

Amendment No.

CHAMBER ACTION

Senate

House

.  
.
.  
.

1 Representative Bogdanoff offered the following:

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (11) of section 718.111, Florida  
6 Statutes, is amended to read:

7 718.111 The association.--

8 (11) INSURANCE.--In order to protect the safety, health,  
9 and welfare of the people of the State of Florida and to ensure  
10 consistency in the provision of insurance coverage to  
11 condominiums and their unit owners, this subsection applies  
12 ~~paragraphs (a), (b), and (c) are deemed to apply to every~~  
13 residential condominium in the state, regardless of the date of  
14 its declaration of condominium. It is the intent of the  
15 Legislature to encourage lower or stable insurance premiums for  
16 associations described in this subsection ~~section~~.

600723

4/21/2008 1:56 PM

Amendment No.

17        (a) Adequate hazard insurance, regardless of any  
18 requirement in the declaration of condominium for coverage by  
19 the association for full insurable value, replacement cost, or  
20 similar coverage, shall be based upon the replacement cost of  
21 the property to be insured as determined by an independent  
22 insurance appraisal or update of a prior appraisal. The full  
23 insurable value shall be determined at least once every 36  
24 months.

25        1. An association or group of associations may provide  
26 adequate hazard insurance through a self-insurance fund that  
27 complies with the requirements of ss. 624.460-624.488.

28        2. The association may also provide adequate hazard  
29 insurance coverage individually or for a group of no fewer than  
30 three communities created and operating under this chapter,  
31 chapter 719, chapter 720, or chapter 721 by obtaining and  
32 maintaining for such communities insurance coverage sufficient  
33 to cover an amount equal to the probable maximum loss for the  
34 communities for a 250-year windstorm event. Such probable  
35 maximum loss must be determined through the use of a competent  
36 model that has been accepted by the Florida Commission on  
37 Hurricane Loss Projection Methodology. No policy or program  
38 providing such coverage shall be issued or renewed after July 1,  
39 2008, unless it has been reviewed and approved by the Office of  
40 Insurance Regulation. The review and approval shall include  
41 approval of the policy and related forms pursuant to ss. 627.410  
42 and 627.411, approval of the rates pursuant to s. 627.062, a  
43 determination that the loss model approved by the Commission was  
44 accurately and appropriately applied to the insured structures

600723

4/21/2008 1:56 PM

Amendment No.

45 to determine the 250-year probable maximum loss, and a  
46 determination that complete and accurate disclosure of all  
47 material provisions is provided to condominium unit owners prior  
48 to execution of the agreement by a condominium association.

49 3. When determining the adequate amount of hazard  
50 insurance coverage, the association may consider deductibles as  
51 determined by this subsection.

52 (b) If an association is a developer-controlled  
53 association, the association shall exercise its best efforts to  
54 obtain and maintain insurance as described in paragraph (a).  
55 Failure to obtain and maintain adequate hazard insurance during  
56 any period of developer control constitutes a breach of  
57 fiduciary responsibility by the developer-appointed members of  
58 the board of directors of the association, unless the members  
59 can show that despite such failure, they have made their best  
60 efforts to maintain the required coverage.

61 (c) Policies may include deductibles as determined by the  
62 board.

63 1. The deductibles shall be consistent with industry  
64 standards and prevailing practice for communities of similar  
65 size and age, and having similar construction and facilities in  
66 the locale where the condominium property is situated.

67 2. The deductibles may be based upon available funds,  
68 including reserve accounts, or predetermined assessment  
69 authority at the time the insurance is obtained.

70 3. The board shall establish the amount of deductibles  
71 based upon the level of available funds and predetermined  
72 assessment authority at a meeting of the board. Such meeting

600723

4/21/2008 1:56 PM

Amendment No.

73 shall be open to all unit owners in the manner set forth in s.  
74 718.112(2) (e). The notice of such meeting must state the  
75 proposed deductible and the available funds and the assessment  
76 authority relied upon by the board and estimate any potential  
77 assessment amount against each unit, if any. The meeting  
78 described in this paragraph may be held in conjunction with a  
79 meeting to consider the proposed budget or an amendment thereto.

80 (d) An association controlled by unit owners operating as  
81 a residential condominium shall use its best efforts to obtain  
82 and maintain adequate insurance to protect the association, the  
83 association property, the common elements, and the condominium  
84 property that is required to be insured by the association  
85 pursuant to this subsection.

86 (e) The declaration of condominium as originally recorded,  
87 or as amended pursuant to procedures provided therein, may  
88 provide that condominium property consisting of freestanding  
89 buildings comprised of no more than one building in or on such  
90 unit need not be insured by the association if the declaration  
91 requires the unit owner to obtain adequate insurance for the  
92 condominium property. An association may also obtain and  
93 maintain liability insurance for directors and officers,  
94 insurance for the benefit of association employees, and flood  
95 insurance for common elements, association property, and units.

96 (f) Every hazard insurance policy issued or renewed on or  
97 after January 1, 2009, for the purpose of protecting the  
98 condominium shall provide primary coverage for:

600723

4/21/2008 1:56 PM

Amendment No.

99           1. All portions of the condominium property as originally  
100 installed or replacement of like kind and quality, in accordance  
101 with the original plans and specifications.

102           2. All alterations or additions made to the condominium  
103 property or association property pursuant to s. 718.113(2).

104           3. The coverage shall exclude all personal property within  
105 the unit or limited common elements, and floor, wall, and  
106 ceiling coverings, electrical fixtures, appliances, water  
107 heaters, water filters, built-in cabinets and countertops, and  
108 window treatments, including curtains, drapes, blinds, hardware,  
109 and similar window treatment components, or replacements of any  
110 of the foregoing.

111           (g) Every hazard insurance policy issued or renewed on or  
112 after January 1, 2009, to an individual unit owner must contain  
113 a provision stating that the coverage afforded by such policy is  
114 excess coverage over the amount recoverable under any other  
115 policy covering the same property. Such policies must include  
116 special assessment coverage of no less than \$2,000 per  
117 occurrence. An insurance policy issued to an individual unit  
118 owner providing such coverage does not provide rights of  
119 subrogation against the condominium association operating the  
120 condominium in which such individual's unit is located.

121           1. All improvements or additions to the condominium  
122 property that benefit fewer than all unit owners shall be  
123 insured by the unit owner or owners having the use thereof, or  
124 may be insured by the association at the cost and expense of the  
125 unit owners having the use thereof.

600723

4/21/2008 1:56 PM

Amendment No.

126        2. The association shall require each owner to provide  
127 evidence of a currently effective policy of hazard and liability  
128 insurance upon request, but not more than once per year. Upon  
129 the failure of an owner to provide a certificate of insurance  
130 issued by an insurer approved to write such insurance in this  
131 state within 30 days after the date on which a written request  
132 is delivered, the association may purchase a policy of insurance  
133 on behalf of an owner. The cost of such a policy, together with  
134 reconstruction costs undertaken by the association but which are  
135 the responsibility of the unit owner, may be collected in the  
136 manner provided for the collection of assessments in s. 718.116.

137        3. All reconstruction work after a casualty loss shall be  
138 undertaken by the association except as otherwise authorized in  
139 this section. A unit owner may undertake reconstruction work on  
140 portions of the unit with the prior written consent of the board  
141 of administration. However, such work may be conditioned upon  
142 the approval of the repair methods, the qualifications of the  
143 proposed contractor, or the contract that is used for that  
144 purpose. A unit owner shall obtain all required governmental  
145 permits and approvals prior to commencing reconstruction.

146        4. Unit owners are responsible for the cost of  
147 reconstruction of any portions of the condominium property for  
148 which the unit owner is required to carry casualty insurance,  
149 and any such reconstruction work undertaken by the association  
150 shall be chargeable to the unit owner and enforceable as an  
151 assessment pursuant to s. 718.116. The association must be an  
152 additional named insured and loss payee on all casualty

600723

4/21/2008 1:56 PM

Amendment No.

153 insurance policies issued to unit owners in the condominium  
154 operated by the association.

155 5. A multicondominium association may elect, by a majority  
156 vote of the collective members of the condominiums operated by  
157 the association, to operate such condominiums as a single  
158 condominium for purposes of insurance matters, including, but  
159 not limited to, the purchase of the hazard insurance required by  
160 this section and the apportionment of deductibles and damages in  
161 excess of coverage. The election to aggregate the treatment of  
162 insurance premiums, deductibles, and excess damages constitutes  
163 an amendment to the declaration of all condominiums operated by  
164 the association, and the costs of insurance shall be stated in  
165 the association budget. The amendments shall be recorded as  
166 required by s. 718.110.

167 (h) The association shall maintain insurance or fidelity  
168 bonding of all persons who control or disburse funds of the  
169 association. The insurance policy or fidelity bond must cover  
170 the maximum funds that will be in the custody of the association  
171 or its management agent at any one time. As used in this  
172 paragraph, the term "persons who control or disburse funds of  
173 the association" includes, but is not limited to, those  
174 individuals authorized to sign checks on behalf of the  
175 association, and the president, secretary, and treasurer of the  
176 association. The association shall bear the cost of any such  
177 bonding.

178 (i) The association may amend the declaration of  
179 condominium without regard to any requirement for approval by  
180 mortgagees of amendments affecting insurance requirements for

600723

4/21/2008 1:56 PM

Amendment No.

181 the purpose of conforming the declaration of condominium to the  
182 coverage requirements of this subsection.

