arbitrator refer the case to mediation under this section and
 2014 any rules adopted by the division. Upon receipt of a request for
 2015 mediation, the division shall promptly refer the case ~~contact~~
 2016 ~~the parties to determine if there is agreement that mediation~~
 2017 ~~would be appropriate. If all parties agree, the dispute must be~~
 2018 ~~referred to mediation. Notwithstanding a lack of an agreement by~~
 2019 ~~all parties,~~ The arbitrator may refer a dispute to mediation at
 2020 any time.

2021 (f) Upon referral of a case to mediation, the parties must
 2022 select a mutually acceptable mediator. To assist in the
 2023 selection, the arbitrator shall provide the parties with a list
 2024 of both volunteer and paid mediators that have been certified by
 2025 the division under s. 718.501. If the parties are unable to
 2026 agree on a mediator within the time allowed by the arbitrator,
 2027 the arbitrator shall appoint a mediator from the list of
 2028 certified mediators. If a case is referred to mediation, the
 2029 parties shall attend a mediation conference, as scheduled by the

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2030 parties and the mediator. If any party fails to attend a duly
2031 noticed mediation conference, without the permission or approval
2032 of the arbitrator or mediator, the arbitrator must impose
2033 sanctions against the party, including the striking of any
2034 pleadings filed, the entry of an order of dismissal or default
2035 if appropriate, and the award of costs and attorneys' fees
2036 incurred by the other parties. Unless otherwise agreed to by the
2037 parties or as provided by order of the arbitrator, a party is
2038 deemed to have appeared at a mediation conference by the
2039 physical presence of the party or its representative having full
2040 authority to settle without further consultation, provided that
2041 an association may comply by having one or more representatives
2042 present with full authority to negotiate a settlement and
2043 recommend that the board of administration ratify and approve
2044 such a settlement within 5 days from the date of the mediation
2045 conference. The parties shall share equally the expense of
2046 mediation, unless they agree otherwise.

2047 (g) The purpose of mediation as provided for by this
2048 section is to present the parties with an opportunity to resolve
2049 the underlying dispute in good faith, and with a minimum
2050 expenditure of time and resources.

2051 (h) Mediation proceedings must generally be conducted in
2052 accordance with the Florida Rules of Civil Procedure, and these
2053 proceedings are privileged and confidential to the same extent
2054 as court-ordered mediation. Persons who are not parties to the
2055 dispute are not allowed to attend the mediation conference
2056 without the consent of all parties, with the exception of
2057 counsel for the parties and corporate representatives designated

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2058 | to appear for a party. If the mediator declares an impasse after
2059 | a mediation conference has been held, the arbitration proceeding
2060 | terminates, unless all parties agree in writing to continue the
2061 | arbitration proceeding, in which case the arbitrator's decision
2062 | shall be either binding or nonbinding, as agreed upon by the
2063 | parties; in the arbitration proceeding, the arbitrator shall not
2064 | consider any evidence relating to the unsuccessful mediation
2065 | except in a proceeding to impose sanctions for failure to appear
2066 | at the mediation conference. If the parties do not agree to
2067 | continue arbitration, the arbitrator shall enter an order of
2068 | dismissal, and either party may institute a suit in a court of
2069 | competent jurisdiction. The parties may seek to recover any
2070 | costs and attorneys' fees incurred in connection with
2071 | arbitration ~~and mediation~~ proceedings under this section as part
2072 | of the costs and fees that may be recovered by the prevailing
2073 | party in any subsequent litigation.

2074 | (i) Arbitration shall be conducted according to rules
2075 | promulgated by the division. The filing of a petition for
2076 | arbitration shall toll the applicable statute of limitations.

2077 | (j) At the request of any party to the arbitration, such
2078 | arbitrator shall issue subpoenas for the attendance of witnesses
2079 | and the production of books, records, documents, and other
2080 | evidence and any party on whose behalf a subpoena is issued may
2081 | apply to the court for orders compelling such attendance and
2082 | production. Subpoenas shall be served and shall be enforceable
2083 | in the manner provided by the Florida Rules of Civil Procedure.
2084 | Discovery may, in the discretion of the arbitrator, be permitted
2085 | in the manner provided by the Florida Rules of Civil Procedure.

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2086 Rules adopted by the division may authorize any reasonable
2087 sanctions except contempt for a violation of the arbitration
2088 procedural rules of the division or for the failure of a party
2089 to comply with a reasonable nonfinal order issued by an
2090 arbitrator which is not under judicial review.

2091 (k) The arbitration decision shall be presented to the
2092 parties in writing. An arbitration decision is final in those
2093 disputes in which the parties have agreed to be bound. An
2094 arbitration decision is also final if a complaint for a trial de
2095 novo is not filed in a court of competent jurisdiction in which
2096 the condominium is located within 30 days. The right to file for
2097 a trial de novo entitles the parties to file a complaint in the
2098 appropriate trial court for a judicial resolution of the
2099 dispute. The prevailing party in an arbitration proceeding shall
2100 be awarded the costs of the arbitration and reasonable
2101 attorney's fees in an amount determined by the arbitrator. Such
2102 an award shall include the costs and reasonable attorney's fees
2103 incurred in the arbitration proceeding as well as the costs and
2104 reasonable attorney's fees incurred in preparing for and
2105 attending any scheduled mediation.

2106 (l) The party who files a complaint for a trial de novo
2107 shall be assessed the other party's arbitration costs, court
2108 costs, and other reasonable costs, including attorney's fees,
2109 investigation expenses, and expenses for expert or other
2110 testimony or evidence incurred after the arbitration hearing if
2111 the judgment upon the trial de novo is not more favorable than
2112 the arbitration decision. If the judgment is more favorable, the
2113 party who filed a complaint for trial de novo shall be awarded

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2114 reasonable court costs and attorney's fees.

2115 (m) Any party to an arbitration proceeding may enforce an
 2116 arbitration award by filing a petition in a court of competent
 2117 jurisdiction in which the condominium is located. A petition may
 2118 not be granted unless the time for appeal by the filing of a
 2119 complaint for trial de novo has expired. If a complaint for a
 2120 trial de novo has been filed, a petition may not be granted with
 2121 respect to an arbitration award that has been stayed. If the
 2122 petition for enforcement is granted, the petitioner shall
 2123 recover reasonable attorney's fees and costs incurred in
 2124 enforcing the arbitration award. A mediation settlement may also
 2125 be enforced through the county or circuit court, as applicable,
 2126 and any costs and fees incurred in the enforcement of a
 2127 settlement agreement reached at mediation must be awarded to the
 2128 prevailing party in any enforcement action.

2129 Section 31. Subsection (1) of section 718.302, Florida
 2130 Statutes, is amended to read:

2131 718.302 Agreements entered into by the association.--

2132 (1) Any grant or reservation made by a declaration, lease,
 2133 or other document, and any contract made by an association prior
 2134 to assumption of control of the association by unit owners other
 2135 than the developer, that provides for services, products,
 2136 operation, maintenance, or management of a condominium
 2137 association or property serving the unit owners of a condominium
 2138 shall be fair and reasonable, and such grant, reservation, or
 2139 contract may be canceled by unit owners other than the
 2140 developer:

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2141 (a) If the association operates only one condominium and
2142 the unit owners other than the developer have assumed control of
2143 the association, or if unit owners other than the developer own
2144 not less than 75 percent of the voting interests in the
2145 condominium, the cancellation shall be by concurrence of the
2146 owners of not less than 75 percent of the voting interests other
2147 than the voting interests owned by the developer. If a grant,
2148 reservation, or contract is so canceled and the unit owners
2149 other than the developer have not assumed control of the
2150 association, the association shall make a new contract or
2151 otherwise provide for maintenance, management, or operation in
2152 lieu of the canceled obligation, at the direction of the owners
2153 of not less than a majority of the voting interests in the
2154 condominium other than the voting interests owned by the
2155 developer.

2156 (b) If the association operates more than one condominium
2157 and the unit owners other than the developer have not assumed
2158 control of the association, and if unit owners other than the
2159 developer own at least 75 percent of the voting interests in a
2160 condominium operated by the association, any grant, reservation,
2161 or contract for maintenance, management, or operation of
2162 buildings containing the units in that condominium or of
2163 improvements used only by unit owners of that condominium may be
2164 canceled by concurrence of the owners of at least 75 percent of
2165 the voting interests in the condominium other than the voting
2166 interests owned by the developer. No grant, reservation, or
2167 contract for maintenance, management, or operation of
2168 recreational areas or any other property serving more than one

2169 condominium, and operated by more than one association, may be
 2170 canceled except pursuant to paragraph (d).

2171 (c) If the association operates more than one condominium
 2172 and the unit owners other than the developer have assumed
 2173 control of the association, the cancellation shall be by
 2174 concurrence of the owners of not less than 75 percent of the
 2175 total number of voting interests in all condominiums operated by
 2176 the association other than the voting interests owned by the
 2177 developer.

2178 (d) If the owners of units in a condominium have the right
 2179 to use property in common with owners of units in other
 2180 condominiums and those condominiums are operated by more than
 2181 one association, no grant, reservation, or contract for
 2182 maintenance, management, or operation of the property serving
 2183 more than one condominium may be canceled until unit owners
 2184 other than the developer have assumed control of all of the
 2185 associations operating the condominiums that are to be served by
 2186 the recreational area or other property, after which
 2187 cancellation may be effected by concurrence of the owners of not
 2188 less than 75 percent of the total number of voting interests in
 2189 those condominiums other than voting interests owned by the
 2190 developer.

2191 Section 32. Paragraphs (f) and (g) are added to subsection
 2192 (1) of section 718.3025, Florida Statutes, to read:

2193 718.3025 Agreements for operation, maintenance, or
 2194 management of condominiums; specific requirements.--

2195 (1) No written contract between a party contracting to
 2196 provide maintenance or management services and an association

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2197 | which contract provides for operation, maintenance, or
 2198 | management of a condominium association or property serving the
 2199 | unit owners of a condominium shall be valid or enforceable
 2200 | unless the contract:

2201 | (f) Requires that all obligations under the contract be
 2202 | completed within a 1-year period.

2203 | (g) Contains a provision expressly prohibiting automatic
 2204 | renewal of the contract.

2205 | Section 33. Paragraph (a) of subsection (2) of section
 2206 | 718.3026, Florida Statutes, is amended to read:

2207 | 718.3026 Contracts for products and services; in writing;
 2208 | bids; exceptions.--Associations with less than 100 units may opt
 2209 | out of the provisions of this section if two-thirds of the unit
 2210 | owners vote to do so, which opt-out may be accomplished by a
 2211 | proxy specifically setting forth the exception from this
 2212 | section.

2213 | (2)(a)1. Notwithstanding the foregoing, contracts with
 2214 | employees of the association, and contracts for attorney,
 2215 | accountant, architect, community association manager, timeshare
 2216 | management firm, engineering, and landscape architect services
 2217 | are not subject to the provisions of this section.

2218 | 2. A contract executed before January 1, 1992, and any
 2219 | renewal thereof, is not subject to the competitive bid
 2220 | requirements of this section. If a contract was awarded under
 2221 | the competitive bid procedures of this section, any renewal of
 2222 | that contract is not subject to such competitive bid
 2223 | requirements if the contract contains a provision that allows
 2224 | the board to cancel the contract on 30 days' notice. Materials,

2225 equipment, or services provided to a condominium under a local
 2226 government franchise agreement by a franchise holder are not
 2227 subject to the competitive bid requirements of this section. A
 2228 contract with a manager, if made by a competitive bid, may be
 2229 made for up to 3 years. A condominium whose declaration or
 2230 bylaws provides for competitive bidding for services may operate
 2231 under the provisions of that declaration or bylaws in lieu of
 2232 this section if those provisions are not less stringent than the
 2233 requirements of this section.

2234 3. A contract by and between a service provider and an
 2235 association shall not be for a term in excess of 3 years and
 2236 shall not contain an automatic renewal clause.

2237 4. A contract for construction or repair of the property
 2238 that exceeds 10 percent of the total annual budget of the
 2239 association, including reserves, should have the approval of an
 2240 attorney hired by the association.

2241 Section 34. Subsection (3) of section 718.303, Florida
 2242 Statutes, is amended and subsection (4) is added to that
 2243 section, to read:

2244 718.303 Obligations of owners; waiver; levy of fine
 2245 against unit by association.--

2246 (3) If the declaration or bylaws so provide, the
 2247 association may levy reasonable fines against a unit for the
 2248 failure of the owner of the unit, or its occupant, licensee, or
 2249 invitee, to comply with any provision of the declaration, the
 2250 association bylaws, or reasonable rules of the association. No
 2251 fine will become a lien against a unit. No fine may exceed \$100
 2252 per violation. However, a fine may be levied on the basis of

2253 each day of a continuing violation, with a single notice and
 2254 opportunity for hearing, provided that no such fine shall in the
 2255 aggregate exceed \$1,000. No fine may be levied except after
 2256 giving reasonable notice and opportunity for a hearing to the
 2257 unit owner and, if applicable, its licensee or invitee. The
 2258 hearing must be held before a committee of ~~other~~ unit owners who
 2259 are not members of the board of administration of the
 2260 association. If the committee does not agree with the fine, the
 2261 fine may not be levied. The provisions of this subsection do not
 2262 apply to unoccupied units.

2263 (4) Anyone subject to an action under this section shall
 2264 be notified of the violation by certified mail, return receipt
 2265 requested, and, except in the case of eminent danger to person
 2266 or property, have 30 days in which to respond in writing. If no
 2267 response is provided and the violation continues or is repeated,
 2268 the association may proceed under subsections (1) and (2)
 2269 without further notice except as provided in subsection (3).

2270 Section 35. Section 718.501, Florida Statutes, is amended
 2271 to read:

2272 718.501 Powers and duties of Division of Florida Land
 2273 Sales, Condominiums, Homeowners' Associations, and Mobile
 2274 Homes.--

2275 (1) The Division of Florida Land Sales, Condominiums,
 2276 Homeowners' Associations, and Mobile Homes of the Department of
 2277 Business and Professional Regulation, referred to as the
 2278 "division" in this part, in addition to other powers and duties
 2279 prescribed by chapter 498, has the power to enforce and ensure
 2280 compliance with the provisions of this chapter and rules

2281 promulgated pursuant hereto relating to the development,
2282 construction, sale, lease, ownership, operation, and management
2283 of residential condominium units. In performing its duties, the
2284 division has the following powers and duties:

2285 (a) The division may make necessary public or private
2286 investigations within or outside this state to determine whether
2287 any person has violated this chapter or any rule or order
2288 hereunder, to aid in the enforcement of this chapter, or to aid
2289 in the adoption of rules or forms hereunder.

2290 (b) The division may require or permit any person to file
2291 a statement in writing, under oath or otherwise, as the division
2292 determines, as to the facts and circumstances concerning a
2293 matter to be investigated.

2294 (c) For the purpose of any investigation under this
2295 chapter, the division director or any officer or employee
2296 designated by the division director may administer oaths or
2297 affirmations, subpoena witnesses and compel their attendance,
2298 take evidence, and require the production of any matter which is
2299 relevant to the investigation, including the existence,
2300 description, nature, custody, condition, and location of any
2301 books, documents, or other tangible things and the identity and
2302 location of persons having knowledge of relevant facts or any
2303 other matter reasonably calculated to lead to the discovery of
2304 material evidence. Upon the failure by a person to obey a
2305 subpoena or to answer questions propounded by the investigating
2306 officer and upon reasonable notice to all persons affected
2307 thereby, the division may apply to the circuit court for an
2308 order compelling compliance.

2309 (d) Notwithstanding any remedies available to unit owners
 2310 and associations, if the division has reasonable cause to
 2311 believe that a violation of any provision of this chapter or
 2312 rule promulgated pursuant hereto has occurred, the division may
 2313 institute enforcement proceedings in its own name against any
 2314 developer, association, officer, or member of the board of
 2315 administration, or its assignees or agents, as follows:

2316 1. The division may permit a person whose conduct or
 2317 actions may be under investigation to waive formal proceedings
 2318 and enter into a consent proceeding whereby orders, rules, or
 2319 letters of censure or warning, whether formal or informal, may
 2320 be entered against the person.

2321 2. The division may issue an order requiring the
 2322 developer, association, officer, or member of the board of
 2323 administration, or its assignees or agents, to cease and desist
 2324 from the unlawful practice and take such affirmative action as
 2325 in the judgment of the division will carry out the purposes of
 2326 this chapter. Such affirmative action may include, but is not
 2327 limited to, an order requiring a developer to pay moneys
 2328 determined to be owed to a condominium association.

2329 3. The division may bring an action in circuit court on
 2330 behalf of a class of unit owners, lessees, or purchasers for
 2331 declaratory relief, injunctive relief, or restitution.

2332 4. The division may impose a civil penalty against a
 2333 developer or association, or its assignee or agent, for any
 2334 violation of this chapter or a rule promulgated pursuant hereto.
 2335 The division may impose a civil penalty individually against any
 2336 officer or board member who willfully and knowingly violates a

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2337 provision of this chapter, a rule adopted pursuant hereto, or a
2338 final order of the division. The term "willfully and knowingly"
2339 means that the division informed the officer or board member
2340 that his or her action or intended action violates this chapter,
2341 a rule adopted under this chapter, or a final order of the
2342 division and that the officer or board member refused to comply
2343 with the requirements of this chapter, a rule adopted under this
2344 chapter, or a final order of the division. The division, prior
2345 to initiating formal agency action under chapter 120, shall
2346 afford the officer or board member an opportunity to voluntarily
2347 comply with this chapter, a rule adopted under this chapter, or
2348 a final order of the division. An officer or board member who
2349 complies within 10 days is not subject to a civil penalty. A
2350 penalty may be imposed on the basis of each day of continuing
2351 violation, but in no event shall the penalty for any offense
2352 exceed \$5,000. By January 1, 1998, the division shall adopt, by
2353 rule, penalty guidelines applicable to possible violations or to
2354 categories of violations of this chapter or rules adopted by the
2355 division. The guidelines must specify a meaningful range of
2356 civil penalties for each such violation of the statute and rules
2357 and must be based upon the harm caused by the violation, the
2358 repetition of the violation, and upon such other factors deemed
2359 relevant by the division. For example, the division may consider
2360 whether the violations were committed by a developer or owner-
2361 controlled association, the size of the association, and other
2362 factors. The guidelines must designate the possible mitigating
2363 or aggravating circumstances that justify a departure from the
2364 range of penalties provided by the rules. It is the legislative

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2365 intent that minor violations be distinguished from those which
2366 endanger the health, safety, or welfare of the condominium
2367 residents or other persons and that such guidelines provide
2368 reasonable and meaningful notice to the public of likely
2369 penalties that may be imposed for proscribed conduct. This
2370 subsection does not limit the ability of the division to
2371 informally dispose of administrative actions or complaints by
2372 stipulation, agreed settlement, or consent order. All amounts
2373 collected shall be deposited with the Chief Financial Officer to
2374 the credit of the Division of Florida Land Sales, Condominiums,
2375 Homeowners' Associations, and Mobile Homes Trust Fund. If a
2376 developer fails to pay the civil penalty, the division shall
2377 thereupon issue an order directing that such developer cease and
2378 desist from further operation until such time as the civil
2379 penalty is paid or may pursue enforcement of the penalty in a
2380 court of competent jurisdiction. If an association fails to pay
2381 the civil penalty, the division shall thereupon pursue
2382 enforcement in a court of competent jurisdiction, and the order
2383 imposing the civil penalty or the cease and desist order will
2384 not become effective until 20 days after the date of such order.
2385 Any action commenced by the division shall be brought in the
2386 county in which the division has its executive offices or in the
2387 county where the violation occurred.

2388 (e) The division shall ~~is authorized to~~ prepare and
2389 disseminate a prospectus and other information to assist
2390 prospective owners, purchasers, lessees, and developers of
2391 residential condominiums in assessing the rights, privileges,
2392 and duties pertaining thereto.

2393 (f) The division has authority to adopt rules pursuant to
 2394 ss. 120.536(1) and 120.54 to implement and enforce the
 2395 provisions of this chapter.

2396 (g) The division shall establish procedures for providing
 2397 notice to an association when the division is considering the
 2398 issuance of a declaratory statement with respect to the
 2399 declaration of condominium or any related document governing in
 2400 such condominium community.

2401 (h) The division shall furnish each association which pays
 2402 the fees required by paragraph (2)(a) a copy of this act,
 2403 subsequent changes to this act on an annual basis, an amended
 2404 version of this act as it becomes available from the Secretary
 2405 of State's office on a biennial basis, and the rules promulgated
 2406 pursuant thereto on an annual basis.

2407 (i) The division shall annually provide each association
 2408 with a summary of declaratory statements and formal legal
 2409 opinions relating to the operations of condominiums which were
 2410 rendered by the division during the previous year.

2411 (j) The division shall provide training programs for
 2412 condominium association board members and unit owners in
 2413 conjunction with the recommendations of the ombudsman, at the
 2414 associations' expense.

2415 (k) The division shall maintain a toll-free telephone
 2416 number accessible to condominium unit owners.

2417 (l) The division shall develop a program to certify both
 2418 volunteer and paid mediators to provide mediation of condominium
 2419 disputes. The division shall provide, upon request, a list of
 2420 such mediators to any association, unit owner, or other

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2421 participant in arbitration proceedings under s. 718.1255
2422 requesting a copy of the list. The division shall include on the
2423 list of volunteer mediators only the names of persons who have
2424 received at least 20 hours of training in mediation techniques
2425 or who have mediated at least 20 disputes. In order to become
2426 initially certified by the division, paid mediators must be
2427 certified by the Supreme Court to mediate court cases in either
2428 county or circuit courts. However, the division may adopt, by
2429 rule, additional factors for the certification of paid
2430 mediators, which factors must be related to experience,
2431 education, or background. Any person initially certified as a
2432 paid mediator by the division must, in order to continue to be
2433 certified, comply with the factors or requirements imposed by
2434 rules adopted by the division.

2435 (m) When a complaint is made, the division shall conduct
2436 its inquiry with due regard to the interests of the affected
2437 parties. Within 30 days after receipt of a complaint, the
2438 division shall acknowledge the complaint in writing and notify
2439 the complainant whether the complaint is within the jurisdiction
2440 of the division and whether additional information is needed by
2441 the division from the complainant. The division shall conduct
2442 its investigation and shall, within 90 days after receipt of the
2443 original complaint or of timely requested additional
2444 information, take action upon the complaint. However, the
2445 failure to complete the investigation within 90 days does not
2446 prevent the division from continuing the investigation,
2447 accepting or considering evidence obtained or received after 90
2448 days, or taking administrative action if reasonable cause exists

2449 to believe that a violation of this chapter or a rule of the
 2450 division has occurred. If an investigation is not completed
 2451 within the time limits established in this paragraph, the
 2452 division shall, on a monthly basis, notify the complainant in
 2453 writing of the status of the investigation. When reporting its
 2454 action to the complainant, the division shall inform the
 2455 complainant of any right to a hearing pursuant to ss. 120.569
 2456 and 120.57.

2457 (n) Upon a finding that any association has committed a
 2458 violation within the jurisdiction of the division, the division
 2459 shall require the association to:

2460 1. Mail and post a notice to all unit owners setting forth
 2461 the facts and findings relative to any and all violations, as
 2462 well as a description of the corrective action required.

2463 2. Participate in a mandatory educational training program
 2464 that shall be directly related to the violation, taught by a
 2465 division-approved provider, and completed within 90 days from
 2466 the date of notification of the finding to the board members.

2467
 2468 Failure of the association to comply with this paragraph shall
 2469 result in a civil penalty to the association in the amount of
 2470 \$500 for each week the notice is not mailed and posted or the
 2471 educational training is not completed.

2472 (2) (a) Effective January 1, 1992, each condominium
 2473 association which operates more than two units shall pay to the
 2474 division an annual fee in the amount of \$4 for each residential
 2475 unit in condominiums operated by the association. If the fee is
 2476 not paid by March 1, then the association shall be assessed a

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2477 penalty of 10 percent of the amount due, and the association
 2478 will not have standing to maintain or defend any action in the
 2479 courts of this state until the amount due, plus any penalty, is
 2480 paid.

2481 (b) All fees shall be deposited in the Division of Florida
 2482 Land Sales, Condominiums, Homeowners' Associations, and Mobile
 2483 Homes Trust Fund as provided by law. One-fifth of all fees
 2484 deposited by the division shall be allocated and transferred to
 2485 the Office of the Condominium Ombudsman.

2486 Section 36. Section 718.5011, Florida Statutes, is amended
 2487 to read:

2488 718.5011 Ombudsman; appointment; administration.--

2489 (1) There is created an Office of the Condominium
 2490 Ombudsman, to be located, solely for administrative purposes,
 2491 within the Division of Florida Land Sales, Condominiums,
 2492 Homeowners' Associations, and Mobile Homes. The ombudsman shall
 2493 exercise his or her policymaking and other functions delegated
 2494 by this chapter independently of the Department of Business and
 2495 Professional Regulation and without approval or control of the
 2496 department. The department shall render administrative support
 2497 to the Office of the Condominium Ombudsman in matters pertaining
 2498 to budget, personnel, office space, equipment, and supplies. All
 2499 revenues collected for the office by the department shall be
 2500 deposited in a separate fund or account from which the
 2501 department may not use or divert the revenues. The functions of
 2502 the office shall be funded by the Division of Florida Land
 2503 Sales, Condominiums, Homeowners' Associations, and Mobile Homes
 2504 Trust Fund. The ombudsman shall be a bureau chief of the

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2505 | division, and the office shall be set within the division in the
 2506 | same manner as any other bureau is staffed and funded.

2507 | (2) The Governor shall appoint the ombudsman. The
 2508 | ombudsman must be an attorney admitted to practice before the
 2509 | Florida Supreme Court and shall serve at the pleasure of the
 2510 | Governor. A vacancy in the office shall be filled in the same
 2511 | manner as the original appointment. ~~An officer or full time~~
 2512 | ~~employee of the ombudsman's office may not actively engage in~~
 2513 | ~~any other business or profession; serve as the representative of~~
 2514 | ~~any political party, executive committee, or other governing~~
 2515 | ~~body of a political party; serve as an executive, officer, or~~
 2516 | ~~employee of a political party; receive remuneration for~~
 2517 | ~~activities on behalf of any candidate for public office; or~~
 2518 | ~~engage in soliciting votes or other activities on behalf of a~~
 2519 | ~~candidate for public office. The ombudsman or any employee of~~
 2520 | ~~his or her office may not become a candidate for election to~~
 2521 | ~~public office unless he or she first resigns from his or her~~
 2522 | ~~office or employment.~~

2523 | Section 37. Section 718.5012, Florida Statutes, is amended
 2524 | to read:

2525 | 718.5012 Ombudsman; powers and duties.--

2526 | (1) The ombudsman shall have the powers that are necessary
 2527 | to carry out the duties of his or her office, including the
 2528 | following specific powers:

2529 | (a)~~(1)~~ To have access to and use of all files and records
 2530 | of the division.

2531 | (b)~~(2)~~ To employ professional and clerical staff as
 2532 | necessary for the efficient operation of the office.

2533 (c) ~~(3)~~ To prepare and issue reports and recommendations to
 2534 the Governor, the department, the division, the Advisory Council
 2535 on Condominiums, the President of the Senate, and the Speaker of
 2536 the House of Representatives on any matter or subject within the
 2537 jurisdiction of the division. The ombudsman shall make
 2538 recommendations he or she deems appropriate for legislation
 2539 relative to division procedures, rules, jurisdiction, personnel,
 2540 and functions.

2541 (d) ~~(4)~~ To act as liaison between the division, unit
 2542 owners, boards of directors, board members, community
 2543 association managers, and other affected parties. The ombudsman
 2544 shall ~~develop policies and procedures to~~ assist unit owners,
 2545 boards of directors, board members, community association
 2546 managers, and other affected parties to understand their rights
 2547 and responsibilities as set forth in this chapter and the
 2548 condominium documents governing their respective association.
 2549 The ombudsman shall coordinate and assist in the preparation and
 2550 adoption of educational and reference material, and shall
 2551 endeavor to coordinate with private or volunteer providers of
 2552 these services, so that the availability of these resources is
 2553 made known to the largest possible audience.

2554 (e) ~~(5)~~ To monitor and review procedures and disputes
 2555 concerning condominium elections or meetings, including, but not
 2556 limited to, recommending that the division pursue enforcement
 2557 action in any manner where there is reasonable cause to believe
 2558 that election misconduct has occurred. The division shall
 2559 process the ombudsman's recommendations and petitions in an
 2560 expedited manner and defer to his or her findings. For the

2561 purpose of fulfilling his or her duties under this chapter, the
 2562 ombudsman may administer oaths or affirmations, subpoena
 2563 witnesses and compel their attendance, take evidence, and
 2564 require the production of any matter that is relevant to the
 2565 inquiry, including the existence, description, nature, custody,
 2566 condition, and location of any books, documents, or other
 2567 tangible things and the identity and location of persons having
 2568 knowledge of relevant facts or any other matter reasonably
 2569 calculated to lead to the discovery of material evidence. Upon
 2570 the failure by a person to obey a subpoena or to answer
 2571 questions asked by the ombudsman and upon reasonable notice to
 2572 all persons affected thereby, the ombudsman may apply to the
 2573 circuit court for an order compelling compliance.

2574 (f)~~(6)~~ To make recommendations to the division for changes
 2575 in rules and procedures for the filing, investigation, and
 2576 resolution of complaints filed by unit owners, associations, and
 2577 managers.

2578 (g)~~(7)~~ To provide resources to assist members of boards of
 2579 directors and officers of associations to carry out their powers
 2580 and duties consistent with this chapter, division rules, and the
 2581 condominium documents governing the association.

2582 (h)~~(8)~~ To order, encourage, and facilitate ~~voluntary~~
 2583 meetings with and between unit owners, boards of directors,
 2584 board members, community association managers, and other
 2585 affected parties when the meetings may assist in resolving a
 2586 dispute within a community association before a person submits a
 2587 dispute for a formal or administrative remedy. It is the intent
 2588 of the Legislature that the ombudsman act as a neutral resource

2589 for both the rights and responsibilities of unit owners,
 2590 associations, and board members.

2591 (i) To make recommendations to the division to pursue
 2592 enforcement action in circuit court on behalf of a class of unit
 2593 owners, lessees, or purchasers for declaratory relief,
 2594 injunctive relief, or restitution against any developer,
 2595 association, officer, or member of the board of administration,
 2596 or its assignees or agents, where there is reasonable cause to
 2597 believe misconduct has occurred. The division shall process the
 2598 ombudsman's recommendations and petitions in an expedited manner
 2599 and defer to his or her findings.

2600 (j) To certify recall of board member proceedings pursuant
 2601 to s. 718.112(2)(j).

2602 (2)~~(9)~~ Fifteen percent of the total voting interests in a
 2603 condominium association, or six unit owners, whichever is
 2604 greater, may petition the ombudsman to appoint an election
 2605 monitor to attend the annual meeting of the unit owners and
 2606 conduct the election of directors. The ombudsman upon petition
 2607 may order any aspect of the election process as set forth in s.
 2608 718.112(2)(d)3. to be conducted by the election monitor. No
 2609 association or person may reject an election monitor appointed
 2610 by the ombudsman or interfere with an election monitor in the
 2611 performance of his or her duties. The ombudsman may order an
 2612 association to implement a known division remedy for a
 2613 procedural violation of s. 718.112(2)(d)3. prior to and during a
 2614 monitored election. The ombudsman shall appoint a division
 2615 employee, a person or persons specializing in condominium
 2616 election monitoring, or an attorney licensed to practice in this

2617 state as the election monitor. All costs associated with the
 2618 election monitoring process shall be paid by the association.
 2619 The division shall adopt a rule establishing procedures for the
 2620 appointment of election monitors and the scope and extent of the
 2621 monitor's role in the election process.

2622 (3) Any unit owner or association acting in good faith on
 2623 the advice or opinion of the office of the ombudsman shall be
 2624 immune from any penalties or actions.

2625 (4) If the ombudsman has reasonable cause to believe that
 2626 a violation of any provision of this chapter or rule adopted
 2627 under this chapter has occurred, the ombudsman may issue an
 2628 order requiring any developer, association, officer, or member
 2629 of the board of administration, or its assignees or agents, to
 2630 cease and desist from the unlawful practice and to take such
 2631 affirmative action that will carry out the purposes of this
 2632 chapter.

2633 Section 38. Paragraph (a) of subsection (2) of section
 2634 718.502, Florida Statutes, is amended to read:

2635 718.502 Filing prior to sale or lease.--

2636 (2)(a) Prior to filing as required by subsection (1), and
 2637 prior to acquiring an ownership, leasehold, or contractual
 2638 interest in the land upon which the condominium is to be
 2639 developed, a developer shall not offer a contract for purchase
 2640 of a unit or lease of a unit for more than 5 years. However, the
 2641 developer may accept deposits for reservations upon the approval
 2642 of a fully executed escrow agreement and reservation agreement
 2643 form properly filed with the Division of Florida Land Sales,
 2644 Condominiums, Homeowners' Associations, and Mobile Homes. Each

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2645 filing of a proposed reservation program shall be accompanied by
2646 a filing fee of \$250. Reservations shall not be taken on a
2647 proposed condominium unless the developer has an ownership,
2648 leasehold, or contractual interest in the land upon which the
2649 condominium is to be developed. The division shall notify the
2650 developer within 20 days of receipt of the reservation filing of
2651 any deficiencies contained therein. Such notification shall not
2652 preclude the determination of reservation filing deficiencies at
2653 a later date, nor shall it relieve the developer of any
2654 responsibility under the law. The escrow agreement and the
2655 reservation agreement form shall include a statement of the
2656 right of the prospective purchaser to an immediate unqualified
2657 refund of the reservation deposit moneys upon written request to
2658 the escrow agent by the prospective purchaser or the developer.

2659 Section 39. Section 718.504, Florida Statutes, is amended
2660 to read:

2661 718.504 Prospectus or offering circular.--Every developer
2662 of a residential condominium which contains more than 20
2663 residential units, or which is part of a group of residential
2664 condominiums which will be served by property to be used in
2665 common by unit owners of more than 20 residential units, shall
2666 prepare a prospectus or offering circular and file it with the
2667 Division of Florida Land Sales, Condominiums, Homeowners'
2668 Associations, and Mobile Homes prior to entering into an
2669 enforceable contract of purchase and sale of any unit or lease
2670 of a unit for more than 5 years and shall furnish a copy of the
2671 prospectus or offering circular to each buyer. In addition to
2672 the prospectus or offering circular, each buyer shall be

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2673 furnished a separate page entitled "Frequently Asked Questions
2674 and Answers," which shall be in accordance with a format
2675 approved by the division and a copy of the financial information
2676 required by s. 718.111. This page shall, in readable language,
2677 inform prospective purchasers regarding their voting rights and
2678 unit use restrictions, including restrictions on the leasing of
2679 a unit; shall indicate whether and in what amount the unit
2680 owners or the association is obligated to pay rent or land use
2681 fees for recreational or other commonly used facilities; shall
2682 contain a statement identifying that amount of assessment which,
2683 pursuant to the budget, would be levied upon each unit type,
2684 exclusive of any special assessments, and which shall further
2685 identify the basis upon which assessments are levied, whether
2686 monthly, quarterly, or otherwise; shall state and identify any
2687 court cases in which the association is currently a party of
2688 record in which the association may face liability in excess of
2689 \$100,000; and which shall further state whether membership in a
2690 recreational facilities association is mandatory, and if so,
2691 shall identify the fees currently charged per unit type. The
2692 division shall by rule require such other disclosure as in its
2693 judgment will assist prospective purchasers. The prospectus or
2694 offering circular may include more than one condominium,
2695 although not all such units are being offered for sale as of the
2696 date of the prospectus or offering circular. The prospectus or
2697 offering circular must contain the following information:

- 2698 (1) The front cover or the first page must contain only:
 - 2699 (a) The name of the condominium.
 - 2700 (b) The following statements in conspicuous type:

2701 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
 2702 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2703 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
 2704 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
 2705 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
 2706 MATERIALS.

2707 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
 2708 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
 2709 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
 2710 REPRESENTATIONS.

2711 (2) Summary: The next page must contain all statements
 2712 required to be in conspicuous type in the prospectus or offering
 2713 circular.

2714 (3) A separate index of the contents and exhibits of the
 2715 prospectus.

2716 (4) Beginning on the first page of the text (not including
 2717 the summary and index), a description of the condominium,
 2718 including, but not limited to, the following information:

2719 (a) Its name and location.

2720 (b) A description of the condominium property, including,
 2721 without limitation:

2722 1. The number of buildings, the number of units in each
 2723 building, the number of bathrooms and bedrooms in each unit, and
 2724 the total number of units, if the condominium is not a phase
 2725 condominium, or the maximum number of buildings that may be
 2726 contained within the condominium, the minimum and maximum
 2727 numbers of units in each building, the minimum and maximum
 2728 numbers of bathrooms and bedrooms that may be contained in each

2729 unit, and the maximum number of units that may be contained
 2730 within the condominium, if the condominium is a phase
 2731 condominium.

2732 2. The page in the condominium documents where a copy of
 2733 the plot plan and survey of the condominium is located.

2734 3. The estimated latest date of completion of
 2735 constructing, finishing, and equipping. In lieu of a date, the
 2736 description shall include a statement that the estimated date of
 2737 completion of the condominium is in the purchase agreement and a
 2738 reference to the article or paragraph containing that
 2739 information.

2740 (c) The maximum number of units that will use facilities
 2741 in common with the condominium. If the maximum number of units
 2742 will vary, a description of the basis for variation and the
 2743 minimum amount of dollars per unit to be spent for additional
 2744 recreational facilities or enlargement of such facilities. If
 2745 the addition or enlargement of facilities will result in a
 2746 material increase of a unit owner's maintenance expense or
 2747 rental expense, if any, the maximum increase and limitations
 2748 thereon shall be stated.

2749 (5) (a) A statement in conspicuous type describing whether
 2750 the condominium is created and being sold as fee simple
 2751 interests or as leasehold interests. If the condominium is
 2752 created or being sold on a leasehold, the location of the lease
 2753 in the disclosure materials shall be stated.

2754 (b) If timeshare estates are or may be created with
 2755 respect to any unit in the condominium, a statement in

2756 conspicuous type stating that timeshare estates are created and
 2757 being sold in units in the condominium.

2758 (6) A description of the recreational and other commonly
 2759 used facilities that will be used only by unit owners of the
 2760 condominium, including, but not limited to, the following:

2761 (a) Each room and its intended purposes, location,
 2762 approximate floor area, and capacity in numbers of people.

2763 (b) Each swimming pool, as to its general location,
 2764 approximate size and depths, approximate deck size and capacity,
 2765 and whether heated.

2766 (c) Additional facilities, as to the number of each
 2767 facility, its approximate location, approximate size, and
 2768 approximate capacity.

2769 (d) A general description of the items of personal
 2770 property and the approximate number of each item of personal
 2771 property that the developer is committing to furnish for each
 2772 room or other facility or, in the alternative, a representation
 2773 as to the minimum amount of expenditure that will be made to
 2774 purchase the personal property for the facility.

2775 (e) The estimated date when each room or other facility
 2776 will be available for use by the unit owners.

2777 (f)1. An identification of each room or other facility to
 2778 be used by unit owners that will not be owned by the unit owners
 2779 or the association;

2780 2. A reference to the location in the disclosure materials
 2781 of the lease or other agreements providing for the use of those
 2782 facilities; and

2783 3. A description of the terms of the lease or other
 2784 agreements, including the length of the term; the rent payable,
 2785 directly or indirectly, by each unit owner, and the total rent
 2786 payable to the lessor, stated in monthly and annual amounts for
 2787 the entire term of the lease; and a description of any option to
 2788 purchase the property leased under any such lease, including the
 2789 time the option may be exercised, the purchase price or how it
 2790 is to be determined, the manner of payment, and whether the
 2791 option may be exercised for a unit owner's share or only as to
 2792 the entire leased property.

2793 (g) A statement as to whether the developer may provide
 2794 additional facilities not described above; their general
 2795 locations and types; improvements or changes that may be made;
 2796 the approximate dollar amount to be expended; and the maximum
 2797 additional common expense or cost to the individual unit owners
 2798 that may be charged during the first annual period of operation
 2799 of the modified or added facilities.

2800
 2801 Descriptions as to locations, areas, capacities, numbers,
 2802 volumes, or sizes may be stated as approximations or minimums.

2803 (7) A description of the recreational and other facilities
 2804 that will be used in common with other condominiums, community
 2805 associations, or planned developments which require the payment
 2806 of the maintenance and expenses of such facilities, either
 2807 directly or indirectly, by the unit owners. The description
 2808 shall include, but not be limited to, the following:

2809 (a) Each building and facility committed to be built.

2810 (b) Facilities not committed to be built except under
 2811 certain conditions, and a statement of those conditions or
 2812 contingencies.

2813 (c) As to each facility committed to be built, or which
 2814 will be committed to be built upon the happening of one of the
 2815 conditions in paragraph (b), a statement of whether it will be
 2816 owned by the unit owners having the use thereof or by an
 2817 association or other entity which will be controlled by them, or
 2818 others, and the location in the exhibits of the lease or other
 2819 document providing for use of those facilities.

2820 (d) The year in which each facility will be available for
 2821 use by the unit owners or, in the alternative, the maximum
 2822 number of unit owners in the project at the time each of all of
 2823 the facilities is committed to be completed.

2824 (e) A general description of the items of personal
 2825 property, and the approximate number of each item of personal
 2826 property, that the developer is committing to furnish for each
 2827 room or other facility or, in the alternative, a representation
 2828 as to the minimum amount of expenditure that will be made to
 2829 purchase the personal property for the facility.

2830 (f) If there are leases, a description thereof, including
 2831 the length of the term, the rent payable, and a description of
 2832 any option to purchase.

2833
 2834 Descriptions shall include location, areas, capacities, numbers,
 2835 volumes, or sizes and may be stated as approximations or
 2836 minimums.

2837 (8) Recreation lease or associated club membership:

2838 (a) If any recreational facilities or other facilities
 2839 offered by the developer and available to, or to be used by,
 2840 unit owners are to be leased or have club membership associated,
 2841 the following statement in conspicuous type shall be included:
 2842 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 2843 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 2844 CONDOMINIUM. There shall be a reference to the location in the
 2845 disclosure materials where the recreation lease or club
 2846 membership is described in detail.

2847 (b) If it is mandatory that unit owners pay a fee, rent,
 2848 dues, or other charges under a recreational facilities lease or
 2849 club membership for the use of facilities, there shall be in
 2850 conspicuous type the applicable statement:

2851 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 2852 MANDATORY FOR UNIT OWNERS; or

2853 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 2854 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2855 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
 2856 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
 2857 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
 2858 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2859 4. A similar statement of the nature of the organization
 2860 or the manner in which the use rights are created, and that unit
 2861 owners are required to pay.

2862
 2863 Immediately following the applicable statement, the location in
 2864 the disclosure materials where the development is described in
 2865 detail shall be stated.

2866 (c) If the developer, or any other person other than the
 2867 unit owners and other persons having use rights in the
 2868 facilities, reserves, or is entitled to receive, any rent, fee,
 2869 or other payment for the use of the facilities, then there shall
 2870 be the following statement in conspicuous type: THE UNIT OWNERS
 2871 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 2872 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately
 2873 following this statement, the location in the disclosure
 2874 materials where the rent or land use fees are described in
 2875 detail shall be stated.

2876 (d) If, in any recreation format, whether leasehold, club,
 2877 or other, any person other than the association has the right to
 2878 a lien on the units to secure the payment of assessments, rent,
 2879 or other exactions, there shall appear a statement in
 2880 conspicuous type in substantially the following form:

2881 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2882 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 2883 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
 2884 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2885 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2886 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 2887 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 2888 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE
 2889 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2890
 2891 Immediately following the applicable statement, the location in
 2892 the disclosure materials where the lien or lien right is
 2893 described in detail shall be stated.

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2894 (9) If the developer or any other person has the right to
2895 increase or add to the recreational facilities at any time after
2896 the establishment of the condominium whose unit owners have use
2897 rights therein, without the consent of the unit owners or
2898 associations being required, there shall appear a statement in
2899 conspicuous type in substantially the following form:

2900 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
2901 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
2902 statement, the location in the disclosure materials where such
2903 reserved rights are described shall be stated.

2904 (10) A statement of whether the developer's plan includes
2905 a program of leasing units rather than selling them, or leasing
2906 units and selling them subject to such leases. If so, there
2907 shall be a description of the plan, including the number and
2908 identification of the units and the provisions and term of the
2909 proposed leases, and a statement in boldfaced type that: THE
2910 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2911 (11) The arrangements for management of the association
2912 and maintenance and operation of the condominium property and of
2913 other property that will serve the unit owners of the
2914 condominium property, and a description of the management
2915 contract and all other contracts for these purposes having a
2916 term in excess of 1 year, including the following:

2917 (a) The names of contracting parties.

2918 (b) The term of the contract.

2919 (c) The nature of the services included.

2920 (d) The compensation, stated on a monthly and annual
2921 basis, and provisions for increases in the compensation.

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2922 (e) A reference to the volumes and pages of the
2923 condominium documents and of the exhibits containing copies of
2924 such contracts.

2925
2926 Copies of all described contracts shall be attached as exhibits.
2927 If there is a contract for the management of the condominium
2928 property, then a statement in conspicuous type in substantially
2929 the following form shall appear, identifying the proposed or
2930 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
2931 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE
2932 CONTRACT MANAGER). Immediately following this statement, the
2933 location in the disclosure materials of the contract for
2934 management of the condominium property shall be stated.

2935 (12) If the developer or any other person or persons other
2936 than the unit owners has the right to retain control of the
2937 board of administration of the association for a period of time
2938 which can exceed 1 year after the closing of the sale of a
2939 majority of the units in that condominium to persons other than
2940 successors or alternate developers, then a statement in
2941 conspicuous type in substantially the following form shall be
2942 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
2943 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
2944 HAVE BEEN SOLD. Immediately following this statement, the
2945 location in the disclosure materials where this right to control
2946 is described in detail shall be stated.

2947 (13) If there are any restrictions upon the sale,
2948 transfer, conveyance, or leasing of a unit, then a statement in
2949 conspicuous type in substantially the following form shall be

2950 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
 2951 CONTROLLED. Immediately following this statement, the location
 2952 in the disclosure materials where the restriction, limitation,
 2953 or control on the sale, lease, or transfer of units is described
 2954 in detail shall be stated.

2955 (14) If the condominium is part of a phase project, the
 2956 following information shall be stated:

2957 (a) A statement in conspicuous type in substantially the
 2958 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
 2959 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
 2960 this statement, the location in the disclosure materials where
 2961 the phasing is described shall be stated.

2962 (b) A summary of the provisions of the declaration which
 2963 provide for the phasing.

2964 (c) A statement as to whether or not residential buildings
 2965 and units which are added to the condominium may be
 2966 substantially different from the residential buildings and units
 2967 originally in the condominium. If the added residential
 2968 buildings and units may be substantially different, there shall
 2969 be a general description of the extent to which such added
 2970 residential buildings and units may differ, and a statement in
 2971 conspicuous type in substantially the following form shall be
 2972 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM
 2973 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
 2974 UNITS IN THE CONDOMINIUM. Immediately following this statement,
 2975 the location in the disclosure materials where the extent to
 2976 which added residential buildings and units may substantially
 2977 differ is described shall be stated.

2978 (d) A statement of the maximum number of buildings
 2979 containing units, the maximum and minimum numbers of units in
 2980 each building, the maximum number of units, and the minimum and
 2981 maximum square footage of the units that may be contained within
 2982 each parcel of land which may be added to the condominium.

2983 (15) If a condominium created on or after July 1, 2000, is
 2984 or may become part of a multicondominium, the following
 2985 information must be provided:

2986 (a) A statement in conspicuous type in substantially the
 2987 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
 2988 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
 2989 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
 2990 this statement, the location in the prospectus or offering
 2991 circular and its exhibits where the multicondominium aspects of
 2992 the offering are described must be stated.

2993 (b) A summary of the provisions in the declaration,
 2994 articles of incorporation, and bylaws which establish and
 2995 provide for the operation of the multicondominium, including a
 2996 statement as to whether unit owners in the condominium will have
 2997 the right to use recreational or other facilities located or
 2998 planned to be located in other condominiums operated by the same
 2999 association, and the manner of sharing the common expenses
 3000 related to such facilities.

3001 (c) A statement of the minimum and maximum number of
 3002 condominiums, and the minimum and maximum number of units in
 3003 each of those condominiums, which will or may be operated by the
 3004 association, and the latest date by which the exact number will
 3005 be finally determined.

3006 (d) A statement as to whether any of the condominiums in
 3007 the multicondominium may include units intended to be used for
 3008 nonresidential purposes and the purpose or purposes permitted
 3009 for such use.

3010 (e) A general description of the location and approximate
 3011 acreage of any land on which any additional condominiums to be
 3012 operated by the association may be located.

3013 (16) If the condominium is created by conversion of
 3014 existing improvements, the following information shall be
 3015 stated:

3016 (a) The information required by s. 718.616.

3017 (b) A caveat that there are no express warranties unless
 3018 they are stated in writing by the developer.

3019 (17) A summary of the restrictions, if any, to be imposed
 3020 on units concerning the use of any of the condominium property,
 3021 including statements as to whether there are restrictions upon
 3022 children and pets, and reference to the volumes and pages of the
 3023 condominium documents where such restrictions are found, or if
 3024 such restrictions are contained elsewhere, then a copy of the
 3025 documents containing the restrictions shall be attached as an
 3026 exhibit.

3027 (18) If there is any land that is offered by the developer
 3028 for use by the unit owners and that is neither owned by them nor
 3029 leased to them, the association, or any entity controlled by
 3030 unit owners and other persons having the use rights to such
 3031 land, a statement shall be made as to how such land will serve
 3032 the condominium. If any part of such land will serve the
 3033 condominium, the statement shall describe the land and the

3034 nature and term of service, and the declaration or other
 3035 instrument creating such servitude shall be included as an
 3036 exhibit.

3037 (19) The manner in which utility and other services,
 3038 including, but not limited to, sewage and waste disposal, water
 3039 supply, and storm drainage, will be provided and the person or
 3040 entity furnishing them.

3041 (20) An explanation of the manner in which the
 3042 apportionment of common expenses and ownership of the common
 3043 elements has been determined.

3044 (21) An estimated operating budget for the condominium and
 3045 the association, prepared in good faith, and a schedule of the
 3046 unit owner's expenses shall be attached as an exhibit and shall
 3047 contain the following information:

3048 (a) The estimated monthly and annual revenues and expenses
 3049 of the condominium and the association that are earned by the
 3050 association or collected from unit owners by assessments.