183 (j) Any portion of the condominium property required to be  
184 insured by the association against casualty loss pursuant to  
185 paragraph (f) which is damaged by casualty shall be  
186 reconstructed, repaired, or replaced as necessary by the  
187 association as a common expense. All hazard insurance  
188 deductibles, uninsured losses, and other damages in excess of  
189 hazard insurance coverage under the hazard insurance policies  
190 maintained by the association are a common expense of the  
191 condominium, except that:

192 1. A unit owner is responsible for the costs of repair or  
193 replacement of any portion of the condominium property not paid  
194 by insurance proceeds, if such damage is caused by intentional  
195 conduct, negligence, or failure to comply with the terms of the  
196 declaration or the rules of the association by a unit owner, the  
197 members of his or her family, unit occupants, tenants, guests,  
198 or invitees, without compromise of the subrogation rights of any  
199 insurer as set forth in paragraph (g).

200 2. The provisions of subparagraph 1. regarding the  
201 financial responsibility of a unit owner for the costs of  
202 repairing or replacing other portions of the condominium  
203 property also applies to the costs of repair or replacement of  
204 personal property of other unit owners or the association, as  
205 well as other property, whether real or personal, which the unit  
206 owners are required to insure under paragraph (g).

207 3. To the extent the cost of repair or reconstruction for  
208 which the unit owner is responsible under this paragraph is

600723

4/21/2008 1:56 PM



Amendment No.

209 reimbursed to the association by insurance proceeds, and, to the  
210 extent the association has collected the cost of such repair or  
211 reconstruction from the unit owner, the association shall  
212 reimburse the unit owner without the waiver of any rights of  
213 subrogation.

214 4. The association is not obligated to pay for repair or  
215 reconstruction or repairs of casualty losses as a common expense  
216 if the casualty losses were known or should have been known to a  
217 unit owner and were not reported to the association until after  
218 the insurance claim of the association for that casualty was  
219 settled or resolved with finality, or denied on the basis that  
220 it was untimely filed.

221 (k) An association may, upon the approval of a majority of  
222 the total voting interests in the association, opt out of the  
223 provisions of paragraph (j) for the allocation of repair or  
224 reconstruction expenses and allocate repair or reconstruction  
225 expenses in the manner provided in the declaration as originally  
226 recorded or as amended. Such vote may be approved by the voting  
227 interests of the association without regard to any mortgagee  
228 consent requirements.

229 (l) In a multicondominium association that has not  
230 consolidated its financial operations under s. 718.111(6), any  
231 condominium operated by the association may opt out of the  
232 provisions of paragraph (j) with the approval of a majority of  
233 the total voting interests in that condominium. Such vote may be  
234 approved by the voting interests without regard to any mortgagee  
235 consent requirements.

600723

4/21/2008 1:56 PM

Amendment No.

236       (m) Any association or condominium voting to opt out of  
237 the guidelines for repair or reconstruction expenses as  
238 described in paragraph (j) must record a notice setting forth  
239 the date of the opt-out vote and the page of the official  
240 records book on which the declaration is recorded. The decision  
241 to opt out is effective upon the date of recording of the notice  
242 in the public records by the association. An association that  
243 has voted to opt out of paragraph (j) may reverse that decision  
244 by the same vote required in paragraphs (k) and (l), and notice  
245 thereof shall be recorded in the official records.

246       (n) The association is not obligated to pay for any  
247 reconstruction or repair expenses due to casualty loss to any  
248 improvements installed by a current or former owner of the unit  
249 or by the developer if the improvement benefits only the unit  
250 for which it was installed and is not part of the standard  
251 improvements installed by the developer on all units as part of  
252 original construction, whether or not such improvement is  
253 located within the unit. This paragraph does not relieve any  
254 party of its obligations regarding recovery due under any  
255 insurance implemented specifically for any such improvements.

256       (o) The provisions of this subsection shall not apply to  
257 timeshare condominium associations. Insurance for timeshare  
258 condominium associations shall be maintained pursuant to s.  
259 721.165.

260 ~~Therefore, the Legislature requires a report to be prepared by~~  
261 ~~the Office of Insurance Regulation of the Department of~~  
262 ~~Financial Services for publication 18 months from the effective~~  
263 ~~date of this act, evaluating premium increases or decreases for~~  
600723

4/21/2008 1:56 PM

Amendment No.

264 ~~associations, unit owner premium increases or decreases,~~  
265 ~~recommended changes to better define common areas, or any other~~  
266 ~~information the Office of Insurance Regulation deems~~  
267 ~~appropriate.~~

268 ~~(a) A unit owner controlled association operating a~~  
269 ~~residential condominium shall use its best efforts to obtain and~~  
270 ~~maintain adequate insurance to protect the association, the~~  
271 ~~association property, the common elements, and the condominium~~  
272 ~~property required to be insured by the association pursuant to~~  
273 ~~paragraph (b). If the association is developer controlled, the~~  
274 ~~association shall exercise due diligence to obtain and maintain~~  
275 ~~such insurance. Failure to obtain and maintain adequate~~  
276 ~~insurance during any period of developer control shall~~  
277 ~~constitute a breach of fiduciary responsibility by the~~  
278 ~~developer appointed members of the board of directors of the~~  
279 ~~association, unless said members can show that despite such~~  
280 ~~failure, they have exercised due diligence. The declaration of~~  
281 ~~condominium as originally recorded, or amended pursuant to~~  
282 ~~procedures provided therein, may require that condominium~~  
283 ~~property consisting of freestanding buildings where there is no~~  
284 ~~more than one building in or on such unit need not be insured by~~  
285 ~~the association if the declaration requires the unit owner to~~  
286 ~~obtain adequate insurance for the condominium property. An~~  
287 ~~association may also obtain and maintain liability insurance for~~  
288 ~~directors and officers, insurance for the benefit of association~~  
289 ~~employees, and flood insurance for common elements, association~~  
290 ~~property, and units. Adequate insurance, regardless of any~~  
291 ~~requirement in the declaration of condominium for coverage by~~

600723

4/21/2008 1:56 PM

Amendment No.

292 ~~the association for "full insurable value," "replacement cost,"~~  
293 ~~or the like, may include reasonable deductibles as determined by~~  
294 ~~the board based upon available funds or predetermined assessment~~  
295 ~~authority at the time that the insurance is obtained.~~

296 ~~1. Windstorm insurance coverage for a group of no fewer~~  
297 ~~than three communities created and operating under this chapter,~~  
298 ~~chapter 719, chapter 720, or chapter 721 may be obtained and~~  
299 ~~maintained for the communities if the insurance coverage is~~  
300 ~~sufficient to cover an amount equal to the probable maximum loss~~  
301 ~~for the communities for a 250-year windstorm event. Such~~  
302 ~~probable maximum loss must be determined through the use of a~~  
303 ~~competent model that has been accepted by the Florida Commission~~  
304 ~~on Hurricane Loss Projection Methodology. Such insurance~~  
305 ~~coverage is deemed adequate windstorm insurance for the purposes~~  
306 ~~of this section.~~

307 ~~2. An association or group of associations may self-insure~~  
308 ~~against claims against the association, the association~~  
309 ~~property, and the condominium property required to be insured by~~  
310 ~~an association, upon compliance with the applicable provisions~~  
311 ~~of ss. 624.460-624.488, which shall be considered adequate~~  
312 ~~insurance for the purposes of this section. A copy of each~~  
313 ~~policy of insurance in effect shall be made available for~~  
314 ~~inspection by unit owners at reasonable times.~~

315 ~~(b) Every hazard insurance policy issued or renewed on or~~  
316 ~~after January 1, 2004, to protect the condominium shall provide~~  
317 ~~primary coverage for:~~

318 ~~1. All portions of the condominium property located~~  
319 ~~outside the units;~~

600723

4/21/2008 1:56 PM

Amendment No.

320       ~~2. The condominium property located inside the units as~~  
321 ~~such property was initially installed, or replacements thereof~~  
322 ~~of like kind and quality and in accordance with the original~~  
323 ~~plans and specifications or, if the original plans and~~  
324 ~~specifications are not available, as they existed at the time~~  
325 ~~the unit was initially conveyed; and~~

326       ~~3. All portions of the condominium property for which the~~  
327 ~~declaration of condominium requires coverage by the association.~~

328  
329 ~~Anything to the contrary notwithstanding, the terms "condominium~~  
330 ~~property," "building," "improvements," "insurable improvements,"~~  
331 ~~"common elements," "association property," or any other term~~  
332 ~~found in the declaration of condominium which defines the scope~~  
333 ~~of property or casualty insurance that a condominium association~~  
334 ~~must obtain shall exclude all floor, wall, and ceiling~~  
335 ~~coverings, electrical fixtures, appliances, air conditioner or~~  
336 ~~heating equipment, water heaters, water filters, built in~~  
337 ~~cabinets and countertops, and window treatments, including~~  
338 ~~curtains, drapes, blinds, hardware, and similar window treatment~~  
339 ~~components, or replacements of any of the foregoing which are~~  
340 ~~located within the boundaries of a unit and serve only one unit~~  
341 ~~and all air conditioning compressors that service only an~~  
342 ~~individual unit, whether or not located within the unit~~  
343 ~~boundaries. The foregoing is intended to establish the property~~  
344 ~~or casualty insuring responsibilities of the association and~~  
345 ~~those of the individual unit owner and do not serve to broaden~~  
346 ~~or extend the perils of coverage afforded by any insurance~~  
347 ~~contract provided to the individual unit owner. Beginning~~

600723

4/21/2008 1:56 PM

Amendment No.