3051 (b) The estimated monthly and annual expenses of each unit
 3052 owner for a unit, other than common expenses paid by all unit
 3053 owners, payable by the unit owner to persons or entities other
 3054 than the association, as well as to the association, including
 3055 fees assessed pursuant to s. 718.113(1) for maintenance of
 3056 limited common elements where such costs are shared only by
 3057 those entitled to use the limited common element, and the total
 3058 estimated monthly and annual expense. There may be excluded from
 3059 this estimate expenses which are not provided for or
 3060 contemplated by the condominium documents, including, but not
 3061 limited to, the costs of private telephone; maintenance of the

3062 interior of condominium units, which is not the obligation of
 3063 the association; maid or janitorial services privately
 3064 contracted for by the unit owners; utility bills billed directly
 3065 to each unit owner for utility services to his or her unit;
 3066 insurance premiums other than those incurred for policies
 3067 obtained by the condominium; and similar personal expenses of
 3068 the unit owner. A unit owner's estimated payments for
 3069 assessments shall also be stated in the estimated amounts for
 3070 the times when they will be due.

3071 (c) The estimated items of expenses of the condominium and
 3072 the association, except as excluded under paragraph (b),
 3073 including, but not limited to, the following items, which shall
 3074 be stated either as an association expense collectible by
 3075 assessments or as unit owners' expenses payable to persons other
 3076 than the association:

- 3077 1. Expenses for the association and condominium:
- 3078 a. Administration of the association.
- 3079 b. Management fees.
- 3080 c. Maintenance.
- 3081 d. Rent for recreational and other commonly used
- 3082 facilities.
- 3083 e. Taxes upon association property.
- 3084 f. Taxes upon leased areas.
- 3085 g. Insurance.
- 3086 h. Security provisions.
- 3087 i. Other expenses.
- 3088 j. Operating capital.
- 3089 k. Reserves.

- 3090 | 1. Fees payable to the division.
- 3091 | 2. Expenses for a unit owner:
- 3092 | a. Rent for the unit, if subject to a lease.
- 3093 | b. Rent payable by the unit owner directly to the lessor
- 3094 | or agent under any recreational lease or lease for the use of
- 3095 | commonly used facilities, which use and payment is a mandatory
- 3096 | condition of ownership and is not included in the common expense
- 3097 | or assessments for common maintenance paid by the unit owners to
- 3098 | the association.

3099 | ~~(d) The estimated amounts shall be stated for a period of~~
 3100 | ~~at least 12 months and may distinguish between the period prior~~
 3101 | ~~to the time unit owners other than the developer elect a~~
 3102 | ~~majority of the board of administration and the period after~~
 3103 | ~~that date.~~

3104 | (22) A schedule of estimated closing expenses to be paid
 3105 | by a buyer or lessee of a unit and a statement of whether title
 3106 | opinion or title insurance policy is available to the buyer and,
 3107 | if so, at whose expense.

3108 | (23) The identity of the developer and the chief operating
 3109 | officer or principal directing the creation and sale of the
 3110 | condominium and a statement of its and his or her experience in
 3111 | this field.

3112 | (24) Copies of the following, to the extent they are
 3113 | applicable, shall be included as exhibits:

3114 | (a) The declaration of condominium, or the proposed
 3115 | declaration if the declaration has not been recorded.

3116 | (b) The articles of incorporation creating the
 3117 | association.

- 3118 (c) The bylaws of the association.
- 3119 (d) The ground lease or other underlying lease of the
- 3120 condominium.
- 3121 (e) The management agreement and all maintenance and other
- 3122 contracts for management of the association and operation of the
- 3123 condominium and facilities used by the unit owners having a
- 3124 service term in excess of 1 year.
- 3125 (f) The estimated operating budget for the condominium and
- 3126 the required schedule of unit owners' expenses.
- 3127 (g) A copy of the floor plan of the unit and the plot plan
- 3128 showing the location of the residential buildings and the
- 3129 recreation and other common areas.
- 3130 (h) The lease of recreational and other facilities that
- 3131 will be used only by unit owners of the subject condominium.
- 3132 (i) The lease of facilities used by owners and others.
- 3133 (j) The form of unit lease, if the offer is of a
- 3134 leasehold.
- 3135 (k) A declaration of servitude of properties serving the
- 3136 condominium but not owned by unit owners or leased to them or
- 3137 the association.
- 3138 (l) The statement of condition of the existing building or
- 3139 buildings, if the offering is of units in an operation being
- 3140 converted to condominium ownership.
- 3141 (m) The statement of inspection for termite damage and
- 3142 treatment of the existing improvements, if the condominium is a
- 3143 conversion.
- 3144 (n) The form of agreement for sale or lease of units.

3145 (o) A copy of the agreement for escrow of payments made to
 3146 the developer prior to closing.

3147 (p) A copy of the documents containing any restrictions on
 3148 use of the property required by subsection (17).

3149 (25) Any prospectus or offering circular complying, prior
 3150 to the effective date of this act, with the provisions of former
 3151 ss. 711.69 and 711.802 may continue to be used without amendment
 3152 or may be amended to comply with the provisions of this chapter.

3153 (26) A brief narrative description of the location and
 3154 effect of all existing and intended easements located or to be
 3155 located on the condominium property other than those described
 3156 in the declaration.

3157 (27) If the developer is required by state or local
 3158 authorities to obtain acceptance or approval of any dock or
 3159 marina facilities intended to serve the condominium, a copy of
 3160 any such acceptance or approval acquired by the time of filing
 3161 with the division under s. 718.502(1) or a statement that such
 3162 acceptance or approval has not been acquired or received.

3163 (28) Evidence demonstrating that the developer has an
 3164 ownership, leasehold, or contractual interest in the land upon
 3165 which the condominium is to be developed.

3166 Section 40. Section 718.508, Florida Statutes, is amended
 3167 to read:

3168 718.508 Regulation by Division of Hotels and
 3169 Restaurants.--In addition to the authority, regulation, or
 3170 control exercised by the Division of Florida Land Sales,
 3171 Condominiums, Homeowners' Associations, and Mobile Homes
 3172 pursuant to this act with respect to condominiums, buildings

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3173 included in a condominium property shall be subject to the
 3174 authority, regulation, or control of the Division of Hotels and
 3175 Restaurants of the Department of Business and Professional
 3176 Regulation, to the extent provided for in chapter 399.

3177 Section 41. Section 718.509, Florida Statutes, is amended
 3178 to read:

3179 718.509 Division of Florida Land Sales, Condominiums,
 3180 Homeowners' Associations, and Mobile Homes Trust Fund.--All
 3181 funds collected by the division and any amount paid for a fee or
 3182 penalty under this chapter shall be deposited in the State
 3183 Treasury to the credit of the Division of Florida Land Sales,
 3184 Condominiums, Homeowners' Associations, and Mobile Homes Trust
 3185 Fund created by s. 498.019.

3186 Section 42. Paragraph (a) of subsection (2) of section
 3187 718.608, Florida Statutes, is amended to read:

3188 718.608 Notice of intended conversion; time of delivery;
 3189 content.--

3190 (2)(a) Each notice of intended conversion shall be dated
 3191 and in writing. The notice shall contain the following
 3192 statement, with the phrases of the following statement which
 3193 appear in upper case printed in conspicuous type:

3194
 3195 These apartments are being converted to condominium by
 3196 (name of developer) , the developer.

3197 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
 3198 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
 3199 AGREEMENT AS FOLLOWS:

3200 a. If you have continuously been a resident of these
 3201 apartments during the last 180 days and your rental agreement
 3202 expires during the next 270 days, you may extend your rental
 3203 agreement for up to 270 days after the date of this notice.

3204 b. If you have not been a continuous resident of these
 3205 apartments for the last 180 days and your rental agreement
 3206 expires during the next 180 days, you may extend your rental
 3207 agreement for up to 180 days after the date of this notice.

3208 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
 3209 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
 3210 DATE OF THIS NOTICE.

3211 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
 3212 you may extend your rental agreement for up to 45 days after the
 3213 date of this notice while you decide whether to extend your
 3214 rental agreement as explained above. To do so, you must notify
 3215 the developer in writing. You will then have the full 45 days to
 3216 decide whether to extend your rental agreement as explained
 3217 above.

3218 3. During the extension of your rental agreement you will
 3219 be charged the same rent that you are now paying.

3220 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
 3221 OF THE RENTAL AGREEMENT AS FOLLOWS:

3222 a. If your rental agreement began or was extended or
 3223 renewed after May 1, 1980, and your rental agreement, including
 3224 extensions and renewals, has an unexpired term of 180 days or
 3225 less, you may cancel your rental agreement upon 30 days' written
 3226 notice and move. Also, upon 30 days' written notice, you may
 3227 cancel any extension of the rental agreement.

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3228 b. If your rental agreement was not begun or was not
3229 extended or renewed after May 1, 1980, you may not cancel the
3230 rental agreement without the consent of the developer. If your
3231 rental agreement, including extensions and renewals, has an
3232 unexpired term of 180 days or less, you may, however, upon 30
3233 days' written notice cancel any extension of the rental
3234 agreement.

3235 5. All notices must be given in writing and sent by mail,
3236 return receipt requested, or delivered in person to the
3237 developer at this address: (name and address of developer) .

3238 6. If you have continuously been a resident of these
3239 apartments during the last 180 days:

3240 a. You have the right to purchase your apartment and will
3241 have 45 days to decide whether to purchase. If you do not buy
3242 the unit at that price and the unit is later offered at a lower
3243 price, you will have the opportunity to buy the unit at the
3244 lower price. However, in all events your right to purchase the
3245 unit ends when the rental agreement or any extension of the
3246 rental agreement ends or when you waive this right in writing.

3247 b. Within 90 days you will be provided purchase
3248 information relating to your apartment, including the price of
3249 your unit and the condition of the building. If you do not
3250 receive this information within 90 days, your rental agreement
3251 and any extension will be extended 1 day for each day over 90
3252 days until you are given the purchase information. If you do not
3253 want this rental agreement extension, you must notify the
3254 developer in writing.

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3255 7. If you have any questions regarding this conversion or
 3256 the Condominium Act, you may contact the developer or the state
 3257 agency which regulates condominiums: The Division of Florida
 3258 Land Sales, Condominiums, Homeowners' Associations, and Mobile
 3259 Homes, (Tallahassee address and telephone number of division)
 3260 .

3261 Section 43. Subsection (17) of section 719.103, Florida
 3262 Statutes, is amended to read:

3263 719.103 Definitions.--As used in this chapter:

3264 (17) "Division" means the Division of Florida Land Sales,
 3265 Condominiums, Homeowners' Associations, and Mobile Homes of the
 3266 Department of Business and Professional Regulation.

3267 Section 44. Subsection (7) is added to section 719.1055,
 3268 Florida Statutes, to read:

3269 719.1055 Amendment of cooperative documents; alteration
 3270 and acquisition of property.--

3271 (7) Any amendment restricting cooperative owners' rights
 3272 relating to the rental of units applies only to unit owners who
 3273 consent to the amendment and unit owners who purchase their
 3274 units after the effective date of that amendment.

3275 Section 45. Section 719.1255, Florida Statutes, is amended
 3276 to read:

3277 719.1255 Alternative resolution of disputes.--The Division
 3278 of Florida Land Sales, Condominiums, Homeowners' Associations,
 3279 and Mobile Homes of the Department of Business and Professional
 3280 Regulation shall provide for alternative dispute resolution in
 3281 accordance with s. 718.1255.

3282 Section 46. Section 719.501, Florida Statutes, is amended
 3283 to read:

3284 719.501 Powers and duties of Division of Florida Land
 3285 Sales, Condominiums, Homeowners' Associations, and Mobile
 3286 Homes.--

3287 (1) The Division of Florida Land Sales, Condominiums,
 3288 Homeowners' Associations, and Mobile Homes of the Department of
 3289 Business and Professional Regulation, referred to as the
 3290 "division" in this part, in addition to other powers and duties
 3291 prescribed by chapter 498, has the power to enforce and ensure
 3292 compliance with the provisions of this chapter and rules
 3293 promulgated pursuant hereto relating to the development,
 3294 construction, sale, lease, ownership, operation, and management
 3295 of residential cooperative units. In performing its duties, the
 3296 division shall have the following powers and duties:

3297 (a) The division may make necessary public or private
 3298 investigations within or outside this state to determine whether
 3299 any person has violated this chapter or any rule or order
 3300 hereunder, to aid in the enforcement of this chapter, or to aid
 3301 in the adoption of rules or forms hereunder.

3302 (b) The division may require or permit any person to file
 3303 a statement in writing, under oath or otherwise, as the division
 3304 determines, as to the facts and circumstances concerning a
 3305 matter to be investigated.

3306 (c) For the purpose of any investigation under this
 3307 chapter, the division director or any officer or employee
 3308 designated by the division director may administer oaths or
 3309 affirmations, subpoena witnesses and compel their attendance,

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3310 take evidence, and require the production of any matter which is
3311 relevant to the investigation, including the existence,
3312 description, nature, custody, condition, and location of any
3313 books, documents, or other tangible things and the identity and
3314 location of persons having knowledge of relevant facts or any
3315 other matter reasonably calculated to lead to the discovery of
3316 material evidence. Upon failure by a person to obey a subpoena
3317 or to answer questions propounded by the investigating officer
3318 and upon reasonable notice to all persons affected thereby, the
3319 division may apply to the circuit court for an order compelling
3320 compliance.

3321 (d) Notwithstanding any remedies available to unit owners
3322 and associations, if the division has reasonable cause to
3323 believe that a violation of any provision of this chapter or
3324 rule promulgated pursuant hereto has occurred, the division may
3325 institute enforcement proceedings in its own name against a
3326 developer, association, officer, or member of the board, or its
3327 assignees or agents, as follows:

3328 1. The division may permit a person whose conduct or
3329 actions may be under investigation to waive formal proceedings
3330 and enter into a consent proceeding whereby orders, rules, or
3331 letters of censure or warning, whether formal or informal, may
3332 be entered against the person.

3333 2. The division may issue an order requiring the
3334 developer, association, officer, or member of the board, or its
3335 assignees or agents, to cease and desist from the unlawful
3336 practice and take such affirmative action as in the judgment of
3337 the division will carry out the purposes of this chapter. Such

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3338 affirmative action may include, but is not limited to, an order
3339 requiring a developer to pay moneys determined to be owed to a
3340 condominium association.

3341 3. The division may bring an action in circuit court on
3342 behalf of a class of unit owners, lessees, or purchasers for
3343 declaratory relief, injunctive relief, or restitution.

3344 4. The division may impose a civil penalty against a
3345 developer or association, or its assignees or agents, for any
3346 violation of this chapter or a rule promulgated pursuant hereto.
3347 The division may impose a civil penalty individually against any
3348 officer or board member who willfully and knowingly violates a
3349 provision of this chapter, a rule adopted pursuant to this
3350 chapter, or a final order of the division. The term "willfully
3351 and knowingly" means that the division informed the officer or
3352 board member that his or her action or intended action violates
3353 this chapter, a rule adopted under this chapter, or a final
3354 order of the division, and that the officer or board member
3355 refused to comply with the requirements of this chapter, a rule
3356 adopted under this chapter, or a final order of the division.
3357 The division, prior to initiating formal agency action under
3358 chapter 120, shall afford the officer or board member an
3359 opportunity to voluntarily comply with this chapter, a rule
3360 adopted under this chapter, or a final order of the division. An
3361 officer or board member who complies within 10 days is not
3362 subject to a civil penalty. A penalty may be imposed on the
3363 basis of each day of continuing violation, but in no event shall
3364 the penalty for any offense exceed \$5,000. By January 1, 1998,
3365 the division shall adopt, by rule, penalty guidelines applicable

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3366 | to possible violations or to categories of violations of this
3367 | chapter or rules adopted by the division. The guidelines must
3368 | specify a meaningful range of civil penalties for each such
3369 | violation of the statute and rules and must be based upon the
3370 | harm caused by the violation, the repetition of the violation,
3371 | and upon such other factors deemed relevant by the division. For
3372 | example, the division may consider whether the violations were
3373 | committed by a developer or owner-controlled association, the
3374 | size of the association, and other factors. The guidelines must
3375 | designate the possible mitigating or aggravating circumstances
3376 | that justify a departure from the range of penalties provided by
3377 | the rules. It is the legislative intent that minor violations be
3378 | distinguished from those which endanger the health, safety, or
3379 | welfare of the cooperative residents or other persons and that
3380 | such guidelines provide reasonable and meaningful notice to the
3381 | public of likely penalties that may be imposed for proscribed
3382 | conduct. This subsection does not limit the ability of the
3383 | division to informally dispose of administrative actions or
3384 | complaints by stipulation, agreed settlement, or consent order.
3385 | All amounts collected shall be deposited with the Chief
3386 | Financial Officer to the credit of the Division of Florida Land
3387 | Sales, Condominiums, Homeowners' Associations, and Mobile Homes
3388 | Trust Fund. If a developer fails to pay the civil penalty, the
3389 | division shall thereupon issue an order directing that such
3390 | developer cease and desist from further operation until such
3391 | time as the civil penalty is paid or may pursue enforcement of
3392 | the penalty in a court of competent jurisdiction. If an
3393 | association fails to pay the civil penalty, the division shall

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3394 thereupon pursue enforcement in a court of competent
3395 jurisdiction, and the order imposing the civil penalty or the
3396 cease and desist order shall not become effective until 20 days
3397 after the date of such order. Any action commenced by the
3398 division shall be brought in the county in which the division
3399 has its executive offices or in the county where the violation
3400 occurred.

3401 (e) The division is authorized to prepare and disseminate
3402 a prospectus and other information to assist prospective owners,
3403 purchasers, lessees, and developers of residential cooperatives
3404 in assessing the rights, privileges, and duties pertaining
3405 thereto.

3406 (f) The division has authority to adopt rules pursuant to
3407 ss. 120.536(1) and 120.54 to implement and enforce the
3408 provisions of this chapter.

3409 (g) The division shall establish procedures for providing
3410 notice to an association when the division is considering the
3411 issuance of a declaratory statement with respect to the
3412 cooperative documents governing such cooperative community.

3413 (h) The division shall furnish each association which pays
3414 the fees required by paragraph (2)(a) a copy of this act,
3415 subsequent changes to this act on an annual basis, an amended
3416 version of this act as it becomes available from the Secretary
3417 of State's office on a biennial basis, and the rules promulgated
3418 pursuant thereto on an annual basis.

3419 (i) The division shall annually provide each association
3420 with a summary of declaratory statements and formal legal

3421 | opinions relating to the operations of cooperatives which were
3422 | rendered by the division during the previous year.

3423 | (j) The division shall adopt uniform accounting
3424 | principles, policies, and standards to be used by all
3425 | associations in the preparation and presentation of all
3426 | financial statements required by this chapter. The principles,
3427 | policies, and standards shall take into consideration the size
3428 | of the association and the total revenue collected by the
3429 | association.

3430 | (k) The division shall provide training programs for
3431 | cooperative association board members and unit owners.

3432 | (l) The division shall maintain a toll-free telephone
3433 | number accessible to cooperative unit owners.

3434 | (m) When a complaint is made to the division, the division
3435 | shall conduct its inquiry with reasonable dispatch and with due
3436 | regard to the interests of the affected parties. Within 30 days
3437 | after receipt of a complaint, the division shall acknowledge the
3438 | complaint in writing and notify the complainant whether the
3439 | complaint is within the jurisdiction of the division and whether
3440 | additional information is needed by the division from the
3441 | complainant. The division shall conduct its investigation and
3442 | shall, within 90 days after receipt of the original complaint or
3443 | timely requested additional information, take action upon the
3444 | complaint. However, the failure to complete the investigation
3445 | within 90 days does not prevent the division from continuing the
3446 | investigation, accepting or considering evidence obtained or
3447 | received after 90 days, or taking administrative action if
3448 | reasonable cause exists to believe that a violation of this

3449 chapter or a rule of the division has occurred. If an
 3450 investigation is not completed within the time limits
 3451 established in this paragraph, the division shall, on a monthly
 3452 basis, notify the complainant in writing of the status of the
 3453 investigation. When reporting its action to the complainant, the
 3454 division shall inform the complainant of any right to a hearing
 3455 pursuant to ss. 120.569 and 120.57.

3456 (n) The division shall develop a program to certify both
 3457 volunteer and paid mediators to provide mediation of cooperative
 3458 disputes. The division shall provide, upon request, a list of
 3459 such mediators to any association, unit owner, or other
 3460 participant in arbitration proceedings under s. 718.1255
 3461 requesting a copy of the list. The division shall include on the
 3462 list of voluntary mediators only persons who have received at
 3463 least 20 hours of training in mediation techniques or have
 3464 mediated at least 20 disputes. In order to become initially
 3465 certified by the division, paid mediators must be certified by
 3466 the Supreme Court to mediate court cases in either county or
 3467 circuit courts. However, the division may adopt, by rule,
 3468 additional factors for the certification of paid mediators,
 3469 which factors must be related to experience, education, or
 3470 background. Any person initially certified as a paid mediator by
 3471 the division must, in order to continue to be certified, comply
 3472 with the factors or requirements imposed by rules adopted by the
 3473 division.

3474 (2) (a) Each cooperative association shall pay to the
 3475 division, on or before January 1 of each year, an annual fee in
 3476 the amount of \$4 for each residential unit in cooperatives

3477 operated by the association. If the fee is not paid by March 1,
 3478 then the association shall be assessed a penalty of 10 percent
 3479 of the amount due, and the association shall not have the
 3480 standing to maintain or defend any action in the courts of this
 3481 state until the amount due is paid.

3482 (b) All fees shall be deposited in the Division of Florida
 3483 Land Sales, Condominiums, Homeowners' Associations, and Mobile
 3484 Homes Trust Fund as provided by law.

3485 Section 47. Paragraph (a) of subsection (2) of section
 3486 719.502, Florida Statutes, is amended to read:

3487 719.502 Filing prior to sale or lease.--

3488 (2)(a) Prior to filing as required by subsection (1), and
 3489 prior to acquiring an ownership, leasehold, or contractual
 3490 interest in the land upon which the cooperative is to be
 3491 developed, a developer shall not offer a contract for purchase
 3492 or lease of a unit for more than 5 years. However, the developer
 3493 may accept deposits for reservations upon the approval of a
 3494 fully executed escrow agreement and reservation agreement form
 3495 properly filed with the Division of Florida Land Sales,
 3496 Condominiums, Homeowners' Associations, and Mobile Homes. Each
 3497 filing of a proposed reservation program shall be accompanied by
 3498 a filing fee of \$250. Reservations shall not be taken on a
 3499 proposed cooperative unless the developer has an ownership,
 3500 leasehold, or contractual interest in the land upon which the
 3501 cooperative is to be developed. The division shall notify the
 3502 developer within 20 days of receipt of the reservation filing of
 3503 any deficiencies contained therein. Such notification shall not
 3504 preclude the determination of reservation filing deficiencies at

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3505 a later date, nor shall it relieve the developer of any
3506 responsibility under the law. The escrow agreement and the
3507 reservation agreement form shall include a statement of the
3508 right of the prospective purchaser to an immediate unqualified
3509 refund of the reservation deposit moneys upon written request to
3510 the escrow agent by the prospective purchaser or the developer.

3511 Section 48. Section 719.504, Florida Statutes, is amended
3512 to read:

3513 719.504 Prospectus or offering circular.--Every developer
3514 of a residential cooperative which contains more than 20
3515 residential units, or which is part of a group of residential
3516 cooperatives which will be served by property to be used in
3517 common by unit owners of more than 20 residential units, shall
3518 prepare a prospectus or offering circular and file it with the
3519 Division of Florida Land Sales, Condominiums, Homeowners'
3520 Associations, and Mobile Homes prior to entering into an
3521 enforceable contract of purchase and sale of any unit or lease
3522 of a unit for more than 5 years and shall furnish a copy of the
3523 prospectus or offering circular to each buyer. In addition to
3524 the prospectus or offering circular, each buyer shall be
3525 furnished a separate page entitled "Frequently Asked Questions
3526 and Answers," which must be in accordance with a format approved
3527 by the division. This page must, in readable language: inform
3528 prospective purchasers regarding their voting rights and unit
3529 use restrictions, including restrictions on the leasing of a
3530 unit; indicate whether and in what amount the unit owners or the
3531 association is obligated to pay rent or land use fees for
3532 recreational or other commonly used facilities; contain a

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3533 statement identifying that amount of assessment which, pursuant
 3534 to the budget, would be levied upon each unit type, exclusive of
 3535 any special assessments, and which identifies the basis upon
 3536 which assessments are levied, whether monthly, quarterly, or
 3537 otherwise; state and identify any court cases in which the
 3538 association is currently a party of record in which the
 3539 association may face liability in excess of \$100,000; and state
 3540 whether membership in a recreational facilities association is
 3541 mandatory and, if so, identify the fees currently charged per
 3542 unit type. The division shall by rule require such other
 3543 disclosure as in its judgment will assist prospective
 3544 purchasers. The prospectus or offering circular may include more
 3545 than one cooperative, although not all such units are being
 3546 offered for sale as of the date of the prospectus or offering
 3547 circular. The prospectus or offering circular must contain the
 3548 following information:

3549 (1) The front cover or the first page must contain only:

3550 (a) The name of the cooperative.

3551 (b) The following statements in conspicuous type:

3552 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
 3553 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

3554 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
 3555 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
 3556 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
 3557 MATERIALS.

3558 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
 3559 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS

3560 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
 3561 REPRESENTATIONS.

3562 (2) Summary: The next page must contain all statements
 3563 required to be in conspicuous type in the prospectus or offering
 3564 circular.

3565 (3) A separate index of the contents and exhibits of the
 3566 prospectus.

3567 (4) Beginning on the first page of the text (not including
 3568 the summary and index), a description of the cooperative,
 3569 including, but not limited to, the following information:

3570 (a) Its name and location.

3571 (b) A description of the cooperative property, including,
 3572 without limitation:

3573 1. The number of buildings, the number of units in each
 3574 building, the number of bathrooms and bedrooms in each unit, and
 3575 the total number of units, if the cooperative is not a phase
 3576 cooperative; or, if the cooperative is a phase cooperative, the
 3577 maximum number of buildings that may be contained within the
 3578 cooperative, the minimum and maximum number of units in each
 3579 building, the minimum and maximum number of bathrooms and
 3580 bedrooms that may be contained in each unit, and the maximum
 3581 number of units that may be contained within the cooperative.

3582 2. The page in the cooperative documents where a copy of
 3583 the survey and plot plan of the cooperative is located.

3584 3. The estimated latest date of completion of
 3585 constructing, finishing, and equipping. In lieu of a date, a
 3586 statement that the estimated date of completion of the

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3587 cooperative is in the purchase agreement and a reference to the
3588 article or paragraph containing that information.

3589 (c) The maximum number of units that will use facilities
3590 in common with the cooperative. If the maximum number of units
3591 will vary, a description of the basis for variation and the
3592 minimum amount of dollars per unit to be spent for additional
3593 recreational facilities or enlargement of such facilities. If
3594 the addition or enlargement of facilities will result in a
3595 material increase of a unit owner's maintenance expense or
3596 rental expense, if any, the maximum increase and limitations
3597 thereon shall be stated.

3598 (5) (a) A statement in conspicuous type describing whether
3599 the cooperative is created and being sold as fee simple
3600 interests or as leasehold interests. If the cooperative is
3601 created or being sold on a leasehold, the location of the lease
3602 in the disclosure materials shall be stated.

3603 (b) If timeshare estates are or may be created with
3604 respect to any unit in the cooperative, a statement in
3605 conspicuous type stating that timeshare estates are created and
3606 being sold in such specified units in the cooperative.

3607 (6) A description of the recreational and other common
3608 areas that will be used only by unit owners of the cooperative,
3609 including, but not limited to, the following:

3610 (a) Each room and its intended purposes, location,
3611 approximate floor area, and capacity in numbers of people.

3612 (b) Each swimming pool, as to its general location,
3613 approximate size and depths, approximate deck size and capacity,
3614 and whether heated.

3615 (c) Additional facilities, as to the number of each
 3616 facility, its approximate location, approximate size, and
 3617 approximate capacity.

3618 (d) A general description of the items of personal
 3619 property and the approximate number of each item of personal
 3620 property that the developer is committing to furnish for each
 3621 room or other facility or, in the alternative, a representation
 3622 as to the minimum amount of expenditure that will be made to
 3623 purchase the personal property for the facility.

3624 (e) The estimated date when each room or other facility
 3625 will be available for use by the unit owners.

3626 (f)1. An identification of each room or other facility to
 3627 be used by unit owners that will not be owned by the unit owners
 3628 or the association;

3629 2. A reference to the location in the disclosure materials
 3630 of the lease or other agreements providing for the use of those
 3631 facilities; and

3632 3. A description of the terms of the lease or other
 3633 agreements, including the length of the term; the rent payable,
 3634 directly or indirectly, by each unit owner, and the total rent
 3635 payable to the lessor, stated in monthly and annual amounts for
 3636 the entire term of the lease; and a description of any option to
 3637 purchase the property leased under any such lease, including the
 3638 time the option may be exercised, the purchase price or how it
 3639 is to be determined, the manner of payment, and whether the
 3640 option may be exercised for a unit owner's share or only as to
 3641 the entire leased property.

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3642 (g) A statement as to whether the developer may provide
3643 additional facilities not described above, their general
3644 locations and types, improvements or changes that may be made,
3645 the approximate dollar amount to be expended, and the maximum
3646 additional common expense or cost to the individual unit owners
3647 that may be charged during the first annual period of operation
3648 of the modified or added facilities.

3649

3650 Descriptions as to locations, areas, capacities, numbers,
3651 volumes, or sizes may be stated as approximations or minimums.

3652 (7) A description of the recreational and other facilities
3653 that will be used in common with other cooperatives, community
3654 associations, or planned developments which require the payment
3655 of the maintenance and expenses of such facilities, either
3656 directly or indirectly, by the unit owners. The description
3657 shall include, but not be limited to, the following:

3658 (a) Each building and facility committed to be built.

3659 (b) Facilities not committed to be built except under
3660 certain conditions, and a statement of those conditions or
3661 contingencies.

3662 (c) As to each facility committed to be built, or which
3663 will be committed to be built upon the happening of one of the
3664 conditions in paragraph (b), a statement of whether it will be
3665 owned by the unit owners having the use thereof or by an
3666 association or other entity which will be controlled by them, or
3667 others, and the location in the exhibits of the lease or other
3668 document providing for use of those facilities.

3669 (d) The year in which each facility will be available for
 3670 use by the unit owners or, in the alternative, the maximum
 3671 number of unit owners in the project at the time each of all of
 3672 the facilities is committed to be completed.

3673 (e) A general description of the items of personal
 3674 property, and the approximate number of each item of personal
 3675 property, that the developer is committing to furnish for each
 3676 room or other facility or, in the alternative, a representation
 3677 as to the minimum amount of expenditure that will be made to
 3678 purchase the personal property for the facility.

3679 (f) If there are leases, a description thereof, including
 3680 the length of the term, the rent payable, and a description of
 3681 any option to purchase.

3682
 3683 Descriptions shall include location, areas, capacities, numbers,
 3684 volumes, or sizes and may be stated as approximations or
 3685 minimums.

3686 (8) Recreation lease or associated club membership:

3687 (a) If any recreational facilities or other common areas
 3688 offered by the developer and available to, or to be used by,
 3689 unit owners are to be leased or have club membership associated,
 3690 the following statement in conspicuous type shall be included:
 3691 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 3692 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 3693 COOPERATIVE. There shall be a reference to the location in the
 3694 disclosure materials where the recreation lease or club
 3695 membership is described in detail.

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3696 (b) If it is mandatory that unit owners pay a fee, rent,
 3697 dues, or other charges under a recreational facilities lease or
 3698 club membership for the use of facilities, there shall be in
 3699 conspicuous type the applicable statement:

3700 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 3701 MANDATORY FOR UNIT OWNERS; or

3702 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 3703 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3704 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
 3705 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
 3706 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
 3707 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

3708 4. A similar statement of the nature of the organization
 3709 or manner in which the use rights are created, and that unit
 3710 owners are required to pay.

3711
 3712 Immediately following the applicable statement, the location in
 3713 the disclosure materials where the development is described in
 3714 detail shall be stated.

3715 (c) If the developer, or any other person other than the
 3716 unit owners and other persons having use rights in the
 3717 facilities, reserves, or is entitled to receive, any rent, fee,
 3718 or other payment for the use of the facilities, then there shall
 3719 be the following statement in conspicuous type: THE UNIT OWNERS
 3720 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 3721 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this
 3722 statement, the location in the disclosure materials where the
 3723 rent or land use fees are described in detail shall be stated.

3724 (d) If, in any recreation format, whether leasehold, club,
 3725 or other, any person other than the association has the right to
 3726 a lien on the units to secure the payment of assessments, rent,
 3727 or other exactions, there shall appear a statement in
 3728 conspicuous type in substantially the following form:

3729 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 3730 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 3731 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
 3732 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

3733 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 3734 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 3735 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 3736 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE
 3737 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

3738
 3739 Immediately following the applicable statement, the location in
 3740 the disclosure materials where the lien or lien right is
 3741 described in detail shall be stated.

3742 (9) If the developer or any other person has the right to
 3743 increase or add to the recreational facilities at any time after
 3744 the establishment of the cooperative whose unit owners have use
 3745 rights therein, without the consent of the unit owners or
 3746 associations being required, there shall appear a statement in
 3747 conspicuous type in substantially the following form:

3748 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
 3749 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
 3750 statement, the location in the disclosure materials where such
 3751 reserved rights are described shall be stated.

3752 (10) A statement of whether the developer's plan includes
 3753 a program of leasing units rather than selling them, or leasing
 3754 units and selling them subject to such leases. If so, there
 3755 shall be a description of the plan, including the number and
 3756 identification of the units and the provisions and term of the
 3757 proposed leases, and a statement in boldfaced type that: THE
 3758 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

3759 (11) The arrangements for management of the association
 3760 and maintenance and operation of the cooperative property and of
 3761 other property that will serve the unit owners of the
 3762 cooperative property, and a description of the management
 3763 contract and all other contracts for these purposes having a
 3764 term in excess of 1 year, including the following:

- 3765 (a) The names of contracting parties.
- 3766 (b) The term of the contract.
- 3767 (c) The nature of the services included.
- 3768 (d) The compensation, stated on a monthly and annual
 3769 basis, and provisions for increases in the compensation.
- 3770 (e) A reference to the volumes and pages of the
 3771 cooperative documents and of the exhibits containing copies of
 3772 such contracts.

3773
 3774 Copies of all described contracts shall be attached as exhibits.
 3775 If there is a contract for the management of the cooperative
 3776 property, then a statement in conspicuous type in substantially
 3777 the following form shall appear, identifying the proposed or
 3778 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
 3779 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE

3780 CONTRACT MANAGER). Immediately following this statement, the
 3781 location in the disclosure materials of the contract for
 3782 management of the cooperative property shall be stated.

3783 (12) If the developer or any other person or persons other
 3784 than the unit owners has the right to retain control of the
 3785 board of administration of the association for a period of time
 3786 which can exceed 1 year after the closing of the sale of a
 3787 majority of the units in that cooperative to persons other than
 3788 successors or alternate developers, then a statement in
 3789 conspicuous type in substantially the following form shall be
 3790 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
 3791 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
 3792 HAVE BEEN SOLD. Immediately following this statement, the
 3793 location in the disclosure materials where this right to control
 3794 is described in detail shall be stated.

3795 (13) If there are any restrictions upon the sale,
 3796 transfer, conveyance, or leasing of a unit, then a statement in
 3797 conspicuous type in substantially the following form shall be
 3798 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
 3799 CONTROLLED. Immediately following this statement, the location
 3800 in the disclosure materials where the restriction, limitation,
 3801 or control on the sale, lease, or transfer of units is described
 3802 in detail shall be stated.

3803 (14) If the cooperative is part of a phase project, the
 3804 following shall be stated:

3805 (a) A statement in conspicuous type in substantially the
 3806 following form shall be included: THIS IS A PHASE COOPERATIVE.
 3807 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.

3808 Immediately following this statement, the location in the
 3809 disclosure materials where the phasing is described shall be
 3810 stated.

3811 (b) A summary of the provisions of the declaration
 3812 providing for the phasing.

3813 (c) A statement as to whether or not residential buildings
 3814 and units which are added to the cooperative may be
 3815 substantially different from the residential buildings and units
 3816 originally in the cooperative, and, if the added residential
 3817 buildings and units may be substantially different, there shall
 3818 be a general description of the extent to which such added
 3819 residential buildings and units may differ, and a statement in
 3820 conspicuous type in substantially the following form shall be
 3821 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE
 3822 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
 3823 UNITS IN THE COOPERATIVE. Immediately following this statement,
 3824 the location in the disclosure materials where the extent to
 3825 which added residential buildings and units may substantially
 3826 differ is described shall be stated.

3827 (d) A statement of the maximum number of buildings
 3828 containing units, the maximum and minimum number of units in
 3829 each building, the maximum number of units, and the minimum and
 3830 maximum square footage of the units that may be contained within
 3831 each parcel of land which may be added to the cooperative.

3832 (15) If the cooperative is created by conversion of
 3833 existing improvements, the following information shall be
 3834 stated:

3835 (a) The information required by s. 719.616.

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3836 (b) A caveat that there are no express warranties unless
3837 they are stated in writing by the developer.

3838 (16) A summary of the restrictions, if any, to be imposed
3839 on units concerning the use of any of the cooperative property,
3840 including statements as to whether there are restrictions upon
3841 children and pets, and reference to the volumes and pages of the
3842 cooperative documents where such restrictions are found, or if
3843 such restrictions are contained elsewhere, then a copy of the
3844 documents containing the restrictions shall be attached as an
3845 exhibit.

3846 (17) If there is any land that is offered by the developer
3847 for use by the unit owners and that is neither owned by them nor
3848 leased to them, the association, or any entity controlled by
3849 unit owners and other persons having the use rights to such
3850 land, a statement shall be made as to how such land will serve
3851 the cooperative. If any part of such land will serve the
3852 cooperative, the statement shall describe the land and the
3853 nature and term of service, and the cooperative documents or
3854 other instrument creating such servitude shall be included as an
3855 exhibit.

3856 (18) The manner in which utility and other services,
3857 including, but not limited to, sewage and waste disposal, water
3858 supply, and storm drainage, will be provided and the person or
3859 entity furnishing them.

3860 (19) An explanation of the manner in which the
3861 apportionment of common expenses and ownership of the common
3862 areas have been determined.

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3863 (20) An estimated operating budget for the cooperative and
3864 the association, and a schedule of the unit owner's expenses
3865 shall be attached as an exhibit and shall contain the following
3866 information:

3867 (a) The estimated monthly and annual expenses of the
3868 cooperative and the association that are collected from unit
3869 owners by assessments.

3870 (b) The estimated monthly and annual expenses of each unit
3871 owner for a unit, other than assessments payable to the
3872 association, payable by the unit owner to persons or entities
3873 other than the association, and the total estimated monthly and
3874 annual expense. There may be excluded from this estimate
3875 expenses that are personal to unit owners, which are not
3876 uniformly incurred by all unit owners, or which are not provided
3877 for or contemplated by the cooperative documents, including, but
3878 not limited to, the costs of private telephone; maintenance of
3879 the interior of cooperative units, which is not the obligation
3880 of the association; maid or janitorial services privately
3881 contracted for by the unit owners; utility bills billed directly
3882 to each unit owner for utility services to his or her unit;
3883 insurance premiums other than those incurred for policies
3884 obtained by the cooperative; and similar personal expenses of
3885 the unit owner. A unit owner's estimated payments for
3886 assessments shall also be stated in the estimated amounts for
3887 the times when they will be due.

3888 (c) The estimated items of expenses of the cooperative and
3889 the association, except as excluded under paragraph (b),
3890 including, but not limited to, the following items, which shall

3891 be stated either as an association expense collectible by
 3892 assessments or as unit owners' expenses payable to persons other
 3893 than the association:

- 3894 1. Expenses for the association and cooperative:
 - 3895 a. Administration of the association.
 - 3896 b. Management fees.
 - 3897 c. Maintenance.
 - 3898 d. Rent for recreational and other commonly used areas.
 - 3899 e. Taxes upon association property.
 - 3900 f. Taxes upon leased areas.
 - 3901 g. Insurance.
 - 3902 h. Security provisions.
 - 3903 i. Other expenses.
 - 3904 j. Operating capital.
 - 3905 k. Reserves.
- 3906 1. Fee payable to the division.
- 3907 2. Expenses for a unit owner:
 - 3908 a. Rent for the unit, if subject to a lease.
 - 3909 b. Rent payable by the unit owner directly to the lessor
 3910 or agent under any recreational lease or lease for the use of
 3911 commonly used areas, which use and payment are a mandatory
 3912 condition of ownership and are not included in the common
 3913 expense or assessments for common maintenance paid by the unit
 3914 owners to the association.

3915 (d) The estimated amounts shall be stated for a period of
 3916 at least 12 months and may distinguish between the period prior
 3917 to the time unit owners other than the developer elect a

3918 majority of the board of administration and the period after
 3919 that date.

3920 (21) A schedule of estimated closing expenses to be paid
 3921 by a buyer or lessee of a unit and a statement of whether title
 3922 opinion or title insurance policy is available to the buyer and,
 3923 if so, at whose expense.

3924 (22) The identity of the developer and the chief operating
 3925 officer or principal directing the creation and sale of the
 3926 cooperative and a statement of its and his or her experience in
 3927 this field.

3928 (23) Copies of the following, to the extent they are
 3929 applicable, shall be included as exhibits:

3930 (a) The cooperative documents, or the proposed cooperative
 3931 documents if the documents have not been recorded.

3932 (b) The articles of incorporation creating the
 3933 association.

3934 (c) The bylaws of the association.

3935 (d) The ground lease or other underlying lease of the
 3936 cooperative.

3937 (e) The management agreement and all maintenance and other
 3938 contracts for management of the association and operation of the
 3939 cooperative and facilities used by the unit owners having a
 3940 service term in excess of 1 year.

3941 (f) The estimated operating budget for the cooperative and
 3942 the required schedule of unit owners' expenses.

3943 (g) A copy of the floor plan of the unit and the plot plan
 3944 showing the location of the residential buildings and the
 3945 recreation and other common areas.

3946 (h) The lease of recreational and other facilities that
 3947 will be used only by unit owners of the subject cooperative.

3948 (i) The lease of facilities used by owners and others.

3949 (j) The form of unit lease, if the offer is of a
 3950 leasehold.

3951 (k) A declaration of servitude of properties serving the
 3952 cooperative but not owned by unit owners or leased to them or
 3953 the association.

3954 (l) The statement of condition of the existing building or
 3955 buildings, if the offering is of units in an operation being
 3956 converted to cooperative ownership.

3957 (m) The statement of inspection for termite damage and
 3958 treatment of the existing improvements, if the cooperative is a
 3959 conversion.

3960 (n) The form of agreement for sale or lease of units.

3961 (o) A copy of the agreement for escrow of payments made to
 3962 the developer prior to closing.

3963 (p) A copy of the documents containing any restrictions on
 3964 use of the property required by subsection (16).

3965 (24) Any prospectus or offering circular complying with
 3966 the provisions of former ss. 711.69 and 711.802 may continue to
 3967 be used without amendment, or may be amended to comply with the
 3968 provisions of this chapter.

3969 (25) A brief narrative description of the location and
 3970 effect of all existing and intended easements located or to be
 3971 located on the cooperative property other than those in the
 3972 declaration.

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3973 (26) If the developer is required by state or local
 3974 authorities to obtain acceptance or approval of any dock or
 3975 marina facility intended to serve the cooperative, a copy of
 3976 such acceptance or approval acquired by the time of filing with
 3977 the division pursuant to s. 719.502 or a statement that such
 3978 acceptance has not been acquired or received.

3979 (27) Evidence demonstrating that the developer has an
 3980 ownership, leasehold, or contractual interest in the land upon
 3981 which the cooperative is to be developed.

3982 Section 49. Section 719.508, Florida Statutes, is amended
 3983 to read:

3984 719.508 Regulation by Division of Hotels and
 3985 Restaurants.--In addition to the authority, regulation, or
 3986 control exercised by the Division of Florida Land Sales,
 3987 Condominiums, Homeowners' Associations, and Mobile Homes
 3988 pursuant to this act with respect to cooperatives, buildings
 3989 included in a cooperative property shall be subject to the
 3990 authority, regulation, or control of the Division of Hotels and
 3991 Restaurants of the Department of Business and Professional
 3992 Regulation, to the extent provided for in chapters 399 and 509.

3993 Section 50. Paragraph (a) of subsection (2) of section
 3994 719.608, Florida Statutes, is amended to read:

3995 719.608 Notice of intended conversion; time of delivery;
 3996 content.--

3997 (2) (a) Each notice of intended conversion shall be dated
 3998 and in writing. The notice shall contain the following
 3999 statement, with the phrases of the following statement which
 4000 appear in upper case printed in conspicuous type:

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

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

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

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

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

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

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

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

4029 a. If your rental agreement began or was extended or
 4030 renewed after May 1, 1980, and your rental agreement, including
 4031 extensions and renewals, has an unexpired term of 180 days or
 4032 less, you may cancel your rental agreement upon 30 days' written
 4033 notice and move. Also, upon 30 days' written notice, you may
 4034 cancel any extension of the rental agreement.

4035 b. If your rental agreement was not begun or was not
 4036 extended or renewed after May 1, 1980, you may not cancel the
 4037 rental agreement without the consent of the developer. If your
 4038 rental agreement, including extensions and renewals, has an
 4039 unexpired term of 180 days or less, you may, however, upon 30
 4040 days' written notice cancel any extension of the rental
 4041 agreement.

4042 5. All notices must be given in writing and sent by mail,
 4043 return receipt requested, or delivered in person to the
 4044 developer at this address: (name and address of developer) .

4045 6. If you have continuously been a resident of these
 4046 apartments during the last 180 days:

4047 a. You have the right to purchase your apartment and will
 4048 have 45 days to decide whether to purchase. If you do not buy
 4049 the unit at that price and the unit is later offered at a lower
 4050 price, you will have the opportunity to buy the unit at the
 4051 lower price. However, in all events your right to purchase the
 4052 unit ends when the rental agreement or any extension of the
 4053 rental agreement ends or when you waive this right in writing.

4054 b. Within 90 days you will be provided purchase
 4055 information relating to your apartment, including the price of
 4056 your unit and the condition of the building. If you do not

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4057 receive this information within 90 days, your rental agreement
 4058 and any extension will be extended 1 day for each day over 90
 4059 days until you are given the purchase information. If you do not
 4060 want this rental agreement extension, you must notify the
 4061 developer in writing.

4062 7. If you have any questions regarding this conversion or
 4063 the Cooperative Act, you may contact the developer or the state
 4064 agency which regulates cooperatives: The Division of Florida
 4065 Land Sales, Condominiums, Homeowners' Associations, and Mobile
 4066 Homes, (Tallahassee address and telephone number of division)
 4067 .

4068 Section 51. Subsections (2), (4), (7), (8), (9), and (10)
 4069 of section 720.301, Florida Statutes, are amended, and
 4070 subsection (14) is added to that section, to read:

4071 720.301 Definitions.--As used in this chapter, the term:

4072 (2) "Common area" means all real property within a
 4073 community which is owned or leased by an association ~~or~~
 4074 ~~dedicated for use or maintenance by the association~~ or its
 4075 members, including, regardless of whether title has been
 4076 conveyed to the association:

4077 (a) Real property the use of which is dedicated to the
 4078 association or its members by a recorded plat; or

4079 (b) Real property committed by a declaration of covenants
 4080 to be leased or conveyed to the association.

4081 (4) "Declaration of covenants," or "declaration," means a
 4082 recorded written instrument in the nature of covenants running
 4083 with the land, according to the recorded plat, which subjects
 4084 the land comprising the community to the jurisdiction and

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4085 control of an association or associations in which the owners of
 4086 the parcels, ~~or their association representatives,~~ must be
 4087 members. Upon the execution of the sale of the first lot, a
 4088 declaration may not be amended without the vote of approval of
 4089 two-thirds majority of the owners of residential parcels that
 4090 have been purchased, with a tie vote resulting in a negative
 4091 vote. Exceptions shall be amendments identifying additional
 4092 phases of the community as they are constructed. These
 4093 amendments may not contain any other changes to the existing
 4094 declaration.

4095 (7) "Division" means the Division of Florida Land Sales,
 4096 Condominiums, Homeowners' Associations, and Mobile Homes in the
 4097 Department of Business and Professional Regulation.

4098 (8) "Governing documents" means:

4099 (a) Each set of ~~The~~ recorded declaration of covenants for
 4100 a community, and all duly adopted and recorded amendments,
 4101 supplements, and recorded exhibits thereto; and

4102 (b) The articles of incorporation and bylaws of the
 4103 homeowners' association, and any duly adopted amendments
 4104 thereto.

4105
 4106 When different sets of covenants exist for each recorded plat,
 4107 those covenants shall only apply to the plat for which they are
 4108 recorded and specified. The different sets of covenants may not
 4109 be commingled.

4110 (9) "Homeowners' association" or "association" means a
 4111 Florida corporation, as authorized by chapter 720 or an
 4112 authorized not-for-profit corporation pursuant to chapter 617,

4113 responsible for the administration ~~operation~~ of a community or a
 4114 mobile home subdivision in compliance with applicable federal,
 4115 state, and local laws and the governing documents of the
 4116 association. In addition, a homeowners' association means a
 4117 Florida corporation in which the voting membership is made up of
 4118 parcel owners ~~or their agents, or a combination thereof,~~ and in
 4119 which membership is a mandatory condition of parcel ownership,
 4120 and which is authorized to impose assessments that, if unpaid,
 4121 may become a lien on the parcel. Any homeowners' association or
 4122 other named association that administers a residential community
 4123 where membership is mandatory shall be required to comply with
 4124 this chapter, except if exempted. The term "homeowners'
 4125 association" does not include a community development district
 4126 or other similar special taxing district created pursuant to
 4127 statute.

4128 (10) "Member" means a member of an association, and may
 4129 include, but is not limited to, a parcel owner ~~or an association~~
 4130 ~~representing parcel owners~~ or a combination thereof, and
 4131 includes any person or entity obligated by the governing
 4132 documents to pay an assessment or amenity fee.

4133 (14) "Homeowners' Association Advisory Council" means a
 4134 group of persons appointed to recommend changes in laws that
 4135 affect the administration of mandatory homeowners' associations.

4136 Section 52. Subsections (1) and (2) of section 720.302,
 4137 Florida Statutes, are amended to read:

4138 720.302 Purposes, scope, and application.--

4139 (1) The purposes of this chapter are to give statutory
 4140 recognition to corporations not for profit that administer or

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4141 operate residential communities in this state, to provide
4142 regulations ~~procedures~~ for operating homeowners' associations,
4143 and to protect the rights of association members without unduly
4144 impairing the ability of such associations to perform their
4145 functions as authorized by federal, state, and local laws and
4146 the governing documents of the association.