348 ~~January 1, 2004, the association shall have the authority to~~  
349 ~~amend the declaration of condominium, without regard to any~~  
350 ~~requirement for mortgagee approval of amendments affecting~~  
351 ~~insurance requirements, to conform the declaration of~~  
352 ~~condominium to the coverage requirements of this section.~~

353 ~~(c) Every hazard insurance policy issued or renewed on or~~  
354 ~~after January 1, 2004, to an individual unit owner shall provide~~  
355 ~~that the coverage afforded by such policy is excess over the~~  
356 ~~amount recoverable under any other policy covering the same~~  
357 ~~property. Each insurance policy issued to an individual unit~~  
358 ~~owner providing such coverage shall be without rights of~~  
359 ~~subrogation against the condominium association that operates~~  
360 ~~the condominium in which such unit owner's unit is located. All~~  
361 ~~real or personal property located within the boundaries of the~~  
362 ~~unit owner's unit which is excluded from the coverage to be~~  
363 ~~provided by the association as set forth in paragraph (b) shall~~  
364 ~~be insured by the individual unit owner.~~

365 ~~(d) The association shall obtain and maintain adequate~~  
366 ~~insurance or fidelity bonding of all persons who control or~~  
367 ~~disburse funds of the association. The insurance policy or~~  
368 ~~fidelity bond must cover the maximum funds that will be in the~~  
369 ~~eustody of the association or its management agent at any one~~  
370 ~~time. As used in this paragraph, the term "persons who control~~  
371 ~~or disburse funds of the association" includes, but is not~~  
372 ~~limited to, those individuals authorized to sign checks and the~~  
373 ~~president, secretary, and treasurer of the association. The~~  
374 ~~association shall bear the cost of bonding.~~

600723

4/21/2008 1:56 PM

Amendment No.

375 Section 2. Paragraph (a) of subsection (1) of section  
376 718.115, Florida Statutes, is amended to read:

377 718.115 Common expenses and common surplus.--

378 (1)(a) Common expenses include the expenses of the  
379 operation, maintenance, repair, replacement, or protection of  
380 the common elements and association property, costs of carrying  
381 out the powers and duties of the association, and any other  
382 expense, whether or not included in the foregoing, designated as  
383 common expense by this chapter, the declaration, the documents  
384 creating the association, or the bylaws. Common expenses also  
385 include reasonable transportation services, insurance for  
386 directors and officers, road maintenance and operation expenses,  
387 in-house communications, and security services, which are  
388 reasonably related to the general benefit of the unit owners  
389 even if such expenses do not attach to the common elements or  
390 property of the condominium. However, such common expenses must  
391 either have been services or items provided on or after the date  
392 control of the association is transferred from the developer to  
393 the unit owners or must be services or items provided for in the  
394 condominium documents or bylaws. Unless the manner of payment or  
395 allocation of expenses is otherwise addressed in the declaration  
396 of condominium, the expenses of any items or services required  
397 by any federal, state, or local governmental entity to be  
398 installed, maintained, or supplied to the condominium property  
399 by the association, including, but not limited to, fire safety  
400 equipment or water and sewer service where a master meter serves  
401 the condominium, shall be common expenses whether or not such  
402 items or services are specifically identified as common expenses

600723

4/21/2008 1:56 PM

Amendment No.

403 in the declaration of condominium, articles of incorporation, or  
404 bylaws of the association.

405 Section 3. Subsection (8) of section 718.116, Florida  
406 Statutes, is amended to read:

407 718.116 Assessments; liability; lien and priority;  
408 interest; collection.--

409 (8) Within 15 days after receiving a written request  
410 therefor from a unit owner or his or her designee purchaser, or  
411 a unit mortgagee or his or her designee, the association shall  
412 provide a certificate signed by an officer or agent of the  
413 association stating all assessments and other moneys owed to the  
414 association by the unit owner with respect to the condominium  
415 parcel.

416 (a) Any person other than the owner who relies upon such  
417 certificate shall be protected thereby.

418 (b) A summary proceeding pursuant to s. 51.011 may be  
419 brought to compel compliance with this subsection, and in any  
420 such action the prevailing party is entitled to recover  
421 reasonable attorney's fees.

422 (c) Notwithstanding any limitation on transfer fees  
423 contained in s. 718.112(2)(i), the association or its authorized  
424 agent may charge a reasonable fee for the preparation of the  
425 certificate. The amount of the fee must be included on the  
426 certificate.

427 (d) The authority to charge a fee for the certificate  
428 shall be established by a written resolution adopted by the  
429 board or provided by a written management, bookkeeping, or  
430 maintenance contract and is payable upon the preparation of the

600723

4/21/2008 1:56 PM



Amendment No.

431 certificate. If the certificate is requested in conjunction with  
432 the sale or mortgage of a unit but the closing does not occur  
433 and no later than 30 days after the closing date for which the  
434 certificate was sought the preparer receives a written request,  
435 accompanied by reasonable documentation, that the sale did not  
436 occur from a payer that is not the unit owner, the fee shall be  
437 refunded to that payer within 30 days after receipt of the  
438 request. The refund is the obligation of the unit owner, and the  
439 association may collect it from that owner in the same manner as  
440 an assessment as provided in this section.

441 Section 4. Paragraph (c) of subsection (17) of section  
442 718.117, Florida Statutes, is amended to read:

443 718.117 Termination of condominium.--

444 (17) DISTRIBUTION.--

445 (c) The proceeds from any sale of condominium property or  
446 association property and any remaining condominium property or  
447 association property, common surplus, and other assets shall be  
448 distributed in the following priority:

449 1. To pay the reasonable termination trustee's fees and  
450 costs and accounting fees and costs.

451 2. To lienholders of liens recorded prior to the recording  
452 of the declaration.

453 3. To purchase-money lienholders on units to the extent  
454 necessary to satisfy their liens; however, the distribution may  
455 not exceed a unit owner's share of the proceeds.

456 4. To lienholders of liens of the association which have  
457 been consented to under s. 718.121(1).

600723

4/21/2008 1:56 PM

Amendment No.

458           5. To creditors of the association, as their interests  
459 appear.

460           6. To unit owners, the proceeds of any sale of condominium  
461 property subject to satisfaction of liens on each unit in their  
462 order of priority, in shares specified in the plan of  
463 termination, unless objected to by a unit owner or lienor as  
464 provided in paragraph (b).

465           7. To unit owners, the remaining condominium property,  
466 subject to satisfaction of liens on each unit in their order of  
467 priority, in shares specified in the plan of termination, unless  
468 objected to by a unit owner or a lienor as provided in paragraph  
469 (b).

470           8. To unit owners, the proceeds of any sale of association  
471 property, the remaining association property, common surplus,  
472 and other assets of the association, subject to satisfaction of  
473 liens on each unit in their order of priority, in shares  
474 specified in the plan of termination, unless objected to by a  
475 unit owner or a lienor as provided in paragraph (b).

476           Section 5. Section 720.30851, Florida Statutes, is created  
477 to read:

478           720.30851 Estoppel certificates.--Within 15 days after the  
479 date on which a request for an estoppel certificate is received  
480 from a parcel owner or mortgagee, or his or her designee, the  
481 association shall provide a certificate signed by an officer or  
482 authorized agent of the association stating all assessments and  
483 other moneys owed to the association by the parcel owner or  
484 mortgagee with respect to the parcel. An association may charge

600723

4/21/2008 1:56 PM

Amendment No.

485 a fee for the preparation of such certificate, and the amount of  
486 such fee must be stated on the certificate.

487 (1) Any person other than a parcel owner who relies upon a  
488 certificate receives the benefits and protection thereof.

489 (2) A summary proceeding pursuant to s. 51.011 may be  
490 brought to compel compliance with this section, and the  
491 prevailing party is entitled to recover reasonable attorney's  
492 fees.

493 (3) The authority to charge a fee for a certificate  
494 required by this section shall be established by written  
495 resolution adopted by the board or provided by written  
496 management, bookkeeping, or maintenance contract. The fee is  
497 payable upon the preparation of the certificate, and, if the  
498 certificate is requested in conjunction with the sale or  
499 mortgage of a unit and the closing does not occur, the fee shall  
500 be refunded promptly upon written notice from the person  
501 requesting the certificate stating that the sale or mortgage did  
502 not occur. Any such refund is the obligation of the unit owner  
503 and is collectible in the same manner as an assessment as  
504 provided in this section.

505 Section 6. Paragraphs (d) and (j) of subsection (2) of  
506 section 20.165, Florida Statutes, are amended to read:

507 20.165 Department of Business and Professional  
508 Regulation.--There is created a Department of Business and  
509 Professional Regulation.

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

600723

4/21/2008 1:56 PM

Amendment No.

512 (d) Division of Florida ~~Land Sales~~, Condominiums,  
513 Timeshares, and Mobile Homes.

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

515 Section 7. Subsection (2) of section 73.073, Florida  
516 Statutes, is amended to read:

517 73.073 Eminent domain procedure with respect to  
518 condominium common elements.--

519 (2) With respect to the exercise of eminent domain or a  
520 negotiated sale for the purchase or taking of a portion of the  
521 common elements of a condominium, the condemning authority shall  
522 have the responsibility of contacting the condominium  
523 association and acquiring the most recent rolls indicating the  
524 names of the unit owners or contacting the appropriate taxing  
525 authority to obtain the names of the owners of record on the tax  
526 rolls. Notification shall ~~thereupon~~ be sent by certified mail,  
527 return receipt requested, to the unit owners of record of the  
528 condominium units by the condemning authority indicating the  
529 intent to purchase or take the required property and requesting  
530 a response from the unit owner. The condemning authority shall  
531 be responsible for the expense of sending notification pursuant  
532 to this section. Such notice shall, at a minimum, include:

533 (a) The name and address of the condemning authority.

534 (b) A written or visual description of the property.

535 (c) The public purpose for which the property is needed.

536 (d) The appraisal value of the property.

537 (e) A clear, concise statement relating to the unit  
538 owner's right to object to the taking or appraisal value and the  
539 procedures and effects of exercising that right.

600723

4/21/2008 1:56 PM

Amendment No.