4147 (2) Having provided certain powers and authority to
4148 homeowners' associations and deed restrictions created by
4149 developers of mandated properties in residential communities,
4150 the Legislature recognizes that it is necessary to provide
4151 regulatory oversight to ensure compliance with federal, state,
4152 and local laws. It is the intent of the Legislature to protect
4153 the rights of parcel owners by ensuring that the powers and
4154 authority granted to homeowners' associations and deed
4155 restrictions created by developers of mandated properties in
4156 residential communities conform to a system of checks and
4157 balances to prevent abuses of governmental authority. The
4158 Department of Business and Professional Regulation shall create
4159 a Division of Mandated Properties. No later than July 1, 2008,
4160 the division shall establish a process for collecting an annual
4161 fee which shall not exceed \$4 for each association member in
4162 communities administered by the association during each of the
4163 following 2 years and, thereafter, shall not exceed the Cost of
4164 Living Index. Funds collected shall be deposited in the Division
4165 of Florida Land Sales, Condominiums, Homeowners' Associations,
4166 and Mobile Homes Trust Fund Trust Fund. Funds shall be utilized
4167 by the division for, but not limited to, the review and approval
4168 of deed restrictions before releasing for recording at the

4169 county level by the developer or owner of the initial lots to be
 4170 developed; education; enforcement; investigation; and
 4171 prosecution of policies and procedures related to mandated
 4172 properties. Upon transition of authorities, duties,
 4173 responsibilities, and rights from the developer to the parcel
 4174 owners, all amendments, alterations, or modifications to the
 4175 governing documents must be approved by at least two-thirds of
 4176 the parcel owners or homeowners' association members. The
 4177 governing documents may not contain provisions that reduce this
 4178 percentage of majority approval for changes to the governing
 4179 documents. The ombudsman may not engage the services of industry
 4180 partisans with a vested interest in the administration of deed-
 4181 restricted communities or in the mandatory homeowners'
 4182 association to implement its powers, who have practiced in this
 4183 field within the last 3 years. Furthermore ~~not in the best~~
 4184 ~~interest of homeowners' associations or the individual~~
 4185 ~~association members thereof to create or impose a bureau or~~
 4186 ~~other agency of state government to regulate the affairs of~~
 4187 ~~homeowners' associations. However,~~ in accordance with s.
 4188 720.311, the Legislature finds that homeowners' associations and
 4189 their individual members will benefit from an expedited
 4190 alternative process for resolution of election and recall
 4191 disputes and presuit mediation of other disputes involving
 4192 covenant enforcement, disputes relating to the transition of
 4193 control of the association from the developer or owner to
 4194 members of the association, and authorizes the department to
 4195 hear, administer, and determine these disputes as more fully set
 4196 forth in this chapter. Further, the Legislature recognizes that

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4197 certain contract rights have been created for the benefit of
 4198 homeowners' associations and members thereof before the
 4199 effective date of this act and that ss. 720.301-720.407 are not
 4200 intended to impair such contract rights, as long as they are
 4201 accepted by a two-thirds majority of the homeowners' association
 4202 members, including, but not limited to, the rights of the
 4203 developer to complete the community as initially contemplated.

4204 Section 53. Section 720.303, Florida Statutes, is amended
 4205 to read:

4206 720.303 Association powers and duties; meetings of board;
 4207 official records; budgets; financial reporting; association
 4208 funds; recalls.--

4209 (1) POWERS AND DUTIES.--

4210 (a) An association which operates a community as defined
 4211 in s. 720.301, must be incorporated in this state, ~~operated by~~
 4212 ~~an association that is a Florida corporation. After October 1,~~
 4213 ~~1995, the association must be incorporated and the initial~~
 4214 governing documents must be recorded in the official records of
 4215 the county in which the community is located. ~~An association may~~
 4216 ~~operate more than one community.~~

4217 (b) The officers and directors of an association have a
 4218 fiduciary relationship of ~~to the members who are served by the~~
 4219 association.

4220 (c) The powers and duties of an association include those
 4221 set forth in this chapter and, ~~except as expressly limited or~~
 4222 ~~restricted in this chapter,~~ those specifically set forth in the
 4223 governing documents. The officers and directors of the

4224 association may not take any action that is inconsistent with
 4225 the declaration of covenants.

4226 (d) After control of the association is obtained by
 4227 members ~~from~~ ~~other than~~ the developer, the association may
 4228 institute, maintain, or settle on , ~~or~~ appeal actions ~~or~~
 4229 ~~hearings~~ in its name on behalf of the all members concerning
 4230 matters of common interest to the members, ~~including, but not~~
 4231 ~~limited to, the common areas, roof or structural components of a~~
 4232 ~~building, or other improvements for which the association is~~
 4233 ~~responsible; mechanical, electrical, or plumbing elements~~
 4234 ~~servicing an improvement or building for which the association is~~
 4235 ~~responsible; representations of the developer pertaining to any~~
 4236 ~~existing or proposed commonly used facility; and protesting ad~~
 4237 ~~valorem taxes on commonly used facilities. The association may~~
 4238 ~~defend actions in eminent domain or bring inverse condemnation~~
 4239 ~~actions.~~ Before commencing any legal action ~~litigation~~ against
 4240 any party in the name of the association involving amounts in
 4241 controversy in excess of \$50,000 ~~\$100,000~~, the association must
 4242 obtain the affirmative approval of a majority of the members of
 4243 the association ~~voting interests~~ at a meeting of the association
 4244 ~~membership~~ at which a quorum is present ~~has been attained.~~

4245 (e) The association may enter into contracts for the
 4246 benefit of the members of the association, including, but not
 4247 limited to, contracts for maintaining, repairing, or improving
 4248 the common areas of the association. This subsection does not
 4249 limit any statutory or common law right of any individual member
 4250 or class of members to bring any action without participation by
 4251 the association.

4252 (f) A member does not have the authority to act for the
 4253 association by virtue of being a member of the association. ~~An~~
 4254 ~~association may have more than one class of members and may~~
 4255 ~~issue membership certificates.~~

4256 (g) In any civil or criminal action between a member and
 4257 the association, it shall not be a defense by the association
 4258 that the association's actions, although incompatible with the
 4259 declaration of covenants, have been uniformly applied.

4260 (h) An association may not restrict a member's freedom of
 4261 association and may not limit the number of guests a member may
 4262 have within a 24-hour period.

4263 (i) An association of 15 or fewer parcels ~~parcel owners~~
 4264 ~~may enforce only the requirements of those deed restrictions~~
 4265 ~~established prior to the purchase of each parcel upon an~~
 4266 ~~affected parcel owner or owners.~~

4267 (j) The officers and directors of an association may be
 4268 personally liable for damages to a member if the actions of the
 4269 officers and directors demonstrate a pattern of behavior
 4270 intended to harass a member of the association.

4271 (k) Any action of the association by and through the
 4272 officers and directors that limits the legal use of any portion
 4273 of a member's property that is incompatible with the declaration
 4274 of covenants shall entitle the member to compensation for the
 4275 fair market value of that portion of the member's property, the
 4276 use of which is being restricted.

4277 (l) In any association with more than 50 but fewer than 75
 4278 parcels, for purposes of establishing setback limits, any parcel
 4279 of 1 acre or less shall be deemed to have one front for purposes

4280 of determining the required front setback, if any. Only those
 4281 setbacks specifically set forth in the declaration of covenants
 4282 may be enforced by the association. Where the covenants are
 4283 silent, the applicable county or municipal setbacks shall apply.

4284 (2) BOARD MEETINGS.--

4285 (a) A meeting of the board of directors of an association
 4286 occurs whenever a quorum of the board gathers to conduct
 4287 association business. All meetings of the board must be open to
 4288 all members except for meetings between the board and its
 4289 attorney with respect to proposed or pending litigation where
 4290 the contents of the discussion would otherwise be governed by
 4291 the attorney-client privilege.

4292 (b) Members have the right to attend all meetings of the
 4293 board and to speak on any matter placed on the agenda ~~by~~
 4294 ~~petition of the voting interests~~ for at least 3 minutes. The
 4295 association may adopt written reasonable rules expanding the
 4296 right of members to speak and governing the frequency, duration,
 4297 and other manner of member statements, which rules must be
 4298 consistent with this paragraph ~~and may include a sign-up sheet~~
 4299 ~~for members wishing to speak~~. Notwithstanding any other law, the
 4300 requirement that board meetings and committee meetings be open
 4301 to the members is inapplicable to meetings between the board or
 4302 a committee and the association's attorney, with respect to
 4303 meetings of the board held for the purpose of discussing
 4304 personnel matters.

4305 (c) The bylaws shall provide for giving notice to parcel
 4306 owners and members of all board meetings and, if they do not do
 4307 so, shall be deemed to provide the following:

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4308 1. Notices of all board meetings and the agendas must be
4309 posted in a conspicuous place in the community at least 48 hours
4310 in advance of a meeting, except in an emergency. In the
4311 alternative, if notice is not posted in a conspicuous place in
4312 the community, notice of each board meeting and agenda must be
4313 mailed or delivered to each member at least 7 days before the
4314 meeting, except in an emergency. Notwithstanding this general
4315 notice requirement, for communities with more than 100 members,
4316 the bylaws may provide for a reasonable alternative to posting
4317 or mailing of notice for each board meeting, including
4318 publication of notice, provision of a schedule of board
4319 meetings, or the conspicuous posting and repeated broadcasting
4320 of the notice on a closed-circuit cable television system
4321 serving the homeowners' association. However, if broadcast
4322 notice is used in lieu of a notice posted physically in the
4323 community, the notice must be broadcast at least four times
4324 every broadcast hour of each day that a posted notice is
4325 otherwise required. When broadcast notice is provided, the
4326 notice and agenda must be broadcast in a manner and for a
4327 sufficient continuous length of time so as to allow an average
4328 reader to observe the notice and read and comprehend the entire
4329 content of the notice and the agenda. The bylaws or amended
4330 bylaws may provide for giving notice by electronic transmission
4331 in a manner authorized by law for meetings of the board of
4332 directors, committee meetings requiring notice under this
4333 section, and annual and special meetings of the members;
4334 however, a member must consent in writing to receiving notice by
4335 electronic transmission.

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4336 2. An assessment may not be levied at a board meeting
4337 unless the notice of the meeting includes a statement that
4338 assessments will be considered and the nature of the
4339 assessments. Written notice of any meeting at which special
4340 assessments will be considered or at which amendments to rules
4341 regarding parcel use will be considered must be mailed,
4342 delivered, or electronically transmitted to the members and
4343 parcel owners and posted conspicuously on the property or
4344 broadcast on closed-circuit cable television not less than 14
4345 days before the meeting.

4346 3. Directors may not vote by proxy or by secret ballot at
4347 board meetings, ~~except that secret ballots may be used in the~~
4348 ~~election of officers~~. This subsection also applies to the
4349 meetings of any committee or other similar body, when a final
4350 decision will be made regarding the expenditure of association
4351 funds, and to any body vested with the power to approve or
4352 disapprove architectural decisions with respect to a specific
4353 parcel of residential property owned by a member of the
4354 community.

4355 (d) If 10 ~~20~~ percent of the total voting interests
4356 petition the board to address an item of business, the board
4357 shall at its next regular board meeting or at a special meeting
4358 of the board, but not later than 60 days after the receipt of
4359 the petition, take the petitioned item up on an agenda. The
4360 board shall give all members notice of the meeting at which the
4361 petitioned item shall be addressed in accordance with the 14-day
4362 notice requirement pursuant to subparagraph (c)2. Each member
4363 shall have the right to speak for at least 3 minutes on each

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4364 matter placed on the agenda by petition. The board shall address
 4365 all items on the agenda , ~~provided that the member signs the~~
 4366 ~~sign-up sheet, if one is provided, or submits a written request~~
 4367 ~~to speak prior to the meeting. Other than addressing the~~
 4368 ~~petitioned item at the meeting, the board is not obligated to~~
 4369 ~~take any other action requested by the petition.~~

4370 (e) Detailed agendas for board meetings with specific
 4371 items that will be addressed shall be published and made
 4372 available to all members no less than 7 days prior to the date
 4373 of the board meeting.

4374 (3) MINUTES.--Minutes of all meetings of the members of an
 4375 association and of the board of directors of an association must
 4376 be maintained in written form or in another form that can be
 4377 converted into written form within a reasonable time. A vote or
 4378 abstention from voting on each matter voted upon by ~~for~~ each
 4379 director present at a board meeting shall ~~must~~ be recorded in
 4380 the minutes.

4381 (4) OFFICIAL RECORDS.--The association shall maintain each
 4382 of the following items, ~~when applicable~~, which constitute the
 4383 official records of the association:

4384 (a) Copies of any plans, specifications, permits, and
 4385 warranties related to improvements constructed on the common
 4386 areas or other property as platted and recorded that the
 4387 association is obligated to maintain, repair, or replace. If
 4388 such documents do not exist, the association shall obtain the
 4389 documents or forfeit the right to assess any fees to maintain
 4390 the common areas of property.

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4391 (b) A copy of the bylaws of the association and of each
4392 amendment to the bylaws.

4393 (c) A copy of the articles of incorporation of the
4394 association and of each amendment thereto.

4395 (d) A copy of each set of ~~the~~ declaration of covenants and
4396 a copy of each amendment thereto.

4397 (e) A copy of the current rules of the homeowners'
4398 association.

4399 (f) The minutes of all meetings of the board of directors
4400 and of the members, which minutes must be retained for at least
4401 7 years.

4402 (g) A current roster of all members and their mailing
4403 addresses and parcel identifications. The association shall also
4404 maintain the electronic mailing addresses and the numbers
4405 designated by members for receiving notice sent by electronic
4406 transmission of those members consenting to receive notice by
4407 electronic transmission. The electronic mailing addresses and
4408 numbers provided by unit owners to receive notice by electronic
4409 transmission shall be removed from association records when
4410 consent to receive notice by electronic transmission is revoked.
4411 However, the association is not liable for an erroneous
4412 disclosure of the electronic mail address or the number for
4413 receiving electronic transmission of notices.

4414 (h) All of the association's insurance policies or a copy
4415 thereof, which policies must be retained for at least 7 years.

4416 (i) A current copy of all contracts to which the
4417 association is a party, including, without limitation, any
4418 management agreement, lease, or other contract under which the

4419 association has any obligation or responsibility. A contract or
 4420 written agreement may not be allowed to maintain property that
 4421 is not owned by and deeded to the association. Bids received by
 4422 the association for work to be performed must also be considered
 4423 official records and must be kept for a period of 1 year.

4424 (j) The financial and accounting records of the
 4425 association, kept according to good accounting practices. All
 4426 financial and accounting records shall ~~must~~ be maintained for a
 4427 period of at least 7 years. The financial and accounting records
 4428 must include:

4429 1. Accurate, itemized, and detailed records of all
 4430 receipts and expenditures.

4431 2. A current account and a periodic statement of the
 4432 account for each member, designating the name and current
 4433 address of each member who is obligated to pay assessments, the
 4434 due date and amount of each assessment or other charge against
 4435 the member, the date and amount of each payment on the account,
 4436 and the balance due.

4437 3. All tax returns, financial statements, and financial
 4438 reports of the association.

4439 4. Any other records that identify, measure, record, or
 4440 communicate financial information.

4441 (k) A copy of the disclosure summary described in s.
 4442 720.401(1).

4443 (l) All other written records of the association not
 4444 specifically included in the foregoing which are related to the
 4445 operation of the association.

4446 (m) All interpretations of any governing documents, as
 4447 provided by any legal source or attorney as long as they are not
 4448 part of a pending lawsuit.

4449 (n) All architectural requests and approvals or denials,
 4450 which shall be maintained as long as the association exists or
 4451 is active.

4452 (5) INSPECTION AND COPYING OF RECORDS.--The official
 4453 records shall be maintained within the county in which the
 4454 governing documents are recorded ~~state~~ and must be open to
 4455 inspection and available for photocopying by machine, video,
 4456 digital cameras, or any other methods available to members or
 4457 their authorized agents at reasonable times and places within 10
 4458 business days after receipt of a written request for access.
 4459 This subsection may be complied with by having a copy of the
 4460 official records available for inspection or copying in the
 4461 community. If the association has a photocopy machine available
 4462 where the records are maintained, it must provide parcel owners
 4463 with copies on request during the inspection ~~if the entire~~
 4464 ~~request is limited to no more than 25 pages.~~

4465 (a) The failure of an association to provide access to the
 4466 records within 10 business days after receipt of a written
 4467 request creates a rebuttable presumption that the association
 4468 willfully failed to comply with this subsection.

4469 (b) A member who is denied access to official records is
 4470 entitled to the actual damages or minimum damages for the
 4471 association's willful failure to comply with this subsection.
 4472 The minimum damages are to be \$100 ~~\$50~~ per calendar day up to 10

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4473 days, the calculation to begin on the 11th business day after
4474 receipt of the written request.

4475 (c) The association may adopt reasonable written rules
4476 governing the ~~frequency~~, time, location, notice, records to be
4477 inspected, ~~and manner of inspections~~, but may not impose a
4478 requirement that a parcel owner demonstrate any proper purpose
4479 for the inspection, state any reason for the inspection, or
4480 limit a parcel owner's right to inspect records to less than one
4481 8-hour business day per month. The association may only impose
4482 fees to cover the actual costs of providing copies of the
4483 official records, ~~including, without limitation, the costs of~~
4484 ~~copying~~. The association may charge up to 5 ~~50~~ cents per page
4485 for copies made on the association's photocopier. If the
4486 association does not have a photocopy machine available where
4487 the records are kept, or if the records requested to be copied
4488 exceed 25 pages in length, the association may have copies made
4489 by an outside vendor and may charge the actual cost of copying
4490 only. The association may impose a one-time fee not to exceed 1
4491 cent per page and limited to a total of \$5 if the parcel owner
4492 provides the necessary equipment and materials for copying and
4493 the labor to make the requested copies. The association shall
4494 maintain an adequate number of copies of the recorded governing
4495 documents, to ensure their availability to members and
4496 prospective members. Notwithstanding the provisions of this
4497 paragraph, the following records shall not be accessible to
4498 members or parcel owners:

4499 1. Any record protected by the lawyer-client privilege as
4500 described in s. 90.502 and any record protected by the work-

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4501 product privilege, including, but not limited to, any record
 4502 prepared by an association attorney or prepared at the
 4503 attorney's express direction which reflects a mental impression,
 4504 conclusion, litigation strategy, or legal theory of the attorney
 4505 or the association and was prepared exclusively for civil or
 4506 criminal litigation or for adversarial administrative
 4507 proceedings or which was prepared in anticipation of imminent
 4508 civil or criminal litigation or imminent adversarial
 4509 administrative proceedings until the conclusion of the
 4510 litigation or adversarial administrative proceedings.

4511 2. Information obtained by an association in connection
 4512 with the approval of the lease, sale, or other transfer of a
 4513 parcel.

4514 3. Disciplinary, health, insurance, and personnel records
 4515 of the association's employees.

4516 4. Medical records of parcel owners or community
 4517 residents.

4518 (6) BUDGETS.--

4519 (a) The association shall prepare an annual budget that
 4520 sets out the annual operating expenses. The budget must reflect
 4521 the estimated revenues and expenses for that year and the
 4522 estimated surplus or deficit as of the end of the current year.
 4523 The budget must set out separately all fees or charges paid for
 4524 by the association for recreational amenities, whether owned by
 4525 the association, the developer, or another person. The
 4526 association shall provide each member with a copy of the annual
 4527 budget or a written notice that a copy of the budget is
 4528 available upon request at no charge to the member. The copy must

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4529 be provided to the member within the time limits set forth in
4530 subsection (5).

4531 (b) In addition to annual operating expenses, the budget
4532 may include reserve accounts for capital expenditures and
4533 deferred maintenance for which the association is responsible to
4534 the extent that the governing documents do not limit increases
4535 in assessments, including reserves. If the budget of the
4536 association includes reserve accounts, such reserves shall be
4537 determined, maintained, and waived in the manner provided in
4538 this subsection. Once an association provides for reserve
4539 accounts in the budget, the association shall thereafter
4540 determine, maintain, and waive reserves in compliance with the
4541 provisions of this subsection.

4542 (c) If the budget of the association does not provide for
4543 reserve accounts governed by this subsection and the association
4544 is responsible for the repair and maintenance of capital
4545 improvements that may result in a special assessment if reserves
4546 are not provided, each financial report for the preceding fiscal
4547 year required by subsection (7) shall contain the following
4548 statement in conspicuous type: THE BUDGET OF THE ASSOCIATION
4549 DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES
4550 AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.
4551 OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO THE
4552 PROVISIONS OF SECTION 720.303(6), FLORIDA STATUTES, UPON THE
4553 APPROVAL OF NOT LESS THAN A MAJORITY OF THE TOTAL VOTING
4554 INTERESTS OF THE ASSOCIATION.

4555 (d) An association shall be deemed to have provided for
4556 reserve accounts when reserve accounts have been initially

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4557 established by the developer or when the membership of the
4558 association affirmatively elects to provide for reserves. If
4559 reserve accounts are not initially provided for by the
4560 developer, the membership of the association may elect to do so
4561 upon the affirmative approval of not less than a majority of the
4562 total voting interests of the association. Such approval may be
4563 attained by vote of the members at a duly called meeting of the
4564 membership or upon a written consent executed by not less than a
4565 majority of the total voting interests in the community. The
4566 approval action of the membership shall state that reserve
4567 accounts shall be provided for in the budget and designate the
4568 components for which the reserve accounts are to be established.
4569 Upon approval by the membership, the board of directors shall
4570 provide for the required reserve accounts for inclusion in the
4571 budget in the next fiscal year following the approval and in
4572 each year thereafter. Once established as provided in this
4573 subsection, the reserve accounts shall be funded or maintained
4574 or shall have their funding waived in the manner provided in
4575 paragraph (f).

4576 (e) The amount to be reserved in any account established
4577 shall be computed by means of a formula that is based upon
4578 estimated remaining useful life and estimated replacement cost
4579 or deferred maintenance expense of each reserve item. The
4580 association may adjust replacement reserve assessments annually
4581 to take into account any changes in estimates of cost or useful
4582 life of a reserve item.

4583 (f) Once a reserve account or reserve accounts are
4584 established, the membership of the association, upon a majority

4585 vote at a meeting at which a quorum is present, may provide for
 4586 no reserves or less reserves than required by this section. If a
 4587 meeting of the unit owners is called to determine whether to
 4588 waive or reduce the funding of reserves and no such result is
 4589 achieved or a quorum is not present, the reserves as included in
 4590 the budget shall go into effect. After the turnover, the
 4591 developer may vote its voting interest to waive or reduce the
 4592 funding of reserves. Any vote taken pursuant to this subsection
 4593 to waive or reduce reserves shall be applicable only to one
 4594 budget year.

4595 (g) Funding formulas for reserves authorized by this
 4596 section shall be based on either a separate analysis of each of
 4597 the required assets or a pooled analysis of two or more of the
 4598 required assets.

4599 1. If the association maintains separate reserve accounts
 4600 for each of the required assets, the amount of the contribution
 4601 to each reserve account shall be the sum of the following two
 4602 calculations:

4603 a. The total amount necessary, if any, to bring a negative
 4604 component balance to zero.

4605 b. The total estimated deferred maintenance expense or
 4606 estimated replacement cost of the reserve component less the
 4607 estimated balance of the reserve component as of the beginning
 4608 of the period for which the budget will be in effect. The
 4609 remainder, if greater than zero, shall be divided by the
 4610 estimated remaining useful life of the component.

4611

4612 The formula may be adjusted each year for changes in estimates
 4613 and deferred maintenance performed during the year and may
 4614 include factors such as inflation and earnings on invested
 4615 funds.

4616 2. If the association maintains a pooled account of two or
 4617 more of the required reserve assets, the amount of the
 4618 contribution to the pooled reserve account as disclosed on the
 4619 proposed budget shall not be less than that required to ensure
 4620 that the balance at the beginning of the period for which the
 4621 budget will go into effect plus the projected annual cash
 4622 inflows over the remaining estimated useful life of all of the
 4623 assets that make up the reserve pool are equal to or greater
 4624 than the projected annual cash outflows over the remaining
 4625 estimated useful lives of all of the assets that make up the
 4626 reserve pool, based on the current reserve analysis. The
 4627 projected annual cash inflows may include estimated earnings
 4628 from investment of principal. The reserve funding formula shall
 4629 not include any type of balloon payments.

4630 (h) Reserve funds and any interest accruing thereon shall
 4631 remain in the reserve account or accounts and shall be used only
 4632 for authorized reserve expenditures unless their use for other
 4633 purposes is approved in advance by a majority vote at a meeting
 4634 at which a quorum is present. Prior to turnover of control of an
 4635 association by a developer to parcel owners, the developer-
 4636 controlled association shall not vote to use reserves for
 4637 purposes other than those for which they were intended without
 4638 the approval of a majority of all nondeveloper voting interests

4639 voting in person or by limited proxy at a duly called meeting of
 4640 the association.

4641 (7) FINANCIAL REPORTING.--Within 90 days after the end of
 4642 the fiscal year, or annually on a date provided in the bylaws,
 4643 the association shall prepare and complete, or contract with a
 4644 third party for the preparation and completion of, a financial
 4645 report for the preceding fiscal year. Within 21 days after the
 4646 final financial report is completed by the association or
 4647 received from the third party, but not later than 120 days after
 4648 the end of the fiscal year or other date as provided in the
 4649 bylaws, the association shall ~~prepare an annual financial report~~
 4650 ~~within 60 days after the close of the fiscal year. The~~
 4651 ~~association shall,~~ within the time limits set forth in
 4652 subsection (5), provide each member with a copy of the annual
 4653 financial report or a written notice that a copy of the
 4654 financial report is available upon request at no charge to the
 4655 member. Financial reports shall be prepared as follows:

4656 (a) An association that meets the criteria of this
 4657 paragraph shall prepare or cause to be prepared a complete set
 4658 of financial statements in accordance with generally accepted
 4659 accounting principles as adopted by the Board of Accountancy.
 4660 The financial statements shall be based upon the association's
 4661 total annual revenues, as follows:

4662 1. An association with total annual revenues of \$100,000
 4663 or more, but less than \$200,000, shall prepare compiled
 4664 financial statements.

4665 2. An association with total annual revenues of at least
 4666 \$200,000, but less than \$400,000, shall prepare reviewed
 4667 financial statements.