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

544  
545 The Division of Florida ~~Land Sales~~, Condominiums, Timeshares,  
546 and Mobile Homes of the Department of Business and Professional  
547 Regulation may adopt, by rule, a standard form for such notice  
548 and may require the notice to include any additional relevant  
549 information.

550 Section 8. Subsections (2) and (3) of section 190.009,  
551 Florida Statutes, are amended to read:

552 190.009 Disclosure of public financing.--

553 ~~(2) The Division of Florida Land Sales, Condominiums, and~~  
554 ~~Mobile Homes of the Department of Business and Professional~~  
555 ~~Regulation shall ensure that disclosures made by developers~~  
556 ~~pursuant to chapter 498 meet the requirements of subsection (1).~~

557 (2)~~(3)~~ The Department of Community Affairs shall keep a  
558 current list of districts and their disclosures pursuant to this  
559 act and shall make such studies and reports and take such  
560 actions as it deems necessary.

561 Section 9. Paragraph (e) of subsection (6) of section  
562 192.037, Florida Statutes, is amended to read:

563 192.037 Fee timeshare real property; taxes and  
564 assessments; escrow.--

565 (6)

566 (e) On or before May 1 of each year, a statement of  
567 receipts and disbursements of the escrow account must be filed

600723

4/21/2008 1:56 PM

Amendment No.

568 with the Division of Florida ~~Land Sales~~, Condominiums,  
569 Timeshares, and Mobile Homes of the Department of Business and  
570 Professional Regulation, which may enforce this paragraph  
571 pursuant to s. 721.26. This statement must appropriately show  
572 the amount of principal and interest in such account.

573 Section 10. Paragraph (i) of subsection (8) of section  
574 213.053, Florida Statutes, is amended to read:

575 213.053 Confidentiality and information sharing.--

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

578 (i) Information relative to chapters 212 and 326 to the  
579 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
580 Mobile Homes of the Department of Business and Professional  
581 Regulation in the conduct of its official duties.

582  
583 Disclosure of information under this subsection shall be  
584 pursuant to a written agreement between the executive director  
585 and the agency. Such agencies, governmental or nongovernmental,  
586 shall be bound by the same requirements of confidentiality as  
587 the Department of Revenue. Breach of confidentiality is a  
588 misdemeanor of the first degree, punishable as provided by s.  
589 775.082 or s. 775.083.

590 Section 11. Paragraph (d) of subsection (4) of section  
591 215.20, Florida Statutes, is amended to read:

592 215.20 Certain income and certain trust funds to  
593 contribute to the General Revenue Fund.--

594 (4) The income of a revenue nature deposited in the  
595 following described trust funds, by whatever name designated, is  
600723

4/21/2008 1:56 PM

Amendment No.

596 that from which the appropriations authorized by subsection (3)  
597 shall be made:

598 (d) Within the Department of Business and Professional  
599 Regulation:

600 1. The Administrative Trust Fund.

601 2. The Alcoholic Beverage and Tobacco Trust Fund.

602 3. The Cigarette Tax Collection Trust Fund.

603 4. The Division of Florida ~~Land Sales~~, Condominiums,  
604 Timeshares, and Mobile Homes Trust Fund.

605 5. The Hotel and Restaurant Trust Fund, with the exception  
606 of those fees collected for the purpose of funding of the  
607 hospitality education program as stated in s. 509.302.

608 6. The Professional Regulation Trust Fund.

609 7. The trust funds administered by the Division of Pari-  
610 mutuel Wagering.

611  
612 The enumeration of the foregoing moneys or trust funds shall not  
613 prohibit the applicability ~~thereto~~ of s. 215.24 should the  
614 Governor determine that for the reasons mentioned in s. 215.24  
615 the money or trust funds should be exempt herefrom, as it is the  
616 purpose of this law to exempt income from its force and effect  
617 when, by the operation of this law, federal matching funds or  
618 contributions or private grants to any trust fund would be lost  
619 to the state.

620 Section 12. Subsection (2) of section 326.002, Florida  
621 Statutes, is amended to read:

622 326.002 Definitions.--As used in ss. 326.001-326.006, the  
623 term:

600723

4/21/2008 1:56 PM

Amendment No.

624 (2) "Division" means the Division of Florida ~~Land Sales,~~  
625 Condominiums, Timeshares, and Mobile Homes of the Department of  
626 Business and Professional Regulation.

627 Section 13. Paragraph (d) of subsection (2) and subsection  
628 (3) of section 326.006, Florida Statutes, are amended to read:

629 326.006 Powers and duties of division.--

630 (2) The division has the power to enforce and ensure  
631 compliance with the provisions of this chapter and rules adopted  
632 under this chapter relating to the sale and ownership of yachts  
633 and ships. In performing its duties, the division has the  
634 following powers and duties:

635 (d) Notwithstanding any remedies available to a yacht or  
636 ship purchaser, if the division has reasonable cause to believe  
637 that a violation of any provision of this chapter or rule  
638 adopted under this chapter has occurred, the division may  
639 institute enforcement proceedings in its own name against any  
640 broker or salesperson or any of his or her assignees or agents,  
641 or against any unlicensed person or any of his or her assignees  
642 or agents, as follows:

643 1. The division may permit a person whose conduct or  
644 actions are under investigation to waive formal proceedings and  
645 enter into a consent proceeding whereby orders, rules, or  
646 letters of censure or warning, whether formal or informal, may  
647 be entered against the person.

648 2. The division may issue an order requiring the broker or  
649 salesperson or any of his or her assignees or agents, or  
650 requiring any unlicensed person or any of his or her assignees  
651 or agents, to cease and desist from the unlawful practice and

600723

4/21/2008 1:56 PM



Amendment No.

652 take such affirmative action as in the judgment of the division  
653 will carry out the purposes of this chapter.

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

657 4. The division may impose a civil penalty against a  
658 broker or salesperson or any of his or her assignees or agents,  
659 or against an unlicensed person or any of his or her assignees  
660 or agents, for any violation of this chapter or a rule adopted  
661 under this chapter. A penalty may be imposed for each day of  
662 continuing violation, but in no event may the penalty for any  
663 offense exceed \$10,000. All amounts collected must be deposited  
664 with the Chief Financial Officer to the credit of the Division  
665 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile  
666 Homes Trust Fund. If a broker, salesperson, or unlicensed person  
667 working for a broker, fails to pay the civil penalty, the  
668 division shall ~~thereupon~~ issue an order suspending the broker's  
669 license until such time as the civil penalty is paid or may  
670 pursue enforcement of the penalty in a court of competent  
671 jurisdiction. The order imposing the civil penalty or the order  
672 of suspension may not become effective until 20 days after the  
673 date of such order. Any action commenced by the division must be  
674 brought in the county in which the division has its executive  
675 offices or in the county where the violation occurred.

676 (3) All fees must be deposited in the Division of Florida  
677 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust  
678 Fund as provided by law.

600723

4/21/2008 1:56 PM

Amendment No.

679 Section 14. Subsection (18) of section 380.05, Florida  
680 Statutes, is amended to read:

681 380.05 Areas of critical state concern.--

682 (18) Neither the designation of an area of critical state  
683 concern nor the adoption of any regulations for such an area  
684 shall in any way limit or modify the rights of any person to  
685 complete any development that was ~~has been~~ authorized by  
686 registration of a subdivision pursuant to former chapter 498 or  
687 former chapter 478, by recordation pursuant to local subdivision  
688 plat law, or by a building permit or other authorization to  
689 commence development on which there has been reliance and a  
690 change of position, and which registration or recordation was  
691 accomplished, or which permit or authorization was issued, prior  
692 to the approval under subsection (6), or the adoption under  
693 subsection (8), of land development regulations for the area of  
694 critical state concern. If a developer has by his or her actions  
695 in reliance on prior regulations obtained vested or other legal  
696 rights that in law would have prevented a local government from  
697 changing those regulations in a way adverse to the developer's  
698 interests, nothing in this chapter authorizes any governmental  
699 agency to abridge those rights.

700 Section 15. Subsection (20) of section 380.06, Florida  
701 Statutes, is amended to read:

702 380.06 Developments of regional impact.--

703 (20) VESTED RIGHTS.--Nothing in this section shall limit  
704 or modify the rights of any person to complete any development  
705 that was ~~has been~~ authorized by registration of a subdivision  
706 pursuant to former chapter 498, by recordation pursuant to local

600723

4/21/2008 1:56 PM

Amendment No.

707 subdivision plat law, or by a building permit or other  
708 authorization to commence development on which there has been  
709 reliance and a change of position and which registration or  
710 recordation was accomplished, or which permit or authorization  
711 was issued, prior to July 1, 1973. If a developer has, by his or  
712 her actions in reliance on prior regulations, obtained vested or  
713 other legal rights that in law would have prevented a local  
714 government from changing those regulations in a way adverse to  
715 the developer's interests, nothing in this chapter authorizes  
716 any governmental agency to abridge those rights.

717 (a) For the purpose of determining the vesting of rights  
718 under this subsection, approval pursuant to local subdivision  
719 plat law, ordinances, or regulations of a subdivision plat by  
720 formal vote of a county or municipal governmental body having  
721 jurisdiction after August 1, 1967, and prior to July 1, 1973, is  
722 sufficient to vest all property rights for the purposes of this  
723 subsection; and no action in reliance on, or change of position  
724 concerning, such local governmental approval is required for  
725 vesting to take place. Anyone claiming vested rights under this  
726 paragraph must ~~se~~ notify the department in writing by January 1,  
727 1986. Such notification shall include information adequate to  
728 document the rights established by this subsection. When such  
729 notification requirements are met, in order for the vested  
730 rights authorized pursuant to this paragraph to remain valid  
731 after June 30, 1990, development of the vested plan must be  
732 commenced prior to that date upon the property that the state  
733 land planning agency has determined to have acquired vested  
734 rights following the notification or in a binding letter of

600723

4/21/2008 1:56 PM

Amendment No.