4668 3. An association with total annual revenues of \$400,000
 4669 or more shall prepare audited financial statements.

4670 (b)1. An association with total annual revenues of less
 4671 than \$100,000 shall prepare a report of cash receipts and
 4672 expenditures.

4673 2. An association in a community of fewer than 50 parcels,
 4674 regardless of the association's annual revenues, may prepare a
 4675 report of cash receipts and expenditures in lieu of financial
 4676 statements required by paragraph (a) unless the governing
 4677 documents provide otherwise.

4678 3. A report of cash receipts and disbursement must
 4679 disclose the amount of receipts by accounts and receipt
 4680 classifications and the amount of expenses by accounts and
 4681 expense classifications, including, but not limited to, the
 4682 following, as applicable: costs for security, professional, and
 4683 management fees and expenses; taxes; costs for recreation
 4684 facilities; expenses for refuse collection and utility services;
 4685 expenses for lawn care; costs for building maintenance and
 4686 repair; insurance costs; administration and salary expenses; and
 4687 reserves if maintained by the association.

4688 (c) If 20 percent of the parcel owners petition the board
 4689 for a level of financial reporting higher than that required by
 4690 this section, the association shall duly notice and hold a
 4691 meeting of members within 30 days of receipt of the petition for
 4692 the purpose of voting on raising the level of reporting for that

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4693 | fiscal year. Upon approval of a majority of the total voting
 4694 | interests of the parcel owners, the association shall prepare or
 4695 | cause to be prepared, shall amend the budget or adopt a special
 4696 | assessment to pay for the financial report regardless of any
 4697 | provision to the contrary in the governing documents, and shall
 4698 | provide within 90 days of the meeting or the end of the fiscal
 4699 | year, whichever occurs later:

4700 | 1. Compiled, reviewed, or audited financial statements, if
 4701 | the association is otherwise required to prepare a report of
 4702 | cash receipts and expenditures;

4703 | 2. Reviewed or audited financial statements, if the
 4704 | association is otherwise required to prepare compiled financial
 4705 | statements; or

4706 | 3. Audited financial statements if the association is
 4707 | otherwise required to prepare reviewed financial statements.

4708 | (d) If approved by a majority of the voting interests
 4709 | present at a properly called meeting of the association, an
 4710 | association may prepare or cause to be prepared:

4711 | 1. A report of cash receipts and expenditures in lieu of a
 4712 | compiled, reviewed, or audited financial statement;

4713 | 2. A report of cash receipts and expenditures or a
 4714 | compiled financial statement in lieu of a reviewed or audited
 4715 | financial statement; or

4716 | 3. A report of cash receipts and expenditures, a compiled
 4717 | financial statement, or a reviewed financial statement in lieu
 4718 | of an audited financial statement.

4719 | (8) ASSOCIATION FUNDS; COMMINGLING.--

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4720 (a) All association funds held by a developer shall be
 4721 maintained separately in the association's name. Reserve and
 4722 operating funds of the association shall not be commingled prior
 4723 to turnover except the association may jointly invest reserve
 4724 funds; however, such jointly invested funds must be accounted
 4725 for separately.

4726 (b) No developer in control of a homeowners' association
 4727 shall commingle any association funds with his or her funds or
 4728 with the funds of any other homeowners' association, ~~or~~
 4729 community association, or corporation for profit created by the
 4730 developer.

4731 (c) Association funds may not be used by a developer to
 4732 defend a civil or criminal action, administrative proceeding, or
 4733 arbitration proceeding that has been filed against the developer
 4734 or directors appointed to the association board by the
 4735 developer, even when the subject of the action or proceeding
 4736 concerns the operation of the developer-controlled association.

4737 (9) APPLICABILITY.--Sections 617.1601-617.1604 do not
 4738 apply to a homeowners' association in which the members have the
 4739 inspection and copying rights set forth in this section.

4740 (10) RECALL OF DIRECTORS.--

4741 (a)1. Regardless of any provision to the contrary
 4742 contained in the governing documents, subject to the provisions
 4743 of s. 720.307 regarding transition of association control, any
 4744 member of the board of directors shall ~~may~~ be recalled and
 4745 removed from office with or without cause by a majority of the
 4746 total voting interests who must be the registered and recorded
 4747 owners.

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4748 2. When the governing documents, including the
4749 declaration, articles of incorporation, or bylaws, provide that
4750 only a specific class of members is entitled to elect a board
4751 director or directors, only that class of members may vote to
4752 recall those board directors so elected.

4753 (b)1. Board directors may be recalled by an agreement in
4754 writing or by written ballot without a membership meeting. The
4755 agreement in writing or the written ballots, or a copy thereof,
4756 shall be served on the association by certified mail or by
4757 personal service in the manner authorized by chapter 48 and the
4758 Florida Rules of Civil Procedure.

4759 2. The board shall duly notice and hold a meeting of the
4760 board within 5 full business days after receipt of the agreement
4761 in writing or written ballots. At the meeting, the board shall
4762 either certify the written ballots or written agreement to
4763 recall a director or directors of the board, in which case such
4764 director or directors shall be recalled effective immediately
4765 and shall turn over to the board within 5 full business days any
4766 and all records and property of the association in their
4767 possession, or proceed as described in paragraph (d).

4768 3. When it is determined by the department pursuant to
4769 binding arbitration proceedings that an initial recall effort
4770 was defective, written recall agreements or written ballots used
4771 in the first recall effort and not found to be defective may be
4772 reused in one subsequent recall effort. However, in no event is
4773 a written agreement or written ballot valid for more than 120
4774 days after it has been signed by the member.

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4775 4. Any rescission or revocation of a member's written
4776 recall ballot or agreement must be in writing and, in order to
4777 be effective, must be delivered to the association before the
4778 association is served with the written recall agreements or
4779 ballots.

4780 5. The agreement in writing or ballot shall list at least
4781 as many possible replacement directors as there are directors
4782 subject to the recall, when at least a majority of the board is
4783 sought to be recalled; the person executing the recall
4784 instrument may vote for as many replacement candidates as there
4785 are directors subject to the recall.

4786 (c)1. ~~If the declaration, articles of incorporation, or~~
4787 ~~bylaws specifically provide, the~~ Members may also recall and
4788 remove a board director or directors by a vote taken at a
4789 special meeting of the members. ~~If so provided in the governing~~
4790 ~~documents,~~ A special meeting of the members to recall a director
4791 or directors of the board of administration may be called by 10
4792 percent of the voting interests giving notice of the meeting as
4793 required for a meeting of members, and the notice shall state
4794 the purpose of the meeting. Electronic transmission may not be
4795 used as a method of giving notice of a meeting called in whole
4796 or in part for this purpose.

4797 2. The board shall duly notice and hold a board meeting
4798 within 5 full business days after the adjournment of the member
4799 meeting to recall one or more directors. At the meeting, the
4800 board shall certify the recall, in which case such member or
4801 members shall be recalled effective immediately and shall turn
4802 over to the board within 5 full business days any and all

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4803 records and property of the association in their possession, or
4804 shall proceed as set forth in subparagraph (d).

4805 (d) If the board determines not to certify the written
4806 agreement or written ballots to recall a director or directors
4807 of the board or does not certify the recall by a vote at a
4808 meeting, the board shall, within 5 full business days after the
4809 meeting, file with the department a petition for binding
4810 arbitration pursuant to the applicable procedures in ss.
4811 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For
4812 the purposes of this section, the members who voted at the
4813 meeting or who executed the agreement in writing shall
4814 constitute one party under the petition for arbitration. If the
4815 arbitrator certifies the recall as to any director or directors
4816 of the board, the recall will be effective upon mailing of the
4817 final order of arbitration to the association. The director or
4818 directors so recalled shall deliver to the board any and all
4819 records of the association in their possession within 5 full
4820 business days after the effective date of the recall.

4821 (e) If a vacancy occurs on the board as a result of a
4822 recall and less than a majority of the board directors are
4823 removed, the vacancy may be filled by the affirmative vote of a
4824 majority of the remaining directors, notwithstanding any
4825 provision to the contrary contained in this subsection or in the
4826 association documents. If vacancies occur on the board as a
4827 result of a recall and a majority or more of the board directors
4828 are removed, the vacancies shall be filled by members voting in
4829 favor of the recall; if removal is at a meeting, any vacancies
4830 shall be filled by the members at the meeting. If the recall

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4831 occurred by agreement in writing or by written ballot, members
4832 may vote for replacement directors in the same instrument in
4833 accordance with procedural rules adopted by the division, which
4834 rules need not be consistent with this subsection.

4835 (f) If the board fails to duly notice and hold a board
4836 meeting within 5 full business days after service of an
4837 agreement in writing or within 5 full business days after the
4838 adjournment of the member recall meeting, the recall shall be
4839 deemed effective and the board directors so recalled shall
4840 immediately turn over to the board all records and property of
4841 the association.

4842 (g) If a director who is removed fails to relinquish his
4843 or her office or turn over records as required under this
4844 section, the circuit court in the county where the association
4845 maintains its principal office may, upon the petition of the
4846 association, summarily order the director to relinquish his or
4847 her office and turn over all association records upon
4848 application of the association.

4849 (h) The minutes of the board meeting at which the board
4850 decides whether to certify the recall are an official
4851 association record. The minutes must record the date and time of
4852 the meeting, the decision of the board, and the vote count taken
4853 on each board member subject to the recall. In addition, when
4854 the board decides not to certify the recall, as to each vote
4855 rejected, the minutes must identify the parcel number and the
4856 specific reason for each such rejection.

4857 (i) When the recall of more than one board director is
4858 sought, the written agreement, ballot, or vote at a meeting

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4859 shall provide for a separate vote for each board director sought
4860 to be recalled.

4861 Section 54. Subsections (2) and (6) of section 720.304,
4862 Florida Statutes, are amended, and subsection (7) is added to
4863 that section, to read:

4864 720.304 Right of owners to peaceably assemble; display of
4865 flag; SLAPP suits prohibited.--

4866 (2) Any homeowner may display one stationary or portable,
4867 removable United States flag or official flag of the State of
4868 Florida in a respectful manner, and on Armed Forces Day,
4869 Memorial Day, Flag Day, Independence Day, and Veterans Day may
4870 display in a respectful manner portable, removable official
4871 flags, not larger than 4 1/2 feet by 6 feet, which represent the
4872 United States Army, Navy, Air Force, Marine Corps, or Coast
4873 Guard, from a freestanding, portable, removable, or telescoping
4874 flagpole not to exceed 20 feet in the front, rear, or side yard
4875 regardless of any declaration rules or requirements dealing with
4876 flags or decorations.

4877 (6) Any parcel owner may display a sign of reasonable size
4878 provided by a contractor for security services within 10 feet of
4879 any entrance to the home. The sign shall not exceed 18 inches
4880 high by 18 inches wide, and the bottom of the sign shall be no
4881 higher than 24 inches from the ground elevation within the
4882 permitted area of installation. Other specifications may be
4883 approved by the association, but in no case shall the
4884 specifications be less than authorized by this section.

4885 (7) (a) Rules and regulations pertaining to common elements
4886 shall be protected by the First Amendment to the United States

4887 Constitution and s. 5, Art. I of the State Constitution, and
 4888 associations shall not in any way abridge or deny constitutional
 4889 rights and freedoms of homeowners with respect to use of such
 4890 common elements.

4891 (b) All common elements, common areas, and recreational
 4892 facilities serving any association shall be available to unit
 4893 owners in the association served thereby and their invited
 4894 guests for the use intended for such common elements, common
 4895 areas, and recreational facilities. The entity or entities
 4896 responsible for the operation of the common elements, common
 4897 areas, and recreational facilities may adopt reasonable rules
 4898 and regulations pertaining to the use of such common elements,
 4899 common areas, and recreational facilities as to the manner and
 4900 times they are used, but not the purpose for which they are
 4901 used. No entity or entities shall unreasonably restrict any unit
 4902 owner's right to peaceably assemble or right to invite public
 4903 officers or candidates for public office to appear and speak in
 4904 common elements, common areas, and recreational facilities.

4905 (c) Any owner prevented from exercising rights guaranteed
 4906 by this section may bring an action in the appropriate court of
 4907 the county in which the alleged infringement occurred, and, upon
 4908 favorable adjudication, the court shall enjoin the enforcement
 4909 of any provision contained in any association.

4910 Section 55. Section 720.305, Florida Statutes, is amended
 4911 to read:

4912 720.305 Obligations of members; remedies at law or in
 4913 equity; ~~levy of fines and~~ suspension of use rights; failure to
 4914 fill sufficient number of vacancies on board of directors to

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4915 constitute a quorum; appointment of receiver upon petition of
 4916 any member.--

4917 (1) Each member and the member's tenants, guests, and
 4918 invitees, and each association, are governed by, and must comply
 4919 with, this chapter, the governing documents of the community,
 4920 and the rules of the association. Actions at law or in equity,
 4921 or both, to redress alleged failure or refusal to comply with
 4922 these provisions may be brought by the association or by any
 4923 member against:

4924 (a) The association;

4925 (b) A member;

4926 (c) Any director or officer of an association who
 4927 willfully and knowingly or otherwise fails to comply with these
 4928 provisions; and

4929 (d) Any tenants, guests, or invitees occupying a parcel or
 4930 using the common areas.

4931
 4932 The prevailing party in any such litigation is entitled to
 4933 recover reasonable attorney's fees and costs. This section does
 4934 not deprive any person of any other available right or remedy.

4935 (2) ~~If the governing documents so provide,~~ An association
 4936 may suspend, ~~for a reasonable period of time,~~ the rights of a
 4937 member or a member's tenants, guests, or invitees, or both, to
 4938 use common areas and facilities if so ~~and may levy reasonable~~
 4939 ~~finer, not to exceed \$100 per violation, against any member or~~
 4940 ~~any tenant, guest, or invitee. A fine may be levied on the basis~~
 4941 ~~of each day of a continuing violation, with a single notice and~~
 4942 ~~opportunity for hearing, except that no such fine shall exceed~~

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4943 ~~\$1,000 in the aggregate unless otherwise provided in the~~
4944 ~~governing documents. A fine shall not become a lien against a~~
4945 ~~parcel. In any action to recover a fine, the prevailing party is~~
4946 ~~entitled to collect its reasonable attorney's fees and costs~~
4947 ~~from the nonprevailing party as determined by the court.~~

4948 (a) A ~~fine or~~ suspension may not be imposed without notice
4949 of at least 14 days to the person sought to be ~~fined or~~
4950 suspended and an opportunity for a hearing before a committee of
4951 at least three members appointed by the board who are not
4952 officers, directors, or employees of the association, or the
4953 spouse, parent, child, brother, or sister of an officer,
4954 director, or employee. If the committee, by majority vote, does
4955 not approve a proposed ~~fine or~~ suspension, it may not be
4956 imposed.

4957 (b) The requirements of this subsection do not apply to
4958 the imposition of suspensions ~~or fines~~ upon any member because
4959 of the failure of the member to pay assessments or other charges
4960 when due ~~if such action is authorized by the governing~~
4961 ~~documents.~~

4962 (c) Suspension of common-area-use rights shall not impair
4963 the right of an owner or tenant of a parcel to have vehicular
4964 and pedestrian ingress to and egress from the parcel, including,
4965 but not limited to, the right to park.

4966 (3) If the governing documents so provide, an association
4967 may suspend the voting rights of a member for the nonpayment of
4968 regular annual assessments that are delinquent in excess of 90
4969 days.

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4970 (4) If an association fails to fill vacancies on the board
4971 of directors sufficient to constitute a quorum in accordance
4972 with the bylaws, any member may apply to the circuit court that
4973 has jurisdiction over the community served by the association
4974 for the appointment of a receiver to manage the affairs of the
4975 association. At least 30 days before applying to the circuit
4976 court, the member shall mail to the association, by certified or
4977 registered mail, and post, in a conspicuous place on the
4978 property of the community served by the association, a notice
4979 describing the intended action, giving the association 30 days
4980 to fill the vacancies. If during such time the association fails
4981 to fill a sufficient number of vacancies so that a quorum can be
4982 assembled, the member may proceed with the petition. If a
4983 receiver is appointed, the homeowners' association shall be
4984 responsible for the salary of the receiver, court costs,
4985 attorney's fees, and all other expenses of the receivership. The
4986 receiver has all the powers and duties of a duly constituted
4987 board of directors and shall serve until the association fills a
4988 sufficient number of vacancies on the board so that a quorum can
4989 be assembled.

4990 Section 56. Section 720.3055, Florida Statutes, is amended
4991 to read:

4992 720.3055 Contracts for products and services; in writing;
4993 bids; exceptions.--

4994 (1) All contracts as further described in this section or
4995 any contract that is not to be fully performed within 1 year
4996 after the making thereof for the purchase, lease, or renting of
4997 materials or equipment to be used by the association in

4998 accomplishing its purposes under this chapter ~~or the governing~~
 4999 ~~documents~~, and all contracts for the provision of services,
 5000 shall be in writing. If a contract for the purchase, lease, or
 5001 renting of materials or equipment, or for the provision of
 5002 services, requires payment by the association that exceeds 10
 5003 percent of the total annual budget of the association, including
 5004 reserves, the association must obtain competitive bids for the
 5005 materials, equipment, or services. Nothing contained in this
 5006 section shall be construed to require the association to accept
 5007 the lowest bid.

5008 (2) (a) 1. ~~Notwithstanding the foregoing~~, Contracts with
 5009 employees of the association, and contracts for attorney,
 5010 accountant, architect, community association manager,
 5011 engineering, and landscape architect services are not subject to
 5012 the provisions of this section.

5013 2. A contract executed before October 1, 2004, and any
 5014 renewal thereof, is not subject to the competitive bid
 5015 requirements of this section. If a contract was awarded under
 5016 the competitive bid procedures of this section, any renewal of
 5017 that contract is not subject to such competitive bid
 5018 requirements if the contract contains a provision that allows
 5019 the board to cancel the contract on 30 days' notice. Materials,
 5020 equipment, or services provided to an association under a local
 5021 government franchise agreement by a franchise holder or a
 5022 manager are ~~not~~ subject to the competitive bid requirements of
 5023 this section. A contract with a manager, ~~if made by a~~
 5024 ~~competitive bid~~, may be made for up to 3 years and must contain
 5025 a 30-day termination clause. An association whose declaration or

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5026 | bylaws provide for competitive bidding for services may operate
 5027 | under the provisions of that declaration or bylaws in lieu of
 5028 | this section if those provisions are not less stringent than the
 5029 | requirements of this section.

5030 | (b) Nothing contained in this section is intended to limit
 5031 | the ability of an association to obtain needed products and
 5032 | services in an emergency.

5033 | (c) This section does not apply if the business entity
 5034 | with which the association desires to enter into a contract is
 5035 | the only source of supply within the county serving the
 5036 | association.

5037 | (d) Nothing contained in this section shall excuse a party
 5038 | contracting to provide maintenance or management services from
 5039 | compliance with s. 720.309.

5040 | Section 57. Section 720.306, Florida Statutes, is amended
 5041 | to read:

5042 | 720.306 Meetings of members; voting and election
 5043 | procedures; amendments.--

5044 | (1) ~~QUORUM;~~ AMENDMENTS.--

5045 | (a) Unless otherwise required by law, and other than those
 5046 | matters set forth in paragraph (b), any governing document of an
 5047 | association shall only be amended by the affirmative vote of
 5048 | two-thirds of the voting interests of the association subject to
 5049 | the following:

5050 | 1. All amendments offered for official recording must be
 5051 | submitted as contained within the covenants and restrictions in
 5052 | their entirety.

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5053 2. Within 12 months of enactment of this subsection all
5054 duly registered covenants and restrictions must be complete and
5055 set forth in plain, easily understandable English. Unless a
5056 ~~lower number is provided in the bylaws, the percentage of voting~~
5057 ~~interests required to constitute a quorum at a meeting of the~~
5058 ~~members shall be 30 percent of the total voting interests.~~
5059 ~~Unless otherwise provided in this chapter or in the articles of~~
5060 ~~incorporation or bylaws, decisions that require a vote of the~~
5061 ~~members must be made by the concurrence of at least a majority~~
5062 ~~of the voting interests present, in person or by proxy, at a~~
5063 ~~meeting at which a quorum has been attained.~~

5064 ~~(b) Unless otherwise provided in the governing documents~~
5065 ~~or required by law, and other than those matters set forth in~~
5066 ~~paragraph (c), any governing document of an association may be~~
5067 ~~amended by the affirmative vote of two thirds of the voting~~
5068 ~~interests of the association.~~

5069 (b)(c) ~~Unless otherwise provided in the governing~~
5070 ~~documents as originally recorded or permitted by this chapter or~~
5071 ~~chapter 617, An amendment may not materially and adversely alter~~
5072 ~~the proportionate voting interest appurtenant to a parcel or~~
5073 ~~increase the proportion or percentage by which a parcel shares~~
5074 ~~in the common expenses of the association unless the record~~
5075 ~~parcel owner and all record owners of liens on the parcels join~~
5076 ~~in the execution of the amendment. For purposes of this section,~~
5077 ~~a change in quorum requirements is not an alteration of voting~~
5078 ~~interests.~~

5079 (c) An amendment restricting owners' rights relating to
5080 the rental of homes applies only to parcel owners who consent to

5081 the amendment and to parcel owners who purchase their parcels
 5082 after the effective date of that amendment.

5083 (2) ANNUAL MEETING.--The association shall hold a meeting
 5084 of its members annually for the transaction of any and all
 5085 proper business at a time, date, and place stated in, or fixed
 5086 in accordance with, the bylaws. The election of directors, if
 5087 one is required to be held, must be held at, or in conjunction
 5088 with, the annual meeting ~~or as provided in the governing~~
 5089 ~~documents.~~

5090 (3) SPECIAL MEETINGS.--Special meetings must be held when
 5091 called by the board of directors or, ~~unless a different~~
 5092 ~~percentage is stated in the governing documents,~~ by at least 10
 5093 percent of the total voting interests of the association.
 5094 Business conducted at a special meeting is limited to the
 5095 purposes described in the notice and the agenda of the meeting.

5096 (4) CONTENT OF NOTICE.--~~Unless law or the governing~~
 5097 ~~documents require otherwise,~~ Notice of an annual meeting need
 5098 not include a description of the purpose or purposes for which
 5099 the meeting is called. Notice of a special meeting must include
 5100 an agenda and a description of the purpose or purposes for which
 5101 the meeting is called.

5102 (5) NOTICE OF MEETINGS.--The bylaws shall provide for
 5103 giving notice to members of all member meetings, and if they do
 5104 not do so shall be deemed to provide the following: The
 5105 association shall give all parcel owners and members actual
 5106 notice of all membership meetings, which shall be mailed,
 5107 delivered, or electronically transmitted to the members not less
 5108 than 14 days prior to the meeting. Evidence of compliance with

5109 | this 14-day notice shall be made by an affidavit executed by the
 5110 | person providing the notice and filed upon execution among the
 5111 | official records of the association. In addition to mailing,
 5112 | delivering, or electronically transmitting the notice of any
 5113 | meeting, the association may, by reasonable rule, adopt a
 5114 | procedure for conspicuously posting and repeatedly broadcasting
 5115 | the notice and the agenda on a closed-circuit cable television
 5116 | system serving the association. When broadcast notice is
 5117 | provided, the notice and agenda must be broadcast in a manner
 5118 | and for a sufficient continuous length of time so as to allow an
 5119 | average reader to observe the notice and read and comprehend the
 5120 | entire content of the notice and the agenda.

5121 | (6) RIGHT TO SPEAK.--Members and parcel owners have the
 5122 | right to attend all membership meetings and to speak at any
 5123 | meeting with reference to any ~~all~~ items ~~opened for discussion or~~
 5124 | ~~included~~ on the agenda. ~~Notwithstanding any provision to the~~
 5125 | ~~contrary in the governing documents or any rules adopted by the~~
 5126 | ~~board or by the membership,~~ A member and a parcel owner have the
 5127 | right to speak at least once for at least 3 minutes on each
 5128 | agenda any item, ~~provided that the member or parcel owner~~
 5129 | ~~submits a written request to speak prior to the meeting.~~ The
 5130 | association may adopt written reasonable rules governing the
 5131 | frequency and, ~~duration,~~ ~~and other manner~~ of member and parcel
 5132 | owner statements, which rules must be consistent with this
 5133 | subsection.

5134 | (7) ADJOURNMENT.--~~Unless the bylaws require otherwise,~~
 5135 | Adjournment of an annual or special meeting to a different date,
 5136 | time, or place must be announced at that meeting before an

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5137 adjournment is taken, or notice must be given of the new date,
 5138 time, or place pursuant to s. 720.303(2). Any business that
 5139 might have been transacted on the original date of the meeting
 5140 may be transacted at the adjourned meeting. If a new record date
 5141 for the adjourned meeting is or must be fixed under s. 617.0707,
 5142 notice of the adjourned meeting must be given to persons who are
 5143 entitled to vote and are members as of the new record date but
 5144 were not members as of the previous record date.

5145 (8) PROXY VOTING.--The members have the right, unless
 5146 otherwise provided in this subsection ~~or in the governing~~
 5147 ~~documents,~~ to vote in person or by limited proxy. To be valid, a
 5148 limited proxy must be dated, must state the date, time, and
 5149 place of the meeting for which it was given, and must be signed
 5150 by the authorized person who executed the proxy. A limited proxy
 5151 is effective only for the specific meeting for which it was
 5152 originally given, as the meeting may lawfully be adjourned and
 5153 reconvened from time to time, and automatically expires 60 ~~90~~
 5154 days after the date of the meeting for which it was originally
 5155 given. A proxy is revocable at any time at the pleasure of the
 5156 person who executes it. If the proxy form expressly so provides,
 5157 any proxy holder may appoint, in writing, a substitute to act in
 5158 his or her place.