735 interpretation. When the notification requirements have not been  
736 met, the vested rights authorized by this paragraph shall expire  
737 June 30, 1986, unless development commenced prior to that date.

738 (b) For the purpose of this act, the conveyance of, or the  
739 agreement to convey, property to the county, state, or local  
740 government as a prerequisite to zoning change approval shall be  
741 construed as an act of reliance to vest rights as determined  
742 under this subsection, provided such zoning change is actually  
743 granted by such government.

744 Section 16. Paragraph (a) of subsection (4) of section  
745 380.0651, Florida Statutes, is amended to read:

746 380.0651 Statewide guidelines and standards.--

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

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

755 1.a. The same person has retained or shared control of the  
756 developments;

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

759 c. There is common management of the developments  
760 controlling the form of physical development or disposition of  
761 parcels of the development.

600723

4/21/2008 1:56 PM

Amendment No.

762           2. There is a reasonable closeness in time between the  
763 completion of 80 percent or less of one development and the  
764 submission to a governmental agency of a master plan or series  
765 of plans or drawings for the other development which is  
766 indicative of a common development effort.

767           3. A master plan or series of plans or drawings exists  
768 covering the developments sought to be aggregated which have  
769 been submitted to a local general-purpose government, water  
770 management district, the Florida Department of Environmental  
771 Protection, or the Division of Florida ~~Land Sales~~, Condominiums,  
772 Timeshares, and Mobile Homes for authorization to commence  
773 development. The existence or implementation of a utility's  
774 master utility plan required by the Public Service Commission or  
775 general-purpose local government or a master drainage plan shall  
776 not be the sole determinant of the existence of a master plan.

777           4. The voluntary sharing of infrastructure that is  
778 indicative of a common development effort or is designated  
779 specifically to accommodate the developments sought to be  
780 aggregated, except that which was implemented because it was  
781 required by a local general-purpose government; water management  
782 district; the Department of Environmental Protection; the  
783 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
784 Mobile Homes; or the Public Service Commission.

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

787           Section 17. Paragraph (c) of subsection (4) of section  
788 381.0065, Florida Statutes, is amended to read:

600723

4/21/2008 1:56 PM

Amendment No.

789 381.0065 Onsite sewage treatment and disposal systems;  
790 regulation.--

791 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may  
792 not construct, repair, modify, abandon, or operate an onsite  
793 sewage treatment and disposal system without first obtaining a  
794 permit approved by the department. The department may issue  
795 permits to carry out this section, but shall not make the  
796 issuance of such permits contingent upon prior approval by the  
797 Department of Environmental Protection, except that the issuance  
798 of a permit for work seaward of the coastal construction control  
799 line established under s. 161.053 shall be contingent upon  
800 receipt of any required coastal construction control line permit  
801 from the Department of Environmental Protection. A construction  
802 permit is valid for 18 months from the issuance date and may be  
803 extended by the department for one 90-day period under rules  
804 adopted by the department. A repair permit is valid for 90 days  
805 from the date of issuance. An operating permit must be obtained  
806 prior to the use of any aerobic treatment unit or if the  
807 establishment generates commercial waste. Buildings or  
808 establishments that use an aerobic treatment unit or generate  
809 commercial waste shall be inspected by the department at least  
810 annually to assure compliance with the terms of the operating  
811 permit. The operating permit for a commercial wastewater system  
812 is valid for 1 year from the date of issuance and must be  
813 renewed annually. The operating permit for an aerobic treatment  
814 unit is valid for 2 years from the date of issuance and must be  
815 renewed every 2 years. If all information pertaining to the  
816 siting, location, and installation conditions or repair of an

600723

4/21/2008 1:56 PM

Amendment No.

817 onsite sewage treatment and disposal system remains the same, a  
818 construction or repair permit for the onsite sewage treatment  
819 and disposal system may be transferred to another person, if the  
820 transferee files, within 60 days after the transfer of  
821 ownership, an amended application providing all corrected  
822 information and proof of ownership of the property. There is no  
823 fee associated with the processing of this supplemental  
824 information. A person may not contract to construct, modify,  
825 alter, repair, service, abandon, or maintain any portion of an  
826 onsite sewage treatment and disposal system without being  
827 registered under part III of chapter 489. A property owner who  
828 personally performs construction, maintenance, or repairs to a  
829 system serving his or her own owner-occupied single-family  
830 residence is exempt from registration requirements for  
831 performing such construction, maintenance, or repairs on that  
832 residence, but is subject to all permitting requirements. A  
833 municipality or political subdivision of the state may not issue  
834 a building or plumbing permit for any building that requires the  
835 use of an onsite sewage treatment and disposal system unless the  
836 owner or builder has received a construction permit for such  
837 system from the department. A building or structure may not be  
838 occupied and a municipality, political subdivision, or any state  
839 or federal agency may not authorize occupancy until the  
840 department approves the final installation of the onsite sewage  
841 treatment and disposal system. A municipality or political  
842 subdivision of the state may not approve any change in occupancy  
843 or tenancy of a building that uses an onsite sewage treatment  
844 and disposal system until the department has reviewed the use of  
600723

4/21/2008 1:56 PM

Amendment No.

845 the system with the proposed change, approved the change, and  
846 amended the operating permit.

847 (c) Notwithstanding ~~the provisions of~~ paragraphs (a) and  
848 (b), for subdivisions platted of record on or before October 1,  
849 1991, when a developer or other appropriate entity has  
850 previously made or makes provisions, including financial  
851 assurances or other commitments, acceptable to the Department of  
852 Health, that a central water system will be installed by a  
853 regulated public utility based on a density formula, private  
854 potable wells may be used with onsite sewage treatment and  
855 disposal systems until the agreed-upon densities are reached.  
856 ~~The department may consider assurances filed with the Department~~  
857 ~~of Business and Professional Regulation under chapter 498 in~~  
858 ~~determining the adequacy of the financial assurance required by~~  
859 ~~this paragraph.~~ In a subdivision regulated by this paragraph,  
860 the average daily sewage flow may not exceed 2,500 gallons per  
861 acre per day. This section does not affect the validity of  
862 existing prior agreements. After October 1, 1991, the exception  
863 provided under this paragraph is not available to a developer or  
864 other appropriate entity.

865 Section 18. Subsections (8) through (12) of section  
866 450.33, Florida Statutes, are amended to read:

867 450.33 Duties of farm labor contractor.--Every farm labor  
868 contractor must:

869 ~~(8) File, within such time as the department may~~  
870 ~~prescribe, a set of his or her fingerprints.~~

871 (8)~~(9)~~ Produce evidence to the department that each  
872 vehicle he or she uses for the transportation of employees

600723

4/21/2008 1:56 PM



Amendment No.

873 | complies with the requirements and specifications established in  
874 | chapter 316, s. 316.622, or Pub. L. No. 93-518 as amended by  
875 | Pub. L. No. 97-470 meeting Department of Transportation  
876 | requirements or, in lieu thereof, bears a valid inspection  
877 | sticker showing that the vehicle has passed the inspection in  
878 | the state in which the vehicle is registered.

879 |        ~~(9)(10)~~ Comply with all applicable statutes, rules, and  
880 | regulations of the United States and of the State of Florida for  
881 | the protection or benefit of labor, including, but not limited  
882 | to, those providing for wages, hours, fair labor standards,  
883 | social security, workers' compensation, unemployment  
884 | compensation, child labor, and transportation.

885 |        ~~(10)(11)~~ Maintain accurate daily field records for each  
886 | employee actually paid by the farm labor contractor reflecting  
887 | the hours worked for the farm labor contractor and, if paid by  
888 | unit, the number of units harvested and the amount paid per  
889 | unit.

890 |        ~~(11)(12)~~ Clearly display on each vehicle used to transport  
891 | migrant or seasonal farm workers a display sticker issued by the  
892 | department, which states that the vehicle is authorized by the  
893 | department to transport farm workers and the expiration date of  
894 | the authorization.

895 |        Section 19. Subsection (10) is added to section 455.203,  
896 | Florida Statutes, to read:

897 |        455.203 Department; powers and duties.--The department,  
898 | for the boards under its jurisdiction, shall:

899 |        (10) Have authority to:

600723

4/21/2008 1:56 PM

Amendment No.

900       (a) Close and terminate deficient license application  
901 files 2 years after the board or the department notifies the  
902 applicant of the deficiency; and

903       (b) Approve applications for professional licenses that  
904 meet all statutory and rule requirements for licensure.

905       Section 20. Subsection (5) of section 455.116, Florida  
906 Statutes, is amended to read:

907       455.116 Regulation trust funds.--The following trust funds  
908 shall be placed in the department:

909       (5) Division of Florida ~~Land Sales,~~ Condominiums,  
910 Timeshares, and Mobile Homes Trust Fund.

911       Section 21. Subsection (1) of section 455.217, Florida  
912 Statutes, is amended to read:

913       455.217 Examinations.--This section shall be read in  
914 conjunction with the appropriate practice act associated with  
915 each regulated profession under this chapter.

916       (1) The Division of Technology, ~~Licensure, and Testing~~ of  
917 the Department of Business and Professional Regulation shall  
918 provide, contract, or approve services for the development,  
919 preparation, administration, scoring, score reporting, and  
920 evaluation of all examinations. The division shall seek the  
921 advice of the appropriate board in providing such services.