5159 (9) ELECTIONS.--

5160 (a) Election procedures.--

5161 1. The members of the board shall be elected by written
 5162 ballot or voting machine. Proxies shall in no event be used in
 5163 electing the board, either in general elections or elections to
 5164 fill vacancies caused by recall, resignation, or otherwise,

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5165 unless otherwise provided in this chapter. Not less than 60 days
5166 before a scheduled election, the association shall mail,
5167 deliver, or electronically transmit, whether by separate
5168 association mailing or included in another association mailing,
5169 delivery, or transmission, including regularly published
5170 newsletters, to each parcel owner entitled to a vote, a first
5171 notice of the date of the election. Any homeowner or other
5172 eligible person desiring to be a candidate for the board must
5173 give written notice to the association not less than 40 days
5174 before a scheduled election. Together with the written notice
5175 and agenda as set forth in this section, the association shall
5176 mail, deliver, or electronically transmit a second notice of the
5177 election to all parcel owners entitled to vote therein, with a
5178 ballot that shall list all candidates. Upon request of a
5179 candidate, the association shall include an information sheet,
5180 no larger than 8 1/2 inches by 11 inches, which must be
5181 furnished by the candidate not less than 35 days before the
5182 election, to be included with the mailing, delivery, or
5183 transmission of the ballot, with the costs of mailing, delivery,
5184 or electronic transmission and copying to be borne by the
5185 association. The association is not liable for the contents of
5186 the information sheets prepared by the candidates. In order to
5187 reduce costs, the association may print or duplicate the
5188 information sheets on both sides of the paper. The division
5189 shall by rule establish voting procedures consistent with the
5190 provisions contained in this chapter, including rules
5191 establishing procedures for giving notice by electronic
5192 transmission and rules providing for the secrecy of ballots.

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5193 Elections shall be decided by a plurality of those ballots cast.
5194 There shall be no quorum requirement; however, at least 20
5195 percent of the eligible voters must cast a ballot in order to
5196 have a valid election of members of the board. No parcel owner
5197 shall permit any other person to vote his or her ballot, and any
5198 such ballots improperly cast shall be deemed invalid, provided
5199 any parcel owner who violates this provision may be fined by the
5200 association in accordance with s. 720.305(2). A parcel owner
5201 needing assistance in casting the ballot for the reasons stated
5202 in s. 101.051 may obtain assistance in casting the ballot. The
5203 regular election shall occur on the date of the annual meeting.
5204 Notwithstanding the provisions of this subparagraph, an election
5205 is not required unless more candidates file notices of intent to
5206 run or more are nominated than board vacancies exist.

5207 2. Unless otherwise provided in the bylaws, any vacancy
5208 occurring on the board before the expiration of a term may be
5209 filled by the affirmative vote of the majority of the remaining
5210 directors, even if the remaining directors constitute less than
5211 a quorum, or by the sole remaining director. In the alternative,
5212 a board may hold an election to fill the vacancy, in which case
5213 the election procedures must conform to the requirements of this
5214 section unless the association has opted out of the statutory
5215 election process, in which case the bylaws of the association
5216 control. Unless otherwise provided in the bylaws, a board member
5217 appointed or elected under this section shall fill the vacancy
5218 for the unexpired term of the seat being filled. Filling
5219 vacancies created by recall is governed by s. 720.303(10) and
5220 rules adopted by the division.

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5221 3. Fifteen percent of the total voting interests in a
5222 homeowners' association, or six parcel owners, whichever is
5223 greater, may petition the division to appoint an election
5224 monitor to attend the annual meeting of the homeowners and
5225 conduct the election of directors. The division shall appoint a
5226 division employee, a person or persons specializing in
5227 homeowners' association election monitoring, or an attorney
5228 licensed to practice in this state as the election monitor. All
5229 costs associated with the election monitoring process shall be
5230 paid by the association. The division shall adopt a rule
5231 establishing procedures for the appointment of election monitors
5232 and the scope and extent of the monitor's role in the election
5233 process.

5234 (b) Terms; eligibility of candidates.--

5235 1. The terms of all members of the board shall expire at
5236 the annual meeting. Members may stand for reelection.

5237 2. Coowners of a parcel may not serve as members of the
5238 board of administration at the same time.

5239 3. After transition of control in a community, only
5240 members as defined in s. 720.301(1) shall be eligible as
5241 candidates for the board.

5242 4. A person who has been convicted of any felony by any
5243 court of record in the United States and who has not had his or
5244 her right to vote restored pursuant to law in the jurisdiction
5245 of his or her residence is not eligible for board membership.
5246 The validity of an action by the board is not affected if it is
5247 later determined that a member of the board is ineligible for
5248 board membership due to having been convicted of a felony.

5249 ~~Elections of directors must be conducted in accordance with the~~
 5250 ~~procedures set forth in the governing documents of the~~
 5251 ~~association. All members of the association shall be eligible to~~
 5252 ~~serve on the board of directors, and a member may nominate~~
 5253 ~~himself or herself as a candidate for the board at a meeting~~
 5254 ~~where the election is to be held. Except as otherwise provided~~
 5255 ~~in the governing documents, boards of directors must be elected~~
 5256 ~~by a plurality of the votes cast by eligible voters. Any~~
 5257 ~~election dispute between a member and an association must be~~
 5258 ~~submitted to mandatory binding arbitration with the division.~~
 5259 ~~Such proceedings shall be conducted in the manner provided by s.~~
 5260 ~~718.1255 and the procedural rules adopted by the division.~~

5261 (10) RECORDING.--Any parcel owner may electronically ~~tape~~
 5262 ~~record any or videotape~~ meetings of the board of directors and
 5263 meetings of the members. The board of directors of the
 5264 association may adopt reasonable rules governing the taping of
 5265 meetings of the board and the membership. However, those rules
 5266 may not restrict the parcel owners' rights to electronically
 5267 record the meeting using, but not limited to, battery-operated
 5268 or electrical equipment.

5269 Section 58. Section 720.307, Florida Statutes, is amended
 5270 to read:

5271 720.307 Transition of association control in a
 5272 community.--With respect to homeowners' associations:

5273 (1) Members other than the developer are entitled to elect
 5274 at least a majority of the members of the board of directors of
 5275 the homeowners' association when the earlier of the following
 5276 events occurs:

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5277 (a) Three months after 75 ~~90~~ percent of the parcels in all
5278 phases of the community that will ultimately be operated by the
5279 homeowners' association have been conveyed to members; or

5280 (b) Such other percentage of the parcels has been conveyed
5281 to members, or such other date or event has occurred, as is set
5282 forth in the governing documents in order to comply with the
5283 requirements of any governmentally chartered entity with regard
5284 to the mortgage financing of parcels.

5285
5286 For purposes of this section, the term "members other than the
5287 developer" shall not include builders, contractors, or others
5288 who purchase a parcel for the purpose of constructing
5289 improvements thereon for resale.

5290 (2) The developer is entitled to elect at least one member
5291 of the board of directors of the homeowners' association as long
5292 as the developer holds for sale in the ordinary course of
5293 business at least 5 percent of the parcels in all phases of the
5294 community. After the developer relinquishes control of the
5295 homeowners' association, the developer may exercise the right to
5296 vote any developer-owned voting interests in the same manner as
5297 any other member, except for purposes of reacquiring control of
5298 the homeowners' association or selecting the majority of the
5299 members of the board of directors.

5300 (3) Prior to turnover, the developer or owner of all
5301 common areas shall convey the title to all common areas to the
5302 association immediately upon incorporation of the association.
5303 If additional common areas are acquired prior to transition of
5304 control and subject to the governing documents, title to those

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5305 common areas shall also be immediately transferred to the
5306 association.

5307 (4) At the time the members are entitled to elect at least
5308 a majority of the board of directors of the homeowners'
5309 association, the developer shall, at the developer's expense,
5310 within no more than 30 ~~90~~ days deliver the following documents
5311 to the board:

5312 (a) All deeds to common property owned by the association
5313 or the developer.

5314 (b) The original of the association's declarations of
5315 covenants and restrictions.

5316 (c) A certified copy of the articles of incorporation of
5317 the association.

5318 (d) A copy of the bylaws.

5319 (e) The minute books, including all minutes.

5320 (f) The books and records of the association.

5321 (g) Policies, rules, and regulations, if any, which have
5322 been adopted.

5323 (h) Resignations of directors who are required to resign
5324 because the developer is required to relinquish control of the
5325 association.

5326 (i) The financial records of the association from the date
5327 of incorporation through the date of turnover.

5328 (j) All association funds and control thereof.

5329 (k) All tangible property of the association.

5330 (l) A copy of all contracts which may be in force with the
5331 association as one of the parties.

- 5332 (m) A list of the names and addresses and telephone
- 5333 numbers of all contractors, subcontractors, or others in the
- 5334 current employ of the association.
- 5335 (n) Any and all insurance policies in effect.
- 5336 (o) Any permits issued to the association by governmental
- 5337 entities.
- 5338 (p) Any and all warranties in effect.
- 5339 (q) A roster of current homeowners and their addresses and
- 5340 telephone numbers and section and lot numbers.
- 5341 (r) Employment and service contracts in effect.
- 5342 (s) All other contracts and agreements in effect to which
- 5343 the association is a party.
- 5344 (t) The financial records, including financial statements
- 5345 of the association, and source documents from the incorporation
- 5346 of the association through the date of turnover. The records
- 5347 shall be audited by an independent certified public accountant
- 5348 for the period of the incorporation of the association or for
- 5349 the period covered by the last audit, if an audit has been
- 5350 performed for each fiscal year since incorporation. All
- 5351 financial statements shall be prepared in accordance with
- 5352 generally accepted accounting standards and shall be audited in
- 5353 accordance with generally accepted auditing standards as
- 5354 prescribed by the Board of Accountancy. The accountant
- 5355 performing the review shall examine to the extent necessary
- 5356 supporting documents and records, including the cash
- 5357 disbursements and related paid invoices to determine whether
- 5358 expenditures were for association purposes and the billings,
- 5359 cash receipts, and related records to determine whether the

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5360 developer was charged and paid the proper amounts of
 5361 assessments. This paragraph applies to associations with a date
 5362 of incorporation after December 31, 2007.

5363 ~~(5)(4) This section applies to any mandatory homeowners'~~
 5364 ~~association existing under this chapter does not apply to a~~
 5365 ~~homeowners' association in existence on the effective date of~~
 5366 ~~this act, or to a homeowners' association, no matter when~~
 5367 ~~created, if such association is created in a community that is~~
 5368 ~~included in an effective development of regional impact~~
 5369 ~~development order as of the effective date of this act, together~~
 5370 ~~with any approved modifications thereof.~~

5371 Section 59. Section 720.3071, Florida Statutes, is created
 5372 to read:

5373 720.3071 Board member training.--The division shall
 5374 provide training programs for homeowners' association board
 5375 members, at the associations' expense. Training shall be
 5376 mandatory for newly elected board members and members currently
 5377 serving on a board who have not previously voluntarily attended
 5378 training.

5379 Section 60. Subsection (1) of section 720.3075, Florida
 5380 Statutes, is amended, and subsection (5) is added to that
 5381 section, to read:

5382 720.3075 Prohibited clauses in association documents.--

5383 (1) It is declared that the public policy of this state
 5384 prohibits the inclusion or enforcement of certain types of
 5385 clauses in homeowners' association documents, including
 5386 declaration of covenants, articles of incorporation, bylaws, or

5387 any other document of the association which binds members of the
 5388 association, which either have the effect of or provide that:

5389 (a) A developer has the unilateral ability and right to
 5390 make changes to the homeowners' association documents after the
 5391 transition of homeowners' association control in a community
 5392 from the developer to the nondeveloper members, as set forth in
 5393 s. 720.307, has occurred.

5394 (b) A homeowners' association is prohibited or restricted
 5395 from filing a lawsuit against the developer, or the homeowners'
 5396 association is otherwise effectively prohibited or restricted
 5397 from bringing a lawsuit against the developer.

5398 (c) After the transition of homeowners' association
 5399 control in a community from the developer to the nondeveloper
 5400 members, as set forth in s. 720.307, has occurred, a developer
 5401 is entitled to cast votes in an amount that exceeds one vote per
 5402 residential lot.

5403 (d) The homeowners' association is restricted or prevented
 5404 from functioning, as provided by federal, state, and local laws
 5405 and specifically by this chapter.

5406 (e) The homeowners' association is prevented from amending
 5407 any document as allowed according to Florida statutes.

5408
 5409 Such clauses are declared null and void as against the public
 5410 policy of this state.

5411 (5) (a) An association may not restrict a homeowner from
 5412 mounting or employing shutters or other hurricane protection.

5413 (b) Except as provided in paragraph (c), an association
 5414 may not restrict a homeowner from mounting or employing

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5415 temporary or permanent shutters or other hurricane protection
5416 during any time that a hurricane warning has been declared,
5417 during any time when an evacuation order has been given, or for
5418 the following period after conclusion of such hurricane watch or
5419 evacuation order:

5420 1. Seven days; or

5421 2. Fourteen days if the hurricane watch concerns a
5422 category 4 storm or greater or if the evacuation order lasts
5423 more than 3 days.

5424 (c) If a local government restricts homeowners' mounting
5425 or employing temporary or permanent shutters or other hurricane
5426 protection, the local government may also authorize associations
5427 to adopt and enforce equal or lesser restrictions.

5428 (d) Except as provided in paragraph (c) or paragraph (e),
5429 an association may not restrict a homeowner from mounting or
5430 employing permanent shutters or other hurricane protection

5431 (e) If the association otherwise properly adopts
5432 restrictions governing color or form of shutters or other
5433 permanent exterior window coverings, the association may adopt
5434 and enforce equal or lesser restrictions that apply to permanent
5435 exterior hurricane protections.

5436 (f) An association may not restrict the time or duration
5437 for shutters or other hurricane protection to be open or closed
5438 during any period and may not restrict homeowners from mounting
5439 or employing temporary shutters or other hurricane protection,
5440 as provided in paragraph (b).

5441 Section 61. Section 720.3086, Florida Statutes, is amended
5442 to read:

5443 720.3086 Financial report; audit; penalty; exclusivity of
 5444 properties.--

5445 (1) In a residential subdivision in which the owners of
 5446 lots or parcels must pay mandatory maintenance or amenity fees
 5447 to the subdivision developer or to the owners of the common
 5448 areas, recreational facilities, and other properties serving the
 5449 lots or parcels, the developer or owner of such areas,
 5450 facilities, or properties shall make public, within 60 days
 5451 following the end of each fiscal year, a complete financial
 5452 report of the actual, total receipts of mandatory maintenance or
 5453 amenity fees received by it, and an itemized listing of the
 5454 expenditures made by it from such fees, for that year. Such
 5455 report shall be made public by mailing it to each lot or parcel
 5456 owner in the subdivision, by publishing it in a publication
 5457 regularly distributed within the subdivision, or by posting it
 5458 in prominent locations in the subdivision. Thereafter, the
 5459 developer or the owner of the common areas, recreational
 5460 facilities, and other properties serving the lots or parcels
 5461 shall mail the annual financial report, upon written request
 5462 from a lot or parcel owner.

5463 (2) Pursuant to this section, if the developer or the
 5464 owner fails to provide the lot or parcel owner with the
 5465 requested annual financial report within 30 days of delivery of
 5466 such request to the developer or owner, the circuit court
 5467 located in the same county as the principal office of the
 5468 corporation, or its registered office, if no office exists in
 5469 this state, summarily may order the corporation to furnish such
 5470 financial report, upon application of the lot or parcel owner.

5471 If the court orders the corporation to furnish the financial
 5472 report, it shall also order the corporation to pay the lot or
 5473 parcel owner's costs, including reasonable attorney's fees that
 5474 have been incurred to obtain the order, and otherwise shall
 5475 enforce the lot or parcel owner's rights under this section.

5476 (3) Lot or parcel owners shall have exclusive and vested
 5477 rights for the use of common areas, recreational facilities, and
 5478 other properties serving the lots or parcels unless they have
 5479 been dedicated for nonexclusive use by the lot or parcel owners.
 5480 Portions of governing documents that allow guests of the
 5481 developer or facility owner the right to use the facility are
 5482 hereby declared void, as those portions of governing documents
 5483 violate the rights to exclusive use of the facilities by the lot
 5484 or parcel owners and their guests.

5485 (4) This section does not apply to amounts paid to
 5486 homeowner associations pursuant to ~~chapter 617,~~ chapter 718,
 5487 chapter 719, chapter 721, or chapter 723, or to amounts paid to
 5488 local governmental entities, including special districts.

5489 Section 62. Section 720.401, Florida Statutes, is amended
 5490 to read:

5491 720.401 Prospective purchasers subject to association
 5492 membership requirement; disclosure required; covenants;
 5493 assessments; contract cancellation.--

5494 (1) (a) A prospective parcel owner in a community must be
 5495 presented a disclosure summary before executing the contract for
 5496 sale. The disclosure summary must be in a form substantially
 5497 similar to the following form:

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5499 DISCLOSURE SUMMARY
 5500 FOR
 5501 (NAME OF COMMUNITY)

5502
 5503 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL
 5504 BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

5505 2. THE PURCHASER HAS BEEN PROVIDED A COPY OF THE ~~THERE~~
 5506 ~~HAVE BEEN OR WILL BE~~ RECORDED RESTRICTIVE COVENANTS AND THE
 5507 ASSOCIATION GOVERNING DOCUMENTS RELATIVE TO GOVERNING THE USE
 5508 AND OCCUPANCY OF PROPERTIES IN THIS COMMUNITY. AFFIRM OR DENY
 5509 RECEIPT OR DOCUMENTS BY CHECKING:
 5510 YES /box/ or NO /box/

5511 3. YOU ~~WILL~~ (OR WILL NOT) BE OBLIGATED TO PAY ASSESSMENTS
 5512 TO THE ASSOCIATION. ASSESSMENTS ARE ~~MAY BE~~ SUBJECT TO PERIODIC
 5513 CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS \$_____ PER _____.
 5514 IN ADDITION, YOU WILL (OR WILL NOT) ALSO BE OBLIGATED TO PAY ANY
 5515 SPECIAL ASSESSMENTS IMPOSED BY THE ASSOCIATION. SUCH SPECIAL
 5516 ASSESSMENTS ARE ~~MAY BE~~ SUBJECT TO CHANGE. IF APPLICABLE, THE
 5517 CURRENT AMOUNT IS \$_____ PER _____.

5518 4. YOU WILL ~~MAY~~ BE OBLIGATED TO PAY SPECIAL ASSESSMENTS
 5519 AND AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS TO THE
 5520 RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL
 5521 ASSESSMENTS AND TAXES ARE SUBJECT TO PERIODIC CHANGE.

5522 5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS
 5523 LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION COULD RESULT IN A
 5524 LIEN AND JUDICIAL FORECLOSURE ON YOUR PROPERTY.

5525 6. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES
 5526 FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN

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5527 OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF
 5528 APPLICABLE, THE CURRENT AMOUNT IS \$_____ PER _____.

5529 7. THE DEVELOPER HAS ~~MAY HAVE~~ THE RIGHT TO AMEND THE
 5530 RESTRICTIVE COVENANTS WHILE STILL IN CONTROL OF THE HOMEOWNERS'
 5531 ASSOCIATION WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP
 5532 OR THE APPROVAL OF THE PARCEL OWNERS.

5533 8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE
 5534 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASERS
 5535 PURCHASER, YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION
 5536 GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.

5537 9. THESE DOCUMENTS ARE ~~EITHER~~ MATTERS OF PUBLIC RECORD AND
 5538 ~~CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE~~
 5539 ~~PROPERTY IS LOCATED, OR ARE NOT RECORDED~~ IN TALLAHASSEE AND IN
 5540 THE COUNTY WHERE THE PROPERTY IS LOCATED. A PENALTY SHALL BE
 5541 IMPOSED UPON THE DEVELOPER, SELLER OR AGENT OF THE SELLER IF A
 5542 RECORDED COPY OF THE RESTRICTIVE COVENANTS AND THE ASSOCIATION
 5543 GOVERNING DOCUMENTS ARE NOT PROVIDED BEFORE CONTRACT FOR SALE
 5544 ~~AND CAN BE OBTAINED FROM THE DEVELOPER.~~

5545 10. THE PURCHASERS HAVE BEEN PROVIDED A COPY OF THE
 5546 RESTRICTIVE COVENANTS AND THE ASSOCIATION GOVERNING DOCUMENTS
 5547 BEFORE CONTRACT FOR SALE. AFFIRM OR DENY BY CHECKING
 5548 YES /box/ or NO /box/.

5550 DATE: PURCHASER:

5551 PURCHASER:

5552

5553 Full ~~The~~ disclosure must be supplied by the developer, or by the
 5554 parcel owner if the sale is by an owner that is not the

5555 | developer or the agent for the owner. Any contract or agreement
 5556 | for sale shall refer to and incorporate the disclosure summary
 5557 | and shall include, in prominent language, a statement that the
 5558 | potential buyer should not execute the contract or agreement
 5559 | until they have received and read the disclosure summary,
 5560 | recorded restrictive covenants and governing documents of the
 5561 | association, required by this section.

5562 | (b) Each contract entered into for the sale of property
 5563 | with recorded restrictive covenants governed by mandatory
 5564 | homeowners' associations ~~eovenants~~ subject to disclosure
 5565 | required by this section must contain in conspicuous type a
 5566 | clause that states:

5567 |
 5568 | IF THE DISCLOSURE SUMMARY AND FULL DISCLOSURE OF THE RECORDED
 5569 | RESTRICTIVE COVENANTS AND GOVERNING DOCUMENTS OF THE
 5570 | ASSOCIATION, REQUIRED BY SECTION 720.401, FLORIDA STATUTES, HAVE
 5571 | ~~HAS~~ NOT BEEN PROVIDED TO THE PROSPECTIVE PURCHASER BEFORE
 5572 | EXECUTING THIS CONTRACT FOR SALE, THIS CONTRACT IS VOIDABLE BY
 5573 | BUYER BY DELIVERING TO SELLER OR SELLER'S AGENT OR
 5574 | REPRESENTATIVE WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL
 5575 | WITHIN 10 ~~3~~ DAYS AFTER RECEIPT OF THE FULL DISCLOSURE ~~SUMMARY OR~~
 5576 | ~~PRIOR TO CLOSING, WHICHEVER OCCURS FIRST.~~ ANY PURPORTED WAIVER
 5577 | OF THIS VOIDABILITY RIGHT HAS NO EFFECT. BUYER'S RIGHT TO VOID
 5578 | THIS CONTRACT SHALL TERMINATE AT CLOSING.

5579 | (c) A certified copy of the publicly recorded governing
 5580 | documents must be provided to any prospective purchaser, any
 5581 | real estate agent, financial institution, title or closing
 5582 | company upon request.

5583 (d) If the developer or the association willfully and
 5584 knowingly fails to disclose material facts that negatively
 5585 affect the value of the parcel purchased by an association
 5586 member, the individual board members or developer shall be held
 5587 liable under applicable federal and state civil and criminal
 5588 statutes. (e)-(e) If the disclosure summary is not provided to a
 5589 prospective purchaser before the purchaser executes a contract
 5590 for the sale of property governed by covenants that are subject
 5591 to disclosure pursuant to this section, the purchaser may void
 5592 the contract by delivering to the seller or the seller's agent
 5593 or representative written notice canceling the contract within 3
 5594 days after receipt of the disclosure summary or prior to
 5595 closing, whichever occurs first. This right may not be waived by
 5596 the purchaser but terminates at closing.

5597 (2) This section does not apply to any association
 5598 regulated under chapter 718, chapter 719, chapter 721, or
 5599 chapter 723 ~~or to a subdivider registered under chapter 498~~; and
 5600 also does not apply if disclosure regarding the association is
 5601 otherwise made in connection with the requirements of chapter
 5602 718, chapter 719, chapter 721, or chapter 723.

5603 Section 63. Section 720.501, Florida Statutes, is created
 5604 to read:

5605 720.501 Powers and Duties of Division of Florida Land
 5606 Sales, Condominiums, Homeowners' Associations, and Mobile
 5607 Homes.--

5608 (1) The Division of Florida Land Sales, Condominiums,
 5609 Homeowners' Associations, and Mobile Homes of the Department of
 5610 Business and Professional Regulation, referred to as the

5611 "division" in this part, in addition to other powers and duties
5612 prescribed by chapter 498, has the power to enforce and ensure
5613 compliance with the provisions of this chapter and rules
5614 promulgated pursuant hereto relating to the development,
5615 construction, sale, lease, ownership, operation, and management
5616 of residential property. In performing its duties, the division
5617 has the following powers and duties:

5618 (a) The division may make necessary public or private
5619 investigations within or outside this state to determine whether
5620 any person has violated this chapter or any rule or order
5621 hereunder, to aid in the enforcement of this chapter, or to aid
5622 in the adoption of rules or forms hereunder.

5623 (b) The division may require or permit any person to file
5624 a statement in writing, under oath or otherwise, as the division
5625 determines, as to the facts and circumstances concerning a
5626 matter to be investigated.

5627 (c) For the purpose of any investigation under this
5628 chapter, the division director, or any officer or employee
5629 designated by the division director may administer oaths or
5630 affirmations, subpoena witnesses and compel their attendance,
5631 take evidence, and require the production of any matter which is
5632 relevant to the investigation, including the existence,
5633 description, nature, custody, condition, and location of any
5634 books, documents, or other tangible things and the identity and
5635 location of persons having knowledge of relevant facts or any
5636 other matter reasonably calculated to lead to the discovery of
5637 material evidence. Upon the failure by a person to obey a
5638 subpoena or to answer questions propounded by the investigating

5639 officer and upon reasonable notice to all persons affected
5640 thereby, the division may apply to the circuit court for an
5641 order compelling compliance.