922       (a) The department, acting in conjunction with the  
923 Division of Technology, ~~Licensure, and Testing~~ and the Division  
924 of Real Estate, as appropriate, shall ensure that examinations  
925 adequately and reliably measure an applicant's ability to  
926 practice the profession regulated by the department. After an  
927 examination developed or approved by the department has been

600723

4/21/2008 1:56 PM

Amendment No.

928 administered, the board or department may reject any question  
929 which does not reliably measure the general areas of competency  
930 specified in the rules of the board or department, when there is  
931 no board. The department shall use professional testing services  
932 for the development, preparation, and evaluation of  
933 examinations, when such services are available and approved by  
934 the board.

935 (b) For each examination developed by the department or  
936 contracted vendor, to the extent not otherwise specified by  
937 statute, the board or the department when there is no board,  
938 shall by rule specify the general areas of competency to be  
939 covered by the examination, the relative weight to be assigned  
940 in grading each area tested, the score necessary to achieve a  
941 passing grade, and the fees, where applicable, to cover the  
942 actual cost for any purchase, development, and administration of  
943 the required examination. However, statutory fee caps in each  
944 practice act shall apply. This subsection does not apply to  
945 national examinations approved and administered pursuant to  
946 paragraph (d).

947 (c) If a practical examination is deemed to be necessary,  
948 rules shall specify the criteria by which examiners are to be  
949 selected, the grading criteria to be used by the examiner, the  
950 relative weight to be assigned in grading each criterion, and  
951 the score necessary to achieve a passing grade. When a mandatory  
952 standardization exercise for a practical examination is required  
953 by law, the board may conduct such exercise. Therefore, board  
954 members may serve as examiners at a practical examination with  
955 the consent of the board.

600723

4/21/2008 1:56 PM

Amendment No.

956 (d) A board, or the department when there is no board, may  
957 approve by rule the use of any national examination which the  
958 department has certified as meeting requirements of national  
959 examinations and generally accepted testing standards pursuant  
960 to department rules. Providers of examinations, which may be  
961 either profit or nonprofit entities, seeking certification by  
962 the department shall pay the actual costs incurred by the  
963 department in making a determination regarding the  
964 certification. The department shall use any national examination  
965 which is available, certified by the department, and approved by  
966 the board. The name and number of a candidate may be provided to  
967 a national contractor for the limited purpose of preparing the  
968 grade tape and information to be returned to the board or  
969 department or, to the extent otherwise specified by rule, the  
970 candidate may apply directly to the vendor of the national  
971 examination. The department may delegate to the board the duty  
972 to provide and administer the examination. Any national  
973 examination approved by a board, or the department when there is  
974 no board, prior to October 1, 1997, is deemed certified under  
975 this paragraph. Any licensing or certification examination that  
976 is not developed or administered by the department in-house or  
977 provided as a national examination shall be competitively bid.

978 (e) The department shall adopt rules regarding the  
979 security and monitoring of examinations. In order to maintain  
980 the security of examinations, the department may employ the  
981 procedures set forth in s. 455.228 to seek fines and injunctive  
982 relief against an examinee who violates the provisions of s.  
983 455.2175 or the rules adopted pursuant to this paragraph. The

600723

4/21/2008 1:56 PM

Amendment No.

984 department, or any agent thereof, may, for the purposes of  
985 investigation, confiscate any written, photographic, or  
986 recording material or device in the possession of the examinee  
987 at the examination site which the department deems necessary to  
988 enforce such provisions or rules.

989 (f) If the professional board with jurisdiction over an  
990 examination concurs, the department may, for a fee, share with  
991 any other state's licensing authority an examination developed  
992 by or for the department unless prohibited by a contract entered  
993 into by the department for development or purchase of the  
994 examination. The department, with the concurrence of the  
995 appropriate board, shall establish guidelines that ensure  
996 security of a shared exam and shall require that any other  
997 state's licensing authority comply with those guidelines. Those  
998 guidelines shall be approved by the appropriate professional  
999 board. All fees paid by the user shall be applied to the  
1000 department's examination and development program for professions  
1001 regulated by this chapter. All fees paid by the user for  
1002 professions not regulated by this chapter shall be applied to  
1003 offset the fees for the development and administration of that  
1004 profession's examination. If both a written and a practical  
1005 examination are given, an applicant shall be required to retake  
1006 only the portion of the examination for which he or she failed  
1007 to achieve a passing grade, if he or she successfully passes  
1008 that portion within a reasonable time of his or her passing the  
1009 other portion.

1010 Section 22. Subsection (6) is added to section 455.2273,  
1011 Florida Statutes, to read:

600723

4/21/2008 1:56 PM

Amendment No.

1012 455.2273 Disciplinary guidelines.--

1013 (6) Notwithstanding s. 455.017, this section applies to  
1014 disciplinary guidelines adopted by all boards or divisions  
1015 within the department.

1016 Section 23. Effective July 1, 2010, paragraph (d) of  
1017 subsection (1) and paragraph (d) of subsection (2) of section  
1018 468.841, Florida Statutes, are amended to read:

1019 468.841 Exemptions.--

1020 (1) The following persons are not required to comply with  
1021 any provisions of this part relating to mold assessment:

1022 (d) Persons or business organizations acting within the  
1023 scope of the respective licenses required under chapter 471,  
1024 part I of chapter 481, chapter 482, ~~or~~ chapter 489, or part XV  
1025 of this chapter, are acting on behalf of an insurer under part  
1026 VI of chapter 626, or are persons in the manufactured housing  
1027 industry who are licensed under chapter 320, except when any  
1028 such persons or business organizations hold themselves out for  
1029 hire to the public as a "certified mold assessor ~~remediator~~,"  
1030 "registered mold assessor ~~remediator~~," "licensed mold assessor  
1031 ~~remediator~~," "mold assessor ~~remediator~~," "professional mold  
1032 assessor ~~remediator~~," or any combination thereof stating or  
1033 implying licensure under this part.

1034 (2) The following persons are not required to comply with  
1035 any provisions of this part relating to mold remediation:

1036 (d) Persons or business organizations that are acting  
1037 within the scope of the respective licenses required under  
1038 chapter 471, part I of chapter 481, chapter 482, ~~or~~ chapter 489,  
1039 or part XV of this chapter, are acting on behalf of an insurer

600723

4/21/2008 1:56 PM

Amendment No.

1040 under part VI of chapter 626, or are persons in the manufactured  
1041 housing industry who are licensed under chapter 320, except when  
1042 any such persons or business organizations hold themselves out  
1043 for hire to the public as a "certified mold remediator  
1044 ~~assessor~~," "registered mold remediator ~~assessor~~," "licensed mold  
1045 remediator ~~assessor~~," "mold remediator ~~assessor~~," "professional  
1046 mold remediator ~~assessor~~," or any combination thereof stating or  
1047 implying licensure under this part.

1048 Section 24. Paragraph (b) of subsection (2) of section  
1049 475.17, Florida Statutes, is amended to read:

1050 475.17 Qualifications for practice.--

1051 (2)

1052 (b) A person may not be licensed as a real estate broker  
1053 unless, in addition to the other requirements of law, the person  
1054 has held:

1055 1. An active real estate sales associate's license for at  
1056 least 24 ~~12~~ months during the preceding 5 years in the office of  
1057 one or more real estate brokers licensed in this state or any  
1058 other state, territory, or jurisdiction of the United States or  
1059 in any foreign national jurisdiction;

1060 2. A current and valid real estate sales associate's  
1061 license for at least 24 ~~12~~ months during the preceding 5 years  
1062 in the employ of a governmental agency for a salary and  
1063 performing the duties authorized in this part for real estate  
1064 licensees; or

1065 3. A current and valid real estate broker's license for at  
1066 least 24 ~~12~~ months during the preceding 5 years in any other

600723

4/21/2008 1:56 PM

Amendment No.

1067 state, territory, or jurisdiction of the United States or in any  
1068 foreign national jurisdiction.

1069  
1070 ~~This paragraph does not apply to a person employed as a real~~  
1071 ~~estate investigator by the Division of Real Estate, provided the~~  
1072 ~~person has been employed as a real estate investigator for at~~  
1073 ~~least 24 months. The person must be currently employed as a real~~  
1074 ~~estate investigator to sit for the real estate broker's~~  
1075 ~~examination and have held a valid and current sales associate's~~  
1076 ~~license for at least 12 months.~~

1077 Section 25. Subsection (9) of section 475.451, Florida  
1078 Statutes, is amended to read:

1079 475.451 Schools teaching real estate practice.--

1080 ~~(9)(a) Each school permitholder of a proprietary real~~  
1081 ~~estate school, each chief administrative person of such an~~  
1082 ~~institution, or each course sponsor shall deliver to the~~  
1083 ~~department, in a format acceptable to the department, a copy of~~  
1084 ~~the classroom course roster of courses that require satisfactory~~  
1085 ~~completion of an examination no later than 30 days beyond the~~  
1086 ~~end of the calendar month in which the course was completed.~~

1087 ~~(b) The course roster shall consist of the institution or~~  
1088 ~~school name and permit number, if applicable, the instructor's~~  
1089 ~~name and permit number, if applicable, course title, beginning~~  
1090 ~~and ending dates of the course, number of course hours, course~~  
1091 ~~location, if applicable, each student's full name and license~~  
1092 ~~number, if applicable, each student's mailing address, and the~~  
1093 ~~numerical grade each student achieved. The course roster shall~~

600723

4/21/2008 1:56 PM



HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

1094 ~~also include the signature of the school permitholder, the chief~~  
1095 ~~administrative person, or the course sponsor.~~

1096 Section 26. Section 475.455, Florida Statutes, is amended  
1097 to read:

1098 475.455 Exchange of disciplinary information.--The  
1099 commission shall inform the Division of Florida ~~Land Sales,~~  
1100 Condominiums, Timeshares, and Mobile Homes of the Department of  
1101 Business and Professional Regulation of any disciplinary action  
1102 the commission has taken against any of its licensees. The  
1103 division shall inform the commission of any disciplinary action  
1104 the division has taken against any broker or sales associate  
1105 registered with the division.

1106 Section 27. Subsection (6) of section 489.105, Florida  
1107 Statutes, is amended to read:

1108 489.105 Definitions.--As used in this part:

1109 (6) "Contracting" means, except as exempted in this part,  
1110 engaging in business as a contractor and includes, but is not  
1111 limited to, performance of any of the acts as set forth in  
1112 subsection (3) which define types of contractors. The attempted  
1113 sale of contracting services and the negotiation or bid for a  
1114 contract on these services also constitutes contracting. If the  
1115 services offered require licensure or agent qualification, the  
1116 offering, negotiation for a bid, or attempted sale of these  
1117 services requires the corresponding licensure. However, the term  
1118 "contracting" shall not extend to an individual, partnership,  
1119 corporation, trust, or other legal entity that offers to sell or  
1120 sells completed residences on property on which the individual  
1121 or business entity has any legal or equitable interest, or to

600723

4/21/2008 1:56 PM

Amendment No.

1122 the individual or business entity that offers to sell or sells  
1123 manufactured or factory-built buildings that will be completed  
1124 on site on property on which either party to a contract has any  
1125 legal or equitable interest, if the services of a qualified  
1126 contractor certified or registered pursuant to the requirements  
1127 of this chapter have been or will be retained for the purpose of  
1128 constructing or completing such residences.

1129 Section 28. Section 489.511, Florida Statutes, is amended  
1130 to read:

1131 489.511 Certification; application; examinations;  
1132 endorsement.--

1133 (1) (a) Any person who is at least 18 years of age may take  
1134 the certification examination.

1135 (b) Any person desiring to be certified as a contractor  
1136 shall apply to the department in writing and must meet the  
1137 following criteria: ~~to take the certification examination.~~

1138 ~~(2) (a) A person shall be entitled to take the~~  
1139 ~~certification examination for the purpose of determining whether~~  
1140 ~~he or she is qualified to engage in contracting throughout the~~  
1141 ~~state as a contractor if the person:~~

1142 ~~1. Is at least 18 years of age;~~

1143 ~~1.2. Be ~~is~~ of good moral character;~~

1144 2. Pass the certification examination, achieving a passing  
1145 grade as established by board rule; and

1146 3. ~~Meet~~ ~~Meets~~ eligibility requirements according to one of  
1147 the following criteria:

1148 a. Has, within the 6 years immediately preceding the  
1149 filing of the application, at least 3 years' proven management  
600723

4/21/2008 1:56 PM

Amendment No.

1150 experience in the trade or education equivalent thereto, or a  
1151 combination thereof, but not more than one-half of such  
1152 experience may be educational equivalent;

1153 b. Has, within the 8 years immediately preceding the  
1154 filing of the application, at least 4 years' experience as a  
1155 supervisor or contractor in the trade for which he or she is  
1156 making application;

1157 c. Has, within the 12 years immediately preceding the  
1158 filing of the application, at least 6 years of comprehensive  
1159 training, technical education, or supervisory experience  
1160 associated with an electrical or alarm system contracting  
1161 business, or at least 6 years of technical experience in  
1162 electrical or alarm system work with the Armed Forces or a  
1163 governmental entity;

1164 d. Has, within the 12 years immediately preceding the  
1165 filing of the application, been licensed for 3 years as a  
1166 professional engineer who is qualified by education, training,  
1167 or experience to practice electrical engineering; or

1168 e. Has any combination of qualifications under sub-  
1169 subparagraphs a.-c. totaling 6 years of experience.

1170 (c) ~~(b)~~ For purposes of this subsection, "supervisor" means  
1171 a person having the experience gained while having the general  
1172 duty of overseeing the technical duties of the trade, provided  
1173 that such experience is gained by a person who is able to  
1174 perform the technical duties of the trade without supervision.

1175 (d) ~~(e)~~ For purposes of this subsection, at least 40  
1176 percent of the work experience for an alarm system contractor I

600723

4/21/2008 1:56 PM

Amendment No.

1177 must be in the types of fire alarm systems typically used in a  
1178 commercial setting.

1179 ~~(2)-(3) The board may determine by rule the number of times~~  
1180 ~~per year the applicant may take the examination and after three~~  
1181 ~~unsuccessful attempts may~~ ~~On or after October 1, 1998, every~~  
1182 ~~applicant who is qualified shall be allowed to take the~~  
1183 ~~examination three times, notwithstanding the number of times the~~  
1184 ~~applicant has previously failed the examination. If an applicant~~  
1185 ~~fails the examination three times after October 1, 1998, the~~  
1186 ~~board shall~~ require the applicant to complete additional  
1187 college-level or technical education courses in the areas of  
1188 deficiency, as determined by the board, as a condition of future  
1189 eligibility to take the examination. ~~The applicant must also~~  
1190 ~~submit a new application that meets all certification~~  
1191 ~~requirements at the time of its submission and must pay all~~  
1192 ~~appropriate fees.~~

1193 ~~(3)-(4)~~(a) "Good moral character" means a personal history  
1194 of honesty, fairness, and respect for the rights of others and  
1195 for laws of this state and nation.

1196 (b) The board may determine that an individual applying  
1197 for certification is ineligible ~~to take the examination~~ for  
1198 failure to satisfy the requirement of good moral character only  
1199 if:

1200 1. There is a substantial connection between the lack of  
1201 good moral character of the individual and the professional  
1202 responsibilities of a certified contractor; and

1203 2. The finding by the board of lack of good moral  
1204 character is supported by clear and convincing evidence.

600723

4/21/2008 1:56 PM

Amendment No.

1205 (c) When an individual is found to be unqualified for  
1206 certification ~~examination~~ because of a lack of good moral  
1207 character, the board shall furnish such individual a statement  
1208 containing the findings of the board, a complete record of the  
1209 evidence upon which the determination was based, and a notice of  
1210 the rights of the individual to a rehearing and appeal.

1211 ~~(4)(5)~~ The board shall, by rule, designate those types of  
1212 specialty electrical or alarm system contractors who may be  
1213 certified under this part. The limit of the scope of work and  
1214 responsibility of a certified specialty contractor shall be  
1215 established by board rule. A certified specialty contractor  
1216 category exists as an optional statewide licensing category.  
1217 Qualification for certification in a specialty category created  
1218 by rule shall be the same as set forth in paragraph (1)(b)  
1219 ~~(2)(a)~~. The existence of a specialty category created by rule  
1220 does not itself create any licensing requirement; however,  
1221 neither does its optional nature remove any licensure  
1222 requirement established elsewhere in this part.

1223 ~~(5)(6)~~ The board shall certify as qualified for  
1224 certification by endorsement any individual applying for  
1225 certification who:

1226 (a) Meets the requirements for certification as set forth  
1227 in this section; has passed a national, regional, state, or  
1228 United States territorial licensing examination that is  
1229 substantially equivalent to the examination required by this  
1230 part; and has satisfied the requirements set forth in s.  
1231 489.521; or

600723

4/21/2008 1:56 PM

Amendment No.

1232 (b) Holds a valid license to practice electrical or alarm  
1233 system contracting issued by another state or territory of the  
1234 United States, if the criteria for issuance of such license was  
1235 substantially equivalent to the certification criteria that  
1236 existed in this state at the time the certificate was issued.

1237 ~~(6)-(7)~~ Upon the issuance of a certificate, any previously  
1238 issued registered licenses for the classification in which the  
1239 certification is issued are rendered void.

1240 Section 29. Paragraph (b) of subsection (1) of section  
1241 489.515, Florida Statutes, is amended to read:

1242 489.515 Issuance of certificates; registrations.--

1243 (1)

1244 (b) The board shall certify as qualified for certification  
1245 any person who satisfies the requirements of s. 489.511, ~~who~~  
1246 ~~successfully passes the certification examination administered~~  
1247 ~~by the department, achieving a passing grade as established by~~  
1248 ~~board rule,~~ and who submits satisfactory evidence that he or she  
1249 has obtained both workers' compensation insurance or an  
1250 acceptable exemption certificate issued by the department and  
1251 public liability and property damage insurance for the health,  
1252 safety, and welfare of the public in amounts determined by rule  
1253 of the board, and furnishes evidence of financial  
1254 responsibility, credit, and business reputation of either  
1255 himself or herself or the business organization he or she  
1256 desires to qualify.

1257 Section 30. Section 494.008, Florida Statutes, is amended  
1258 to read:

600723

4/21/2008 1:56 PM

Amendment No.

1259 494.008 Mortgages offered by land developers licensed  
1260 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~  
1261 requirements; prohibitions.--No mortgage loan which has a face  
1262 amount of \$35,000 or less and is secured by vacant land  
1263 ~~registered under the Florida Uniform Land Sales Practices Law,~~  
1264 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial  
1265 institution, by any person unless all of the following  
1266 requirements are met:

1267 (1) Each mortgage securing a note or other obligation sold  
1268 or offered for sale shall be eligible for a recordation as a  
1269 first mortgage.

1270 (2) Each mortgage negotiated pursuant to this section must  
1271 include a mortgagee's title insurance policy or an opinion of  
1272 title, from an attorney who is licensed to practice law in this  
1273 state, on each parcel of land which is described in the  
1274 mortgage. The policy or opinion shall reflect that there are no  
1275 other mortgages on the property. A notice stating the priority  
1276 of the mortgage shall be placed on the face of each mortgage in  
1277 an amount over \$35,000 issued pursuant to this section.