5642 (d) Notwithstanding any remedies available to lot owners
5643 and associations, if the division has reasonable cause to
5644 believe that a violation of any provision of this chapter or
5645 rule promulgated pursuant hereto has occurred, the division may
5646 institute enforcement proceedings in its own name against any
5647 developer, association, officer, or member of the board of
5648 administration, or its assignees or agents, as follows:

5649 1. The division may permit a person whose conduct or
5650 actions may be under investigation to waive formal proceedings
5651 and enter into a consent proceeding whereby orders, rules, or
5652 letters of censure or warning, whether formal or informal, may
5653 be entered against the person.

5654 2. The division may issue an order requiring the
5655 developer, association, officer, or member of the board of
5656 administration, or its assignees or agents, to cease and desist
5657 from the unlawful practice and take such affirmative action as
5658 in the judgment of the division will carry out the purposes of
5659 this chapter. Such affirmative action may include, but is not
5660 limited to, an order requiring a developer to pay moneys
5661 determined to be owed to a homeowners' association.

5662 3. The division may bring an action in circuit court on
5663 behalf of a class of lot owners, lessees, or purchasers for
5664 declaratory relief, injunctive relief, or restitution.

5665 4. The division may impose a civil penalty against a
5666 developer or association, or its assignee or agent for any

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5667 violation of this chapter or a rule promulgated pursuant hereto.
5668 The division may impose a civil penalty individually against any
5669 officer or board member who willfully and knowingly violates a
5670 provision of this chapter, a rule adopted pursuant hereto, or a
5671 final order of the division. The term "willfully and knowingly"
5672 means that the division informed the officer or board member
5673 that his or her action or intended action violates this chapter,
5674 a rule adopted under this chapter, or a final order of the
5675 division and that the officer or board member refused to comply
5676 with the requirements of this chapter, a rule adopted under this
5677 chapter, or a final order of the division. The division, prior
5678 to initiating formal agency action under chapter 120, shall
5679 afford the officer or board member an opportunity to voluntarily
5680 comply with this chapter, a rule adopted under this chapter, or
5681 a final order of the division. An officer or board member who
5682 complies within 10 days is not subject to a civil penalty. A
5683 penalty may be imposed on the basis of each day of continuing
5684 violation, but in no event shall the penalty for any offense
5685 exceed \$5,000. By January 1, 2007, the division shall adopt, by
5686 rule, penalty guidelines applicable to possible violations or to
5687 categories of violations of this chapter or rules adopted by the
5688 division. The guidelines must specify a meaningful range of
5689 civil penalties for each such violation of the statute and rules
5690 and must be based upon the harm caused by the violation, the
5691 repetition of the violation, and upon such other factors deemed
5692 relevant by the division. For example, the division may consider
5693 whether the violations were committed by a developer-controlled
5694 or owner-controlled association, the size of the association,

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5695 and other factors. The guidelines must designate the possible
5696 mitigating or aggravating circumstances that justify a departure
5697 from the range of penalties provided by the rules. It is the
5698 legislative intent that minor violations be distinguished from
5699 those which endanger the health, safety, or welfare of residents
5700 or other persons and that such guidelines provide reasonable and
5701 meaningful notice to the public of likely penalties that may be
5702 imposed for prescribed conduct. This subsection does not limit
5703 the ability of the division to informally dispose of
5704 administrative actions or complaints by stipulation, agreed
5705 settlement, or consent order. All amounts collected shall be
5706 deposited with the Chief Financial Officer to the credit of the
5707 Division of Florida Land Sales, Condominiums, Homeowners'
5708 Association, and Mobile Homes Trust Fund. If a developer fails
5709 to pay the civil penalty, the division shall thereupon issue an
5710 order directing that such developer cease and desist from
5711 further operation until such time as the civil penalty is paid,
5712 or may pursue enforcement of the penalty in a court of competent
5713 jurisdiction. If an association fails to pay the civil penalty,
5714 the division shall thereupon pursue enforcement in a court of
5715 competent jurisdiction, and the order imposing the civil penalty
5716 or the cease and desist order will not become effective until 20
5717 days after the date of such order. Any action commenced by the
5718 division shall be brought in the county in which the division
5719 has its executive offices or in the county where the violation
5720 occurred.

5721 (e) The division may prepare and disseminate a prospectus
5722 and other information to assist prospective owners, purchasers,

5723 lessees, and developers of residential communities in assessing
5724 the rights, privileges, and duties pertaining thereto.

5725 (f) The division may adopt rules pursuant to ss.120.536(1)
5726 and 120.54 to implement and enforce the provisions of this
5727 chapter.

5728 (g) The division shall establish procedures for providing
5729 notice to an association when the division considers the
5730 issuance of a declaratory statement with respect to the
5731 declaration of restrictions or any related document governing in
5732 such residential community.

5733 (h) The division shall furnish each association which pays
5734 the fees required by paragraph (2) (a) a copy of this act,
5735 subsequent changes to this act on an annual basis, an amended
5736 version of this act as it becomes available from the Secretary
5737 of State's office and the rules promulgated pursuant thereto on
5738 an annual basis.

5739 (i) The division shall annually provide each association
5740 with a summary of declaratory statements and formal legal
5741 opinions relating to the operations of residential communities
5742 which were rendered by the division during the previous year.

5743 (j) The division shall provide training programs for
5744 residential association board members and lot owners.

5745 (k) The division shall maintain a toll-free telephone
5746 number accessible to lot owners.

5747 (l) The division shall develop a program to certify both
5748 volunteer and paid mediators to provide mediation of disputes.
5749 The division shall provide, upon request, a list of such
5750 mediators to any association, lot owner, or other participant in

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5751 arbitration proceedings under s. 720.311 requesting a copy of
5752 the list. The division shall include on the list of volunteer
5753 mediators only the names of persons who have received at least
5754 20 hours of training in mediation techniques or who have
5755 mediated at least 20 disputes. In order to become initially
5756 certified by the division, paid mediators must be certified by
5757 the Supreme Court to mediate court cases in either county or
5758 circuit courts. However, the division may adopt, by rule,
5759 additional factors for the certification of paid mediators,
5760 which factors must be related to experience, education, or
5761 background. Any person initially certified as a paid mediator by
5762 the division must, in order to continue to be certified, comply
5763 with the factors or requirements imposed by rules adopted by the
5764 division.

5765 (m) When a complaint is made, the division shall conduct
5766 its inquiry with due regard to the interests of the affected
5767 parties. Within 30 days after receipt of a complaint, the
5768 division shall acknowledge the complaint in writing and notify
5769 the complainant whether the complaint is within the jurisdiction
5770 of the division and whether the division needs additional
5771 information from the complainant. The division shall conduct its
5772 investigation and shall take action upon the complaint within 90
5773 days after receipt of the original complaint or of timely
5774 requested additional information. However, failure to complete
5775 the investigation within 90 days does not prevent the division
5776 from continuing the investigation, accepting or considering
5777 evidence obtained or received after 90 days, or taking
5778 administrative action if reasonable cause exists to believe that

5779 a violation of this chapter or a rule of the division has
 5780 occurred. If an investigation is not completed within the time
 5781 limits established in this paragraph, the division shall, on a
 5782 monthly basis, notify the complainant in writing of the status
 5783 of the investigation When reporting its action to the
 5784 complainant, the division shall inform the complainant of any
 5785 right to a hearing pursuant to ss. 120.569 and 120.57.

5786 (2) Effective January 1, 2008, each homeowners'
 5787 association that administers more than 10 residential homes
 5788 shall pay to the division an annual fee in the amount of \$4 for
 5789 each residence in communities administered by the association.
 5790 If the fee is not paid by March 1, then the association shall be
 5791 assessed a penalty of 10 percent of the amount due, and the
 5792 association will not have standing to maintain or defend any
 5793 action in the courts of this state until the amount due, plus
 5794 any penalty that is paid. All fees shall be deposited in the
 5795 Division of Florida Land Sales, Condominiums, Homeowners'
 5796 Association, and Mobile Homes Trust Fund as provided by law.

5797 Section 64. Section 720.505, Florida Statutes, is created
 5798 to read:

5799 720.505 Advisory council; membership functions.--

5800 (1) There is created the Advisory Council On Mandated
 5801 Properties. The council shall consist of seven appointed
 5802 members. Two members shall be appointed by the President of the
 5803 Senate, two members shall be appointed by the Speaker of the
 5804 House of Representatives, and three members shall be appointed
 5805 by the Governor. At least one member that is appointed by the
 5806 Governor, by the Senate President and by the Speaker of the

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5807 House shall be a homeowners' rights advocate and parcel owner.
5808 Members shall be appointed to 2-year terms; however, one of the
5809 persons initially appointed by the Governor, by the President of
5810 the Senate, and by the Speaker of the House of Representatives
5811 shall be appointed to a 1-year term. A member of the division,
5812 appointed by the Secretary, shall serve as an ex-officio
5813 nonvoting member. The selection of council members shall be made
5814 in a manner that ensures a fair and balanced representation from
5815 the service-provider sector and consumer advocates with a
5816 substantial public record of endeavors on behalf of homeowners'
5817 rights and consumer interests. The council shall be located
5818 within the division for administrative purposes. Members of the
5819 council shall serve without compensation but are entitled to
5820 receive per diem and travel expenses pursuant to s. 112.061
5821 while on official business. A vacancy on the Advisory Council
5822 shall be filled in the same manner as the original appointment.

5823 (2) The functions of the advisory council shall be to:

5824 (a) Receive, from the public, input regarding issues of
5825 concern with respect to mandated communities and recommendations
5826 for changes in homeowners' association laws. The issues that the
5827 council shall consider include, but are not limited to, the
5828 rights and responsibilities of the parcel owners in relation to
5829 the rights and responsibilities of the association.

5830 (b) Review, evaluate, and advise the division concerning
5831 revisions and adoption of rules affecting homeowners'
5832 associations.

5833 (c) Recommend improvements, if needed, in the education
5834 programs offered by the division.

5835 (3) The council may elect a chair and vice chair and such
 5836 other officers as it may deem advisable. The council shall meet
 5837 at the call of its chair, at the request of a majority of its
 5838 membership, at the request of the division, or at such times as
 5839 it may prescribe. A majority of the members of the council shall
 5840 constitute a quorum. Council action may be taken by vote of a
 5841 majority of the voting members who are present at a meeting
 5842 where there is a quorum.

5843 Section 65. Subsection (11) of section 721.05, Florida
 5844 Statutes, is amended to read:

5845 721.05 Definitions.--As used in this chapter, the term:

5846 (11) "Division" means the Division of Florida Land Sales,
 5847 Condominiums, Homeowners' Associations, and Mobile Homes of the
 5848 Department of Business and Professional Regulation.

5849 Section 66. Paragraph (d) of subsection (2) of section
 5850 721.07, Florida Statutes, is amended to read:

5851 721.07 Public offering statement.--Prior to offering any
 5852 timeshare plan, the developer must submit a filed public
 5853 offering statement to the division for approval as prescribed by
 5854 s. 721.03, s. 721.55, or this section. Until the division
 5855 approves such filing, any contract regarding the sale of that
 5856 timeshare plan is subject to cancellation by the purchaser
 5857 pursuant to s. 721.10.

5858 (2)

5859 (d) A developer shall have the authority to deliver to
 5860 purchasers any purchaser public offering statement that is not
 5861 yet approved by the division, provided that the following shall
 5862 apply:

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5863 1. At the time the developer delivers an unapproved
5864 purchaser public offering statement to a purchaser pursuant to
5865 this paragraph, the developer shall deliver a fully completed
5866 and executed copy of the purchase contract required by s. 721.06
5867 that contains the following statement in conspicuous type in
5868 substantially the following form which shall replace the
5869 statements required by s. 721.06(1)(g):

5870

5871 The developer is delivering to you a public offering statement
5872 that has been filed with but not yet approved by the Division of
5873 Florida Land Sales, Condominiums, Homeowners' Associations, and
5874 Mobile Homes. Any revisions to the unapproved public offering
5875 statement you have received must be delivered to you, but only
5876 if the revisions materially alter or modify the offering in a
5877 manner adverse to you. After the division approves the public
5878 offering statement, you will receive notice of the approval from
5879 the developer and the required revisions, if any.

5880

5881 Your statutory right to cancel this transaction without any
5882 penalty or obligation expires 10 calendar days after the date
5883 you signed your purchase contract or the date on which you
5884 receive the last of all documents required to be given to you
5885 pursuant to section 721.07(6), Florida Statutes, or 10 calendar
5886 days after you receive revisions required to be delivered to
5887 you, if any, whichever is later. If you decide to cancel this
5888 contract, you must notify the seller in writing of your intent
5889 to cancel. Your notice of cancellation shall be effective upon
5890 the date sent and shall be sent to (Name of Seller) at

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5891 (Address of Seller) . Any attempt to obtain a waiver of your
5892 cancellation right is void and of no effect. While you may
5893 execute all closing documents in advance, the closing, as
5894 evidenced by delivery of the deed or other document, before
5895 expiration of your 10-day cancellation period, is prohibited..

5896

5897 2. After receipt of approval from the division and prior
5898 to closing, if any revisions made to the documents contained in
5899 the purchaser public offering statement materially alter or
5900 modify the offering in a manner adverse to a purchaser, the
5901 developer shall send the purchaser such revisions together with
5902 a notice containing a statement in conspicuous type in
5903 substantially the following form:

5904

5905 The unapproved public offering statement previously delivered to
5906 you, together with the enclosed revisions, has been approved by
5907 the Division of Florida Land Sales, Condominiums, Homeowners'
5908 Associations, and Mobile Homes. Accordingly, your cancellation
5909 right expires 10 calendar days after you sign your purchase
5910 contract or 10 calendar days after you receive these revisions,
5911 whichever is later. If you have any questions regarding your
5912 cancellation rights, you may contact the division at [insert
5913 division's current address].

5914

5915 3. After receipt of approval from the division and prior
5916 to closing, if no revisions have been made to the documents
5917 contained in the unapproved purchaser public offering statement,
5918 or if such revisions do not materially alter or modify the

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5919 offering in a manner adverse to a purchaser, the developer shall
 5920 send the purchaser a notice containing a statement in
 5921 conspicuous type in substantially the following form:

5922
 5923 The unapproved public offering statement previously delivered to
 5924 you has been approved by the Division of Florida Land Sales,
 5925 Condominiums, Homeowners' Associations, and Mobile Homes.
 5926 Revisions made to the unapproved public offering statement, if
 5927 any, are either not required to be delivered to you or are not
 5928 deemed by the developer, in its opinion, to materially alter or
 5929 modify the offering in a manner that is adverse to you.

5930 Accordingly, your cancellation right expired 10 days after you
 5931 signed your purchase contract. A complete copy of the approved
 5932 public offering statement is available through the managing
 5933 entity for inspection as part of the books and records of the
 5934 plan. If you have any questions regarding your cancellation
 5935 rights, you may contact the division at [insert division's
 5936 current address].

5937 Section 67. Subsection (8) of section 721.08, Florida
 5938 Statutes, is amended to read:

5939 721.08 Escrow accounts; nondisturbance instruments;
 5940 alternate security arrangements; transfer of legal title.--

5941 (8) An escrow agent holding escrowed funds pursuant to
 5942 this chapter that have not been claimed for a period of 5 years
 5943 after the date of deposit shall make at least one reasonable
 5944 attempt to deliver such unclaimed funds to the purchaser who
 5945 submitted such funds to escrow. In making such attempt, an
 5946 escrow agent is entitled to rely on a purchaser's last known

5947 address as set forth in the books and records of the escrow
 5948 agent and is not required to conduct any further search for the
 5949 purchaser. If an escrow agent's attempt to deliver unclaimed
 5950 funds to any purchaser is unsuccessful, the escrow agent may
 5951 deliver such unclaimed funds to the division and the division
 5952 shall deposit such unclaimed funds in the Division of Florida
 5953 Land Sales, Condominiums, Homeowners' Associations, and Mobile
 5954 Homes Trust Fund, 30 days after giving notice in a publication
 5955 of general circulation in the county in which the timeshare
 5956 property containing the purchaser's timeshare interest is
 5957 located. The purchaser may claim the same at any time prior to
 5958 the delivery of such funds to the division. After delivery of
 5959 such funds to the division, the purchaser shall have no more
 5960 rights to the unclaimed funds. The escrow agent shall not be
 5961 liable for any claims from any party arising out of the escrow
 5962 agent's delivery of the unclaimed funds to the division pursuant
 5963 to this section.

5964 Section 68. Paragraph (e) of subsection (5) of section
 5965 721.26, Florida Statutes, is amended to read:

5966 721.26 Regulation by division.--The division has the power
 5967 to enforce and ensure compliance with the provisions of this
 5968 chapter, except for parts III and IV, using the powers provided
 5969 in this chapter, as well as the powers prescribed in chapters
 5970 498, 718, and 719. In performing its duties, the division shall
 5971 have the following powers and duties:

5972 (5) Notwithstanding any remedies available to purchasers,
 5973 if the division has reasonable cause to believe that a violation
 5974 of this chapter, or of any division rule or order promulgated or

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5975 issued pursuant to this chapter, has occurred, the division may
 5976 institute enforcement proceedings in its own name against any
 5977 regulated party, as such term is defined in this subsection:

5978 (e)1. The division may impose a penalty against any
 5979 regulated party for a violation of this chapter or any rule
 5980 adopted thereunder. A penalty may be imposed on the basis of
 5981 each day of continuing violation, but in no event may the
 5982 penalty for any offense exceed \$10,000. All accounts collected
 5983 shall be deposited with the Chief Financial Officer to the
 5984 credit of the Division of Florida Land Sales, Condominiums,
 5985 Homeowners' Associations, and Mobile Homes Trust Fund.

5986 2.a. If a regulated party fails to pay a penalty, the
 5987 division shall thereupon issue an order directing that such
 5988 regulated party cease and desist from further operation until
 5989 such time as the penalty is paid; or the division may pursue
 5990 enforcement of the penalty in a court of competent jurisdiction.

5991 b. If an owners' association or managing entity fails to
 5992 pay a civil penalty, the division may pursue enforcement in a
 5993 court of competent jurisdiction.

5994 Section 69. Section 721.28, Florida Statutes, is amended
 5995 to read:

5996 721.28 Division of Florida Land Sales, Condominiums,
 5997 Homeowners' Associations, and Mobile Homes Trust Fund.--All
 5998 funds collected by the division and any amounts paid as fees or
 5999 penalties under this chapter shall be deposited in the State
 6000 Treasury to the credit of the Division of Florida Land Sales,
 6001 Condominiums, Homeowners' Associations, and Mobile Homes Trust
 6002 Fund created by s. 498.019.

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6003 Section 70. Paragraph (c) of subsection (1) of section
6004 721.301, Florida Statutes, is amended to read:

6005 721.301 Florida Timesharing, Vacation Club, and
6006 Hospitality Program.--

6007 (1)

6008 (c) The director may designate funds from the Division of
6009 Florida Land Sales, Condominiums, Homeowners' Associations, and
6010 Mobile Homes Trust Fund, not to exceed \$50,000 annually, to
6011 support the projects and proposals undertaken pursuant to
6012 paragraph (b). All state trust funds to be expended pursuant to
6013 this section must be matched equally with private moneys and
6014 shall comprise no more than half of the total moneys expended
6015 annually.

6016 Section 71. Subsection (1) of section 723.003, Florida
6017 Statutes, is amended to read:

6018 723.003 Definitions.--As used in this chapter, the
6019 following words and terms have the following meanings unless
6020 clearly indicated otherwise:

6021 (1) The term "division" means the Division of Florida Land
6022 Sales, Condominiums, Homeowners' Associations, and Mobile Homes
6023 of the Department of Business and Professional Regulation.

6024 Section 72. Paragraph (e) of subsection (5) of section
6025 723.006, Florida Statutes, is amended to read:

6026 723.006 Powers and duties of division.--In performing its
6027 duties, the division has the following powers and duties:

6028 (5) Notwithstanding any remedies available to mobile home
6029 owners, mobile home park owners, and homeowners' associations,
6030 if the division has reasonable cause to believe that a violation

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6031 of any provision of this chapter or any rule promulgated
 6032 pursuant hereto has occurred, the division may institute
 6033 enforcement proceedings in its own name against a developer,
 6034 mobile home park owner, or homeowners' association, or its
 6035 assignee or agent, as follows:

6036 (e)1. The division may impose a civil penalty against a
 6037 mobile home park owner or homeowners' association, or its
 6038 assignee or agent, for any violation of this chapter, a properly
 6039 promulgated park rule or regulation, or a rule or regulation
 6040 promulgated pursuant hereto. A penalty may be imposed on the
 6041 basis of each separate violation and, if the violation is a
 6042 continuing one, for each day of continuing violation, but in no
 6043 event may the penalty for each separate violation or for each
 6044 day of continuing violation exceed \$5,000. All amounts collected
 6045 shall be deposited with the Chief Financial Officer to the
 6046 credit of the Division of Florida Land Sales, Condominiums,
 6047 Homeowners' Associations, and Mobile Homes Trust Fund.

6048 2. If a violator fails to pay the civil penalty, the
 6049 division shall thereupon issue an order directing that such
 6050 violator cease and desist from further violation until such time
 6051 as the civil penalty is paid or may pursue enforcement of the
 6052 penalty in a court of competent jurisdiction. If a homeowners'
 6053 association fails to pay the civil penalty, the division shall
 6054 thereupon pursue enforcement in a court of competent
 6055 jurisdiction, and the order imposing the civil penalty or the
 6056 cease and desist order shall not become effective until 20 days
 6057 after the date of such order. Any action commenced by the

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6058 | division shall be brought in the county in which the division
 6059 | has its executive offices or in which the violation occurred.

6060 | Section 73. Section 723.009, Florida Statutes, is amended
 6061 | to read:

6062 | 723.009 Division of Florida Land Sales, Condominiums,
 6063 | Homeowners' Associations, and Mobile Homes Trust Fund.--All
 6064 | proceeds from the fees, penalties, and fines imposed pursuant to
 6065 | this chapter shall be deposited into the Division of Florida
 6066 | Land Sales, Condominiums, Homeowners' Associations, and Mobile
 6067 | Homes Trust Fund created by s. 498.019. Moneys in this fund, as
 6068 | appropriated by the Legislature pursuant to chapter 216, may be
 6069 | used to defray the expenses incurred by the division in
 6070 | administering the provisions of this chapter.

6071 | Section 74. Paragraph (c) of subsection (2) of section
 6072 | 723.0611, Florida Statutes, is amended to read:

6073 | 723.0611 Florida Mobile Home Relocation Corporation.--
 6074 | (2)

6075 | (c) The corporation shall, for purposes of s. 768.28, be
 6076 | considered an agency of the state. Agents or employees of the
 6077 | corporation, members of the board of directors of the
 6078 | corporation, or representatives of the Division of Florida Land
 6079 | Sales, Condominiums, Homeowners' Associations, and Mobile Homes
 6080 | shall be considered officers, employees, or agents of the state,
 6081 | and actions against them and the corporation shall be governed
 6082 | by s. 768.28.

6083 | Section 75. Emotional support animals.--

6084 | (1) Every homeowner or renter in this state shall have the
 6085 | right to own a companion animal and to have such animal live

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6086 with them in their home if such companion animal is deemed
6087 helpful to the person's physical or psychological well-being as
6088 attested to by at least two qualified health care professionals.

6089 (2) Any municipal or county code or ordinance, or any
6090 purported rule, declaration, by-law or other form of restriction
6091 contrary to the right provided in subsection (1) contained in
6092 any governing document of any condominium, cooperative, mobile
6093 home park, homeowner, or any other common interest ownership
6094 community association shall be deemed unconscionable, and thus
6095 unenforceable, invalid and of no legal effect.

6096 (3) An animal does not require specialized training or
6097 skill in assisting its owner to be classified as a companion
6098 animal pursuant to this section. The animal can be a cat, dog,
6099 ferret, bird, gerbil, or any other commonly accepted
6100 domesticated animal. However, if such training can be
6101 documented, a letter from only one qualified health care
6102 professional is required, as per pre-existing federal disability
6103 and fair housing laws.

6104 (4) Qualified health professionals include any physician
6105 or advanced registered nurse practitioner who is licensed in
6106 this state to prescribe medications for emotional or mental
6107 conditions, or any mental health worker, mental health
6108 counselor, psychologist, or social worker, who is licensed in
6109 this state to practice counseling therapy. The letter must say
6110 that the animal is necessary to ameliorate and help with life
6111 functions for a condition covered under the Americans with
6112 Disabilities Act. The letter does not have to give details of
6113 the nature of the unit owner's disorder, in order not to invade

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6114 the patient's privacy per the Health Insurance Portability and
6115 Accountability Act. Where the primary residence of the owner is
6116 in another state, the qualified health care professional is
6117 defined as a qualified health care professional licensed in
6118 their home state.

6119 (5) If it becomes necessary for an owner or renter in any
6120 condominium, cooperative, mobile home park, homeowner or any
6121 other common interest ownership association to enforce this
6122 section in court against an association which has threatened to
6123 limit his or her right to own and reside with a companion animal
6124 either orally or in writing, the homeowner shall be entitled to
6125 recover his or her reasonable costs and attorney's fees if the
6126 homeowner is the prevailing party. This attorney's fee provision
6127 is not reciprocal.

6128 Section 76. Notwithstanding any provision to the contrary
6129 contained in a declaration of condominium, condominium bylaws,
6130 or other documents, a condominium developer who rents or leases
6131 any unsold units in a condominium must pay all monthly
6132 maintenance fees on those units to the association as if the
6133 units were owned by individual owners.

6134 Section 77. This act shall take effect July 1, 2007.