1278 (3) Contracts to purchase a mortgage loan shall contain,  
1279 immediately above the purchaser's signature line, the statement  
1280 in 10-point boldfaced type: "This mortgage is secured by vacant  
1281 land subject to development at a future time." This statement  
1282 shall also be typed or printed in 10-point type on the face of  
1283 the note and mortgage sold.

1284 (4) The most recent assessment for tax purposes made by  
1285 the county property appraiser of each parcel of land described  
1286 in the mortgage shall be furnished to each mortgagee.

600723

4/21/2008 1:56 PM

HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

1287 (5) The mortgage broker shall record or cause to be  
1288 recorded all mortgages or other similar documents prior to  
1289 delivery of the note and mortgage to the mortgagee.

1290 (6) All funds received by the mortgage broker pursuant to  
1291 this section shall promptly be deposited in the broker's trust  
1292 account where they shall remain until the note and mortgage are  
1293 fully executed and recorded.

1294 (7) Willful failure to comply with any of the above  
1295 provisions shall subject the person to the penalties of s.  
1296 494.05.

1297 Section 31. Section 498.009, Florida Statutes, is  
1298 renumbered as section 718.50152, Florida Statutes.

1299 Section 32. Section 498.011, Florida Statutes, is  
1300 renumbered as section 718.50153, Florida Statutes, and amended  
1301 to read:

1302 718.50153 ~~498.011~~ Payment of per diem, mileage, and other  
1303 expenses to division employees.--The amount of per diem and  
1304 mileage and expense money paid to employees shall be as provided  
1305 in s. 112.061, except that the division shall establish by rule  
1306 the standards for reimbursement of actual verified expenses  
1307 incurred in connection with an on-site review ~~inspection~~ or  
1308 investigation ~~of subdivided lands~~.

1309 Section 33. Section 498.013, Florida Statutes, is  
1310 renumbered as section 718.50154, Florida Statutes.

1311 Section 34. Section 498.057, Florida Statutes, is  
1312 renumbered as section 718.50155, Florida Statutes, and amended,  
1313 to read:

1314 718.50155 ~~498.057~~ Service of process.--

600723

4/21/2008 1:56 PM



Amendment No.

1315 (1) In addition to the methods of service provided for in  
1316 the Florida Rules of Civil Procedure and the Florida Statutes,  
1317 service may be made and by delivering a copy of the process to  
1318 ~~the director of the division, which~~ shall be binding upon the  
1319 defendant or respondent if:

1320 (a) The division plaintiff, which is acting as the  
1321 petitioner or plaintiff ~~may be the division~~, immediately sends a  
1322 copy of the process and of the pleading by certified mail to the  
1323 defendant or respondent at his or her last known address;7 and

1324 (b) The division plaintiff files an affidavit of  
1325 compliance with this section on or before the return date of the  
1326 process or within the time set by the court.

1327 (2) If any person, including any nonresident of this  
1328 state, allegedly engages in conduct prohibited by this chapter,  
1329 or any rule or order of the division, and has not filed a  
1330 consent to service of process, and personal jurisdiction over  
1331 him or her cannot otherwise be obtained in this state, the  
1332 director shall be authorized to receive service of process in  
1333 any noncriminal proceeding against that person or his or her  
1334 successor which grows out of the conduct and which is brought by  
1335 the division under this chapter or any rule or order of the  
1336 division. The process shall have the same force and validity as  
1337 if personally served. Notice shall be given as provided in  
1338 subsection (1).

1339 Section 35. Sections 498.001, 498.003, 498.005, 498.007,  
1340 498.017, 498.021, 498.022, 498.023, 498.024, 498.025, 498.027,  
1341 498.028, 498.029, 498.031, 498.033, 498.035, 498.037, 498.039,

600723

4/21/2008 1:56 PM

Amendment No.

1342 498.041, 498.047, 498.049, 498.051, 498.053, 498.059, 498.061,  
1343 and 498.063, Florida Statutes, are repealed.

1344 Section 36. Section 509.512, Florida Statutes, is amended  
1345 to read:

1346 509.512 Timeshare plan developer and exchange company  
1347 exemption.--Sections 509.501-509.511 do not apply to a developer  
1348 of a timeshare plan or an exchange company approved by the  
1349 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
1350 Mobile Homes pursuant to chapter 721, but only to the extent  
1351 that the developer or exchange company engages in conduct  
1352 regulated under chapter 721.

1353 Section 37. Subsection (2) of section 517.301, Florida  
1354 Statutes, is amended to read:

1355 517.301 Fraudulent transactions; falsification or  
1356 concealment of facts.--

1357 (2) For purposes of ss. 517.311 and 517.312 and this  
1358 section, the term "investment" means any commitment of money or  
1359 property principally induced by a representation that an  
1360 economic benefit may be derived from such commitment, except  
1361 that the term "~~investment~~" does not include a commitment of  
1362 money or property for:

1363 (a) The purchase of a business opportunity, business  
1364 enterprise, or real property through a person licensed under  
1365 chapter 475 or registered under former chapter 498; or

1366 (b) The purchase of tangible personal property through a  
1367 person not engaged in telephone solicitation, where said  
1368 property is offered and sold in accordance with the following  
1369 conditions:

600723

4/21/2008 1:56 PM

Amendment No.

1370 1. There are no specific representations or guarantees  
1371 made by the offeror or seller as to the economic benefit to be  
1372 derived from the purchase;

1373 2. The tangible property is delivered to the purchaser  
1374 within 30 days after sale, except that such 30-day period may be  
1375 extended by the office if market conditions so warrant; and

1376 3. The seller has offered the purchaser a full refund  
1377 policy in writing, exercisable by the purchaser within 10 days  
1378 of the date of delivery of such tangible personal property,  
1379 except that the amount of such refund may not ~~in no event shall~~  
1380 exceed the bid price in effect at the time the property is  
1381 returned to the seller. If the applicable sellers' market is  
1382 closed at the time the property is returned to the seller for a  
1383 refund, the amount of such refund shall be based on the bid  
1384 price for such property at the next opening of such market.

1385 Section 38. Subsection (4) of section 548.0065, Florida  
1386 Statutes, is amended to read:

1387 548.0065 Amateur matches; sanctioning and supervision;  
1388 health and safety standards; compliance checks; continuation,  
1389 suspension, and revocation of sanctioning approval.--

1390 (4) Any member of the commission or the executive director  
1391 of the commission may suspend the approval of an amateur  
1392 sanctioning organization for failure to supervise amateur  
1393 matches or to enforce the approved health and safety standards  
1394 required under this chapter, provided that the suspension  
1395 complies with the procedures for summary suspensions in s.  
1396 120.60(6). At any amateur boxing, ~~or~~ kickboxing, or mixed  
1397 martial arts contest, any member of the commission or a

600723

4/21/2008 1:56 PM

Amendment No.

1398 representative of the commission may immediately suspend one or  
1399 more matches in an event whenever it appears that the match or  
1400 matches violate the health and safety standards established by  
1401 rule as required by this chapter. A law enforcement officer may  
1402 assist any member of the commission or a representative of the  
1403 commission to enforce an order to stop a contest if called upon  
1404 to do so by a member of the commission or a representative of  
1405 the commission.

1406 Section 39. Subsections (2), (3), and (4) of section  
1407 548.008, Florida Statutes, are amended to read:

1408 548.008 Prohibited competitions.--

1409 ~~(2) No amateur mixed martial arts match may be held in~~  
1410 ~~this state.~~

1411 (2)~~(3)~~ No professional match may be held in this state  
1412 unless it meets the requirements for holding the match as  
1413 provided in this chapter and the rules adopted by the  
1414 commission.

1415 (3)~~(4)~~(a) Any person participating in a match prohibited  
1416 under this section, knowing the match to be prohibited, commits  
1417 a misdemeanor of the second degree, punishable as provided in s.  
1418 775.082 or s. 775.083.

1419 (b) Any person holding, promoting, or sponsoring a match  
1420 prohibited under this section commits a felony of the third  
1421 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1422 775.084.

1423 Section 40. Subsection (1) of section 548.041, Florida  
1424 Statutes, is amended to read:

1425 548.041 Age, condition, and suspension of participants.--  
600723

4/21/2008 1:56 PM

Amendment No.

1426 (1) A person may ~~shall~~ not be licensed as a participant,  
1427 and the license of a ~~any~~ participant shall be suspended or  
1428 revoked, if such person:

1429 (a) Is under the age of 18;

1430 (b) Has participated in a match in this state which was  
1431 not sanctioned by the commission or by a Native American  
1432 commission properly constituted under federal law; ~~or~~

1433 (c) Does not meet certain health and medical examination  
1434 conditions as required by rule of the commission; ~~or~~

1435 (d) Has not competed in a minimum number of amateur boxing  
1436 events as determined by commission rule prior to licensure; or

1437 (e) Has not participated in a minimum number of amateur  
1438 mixed martial arts events as determined by commission rule prior  
1439 to licensure.

1440 Section 41. Subsection (1) of section 559.935, Florida  
1441 Statutes, is amended to read:

1442 559.935 Exemptions.--

1443 (1) This part does not apply to:

1444 (a) A bona fide employee of a seller of travel who is  
1445 engaged solely in the business of her or his employer;

1446 (b) Any direct common carrier of passengers or property  
1447 regulated by an agency of the Federal Government or employees of  
1448 such carrier when engaged solely in the transportation business  
1449 of the carrier as identified in the carrier's certificate;

1450 (c) An intrastate common carrier of passengers or property  
1451 selling only transportation as defined in the applicable state  
1452 or local registration or certification, or employees of such

600723

4/21/2008 1:56 PM

Amendment No.

1453 carrier when engaged solely in the transportation business of  
1454 the carrier;

1455 (d) Hotels, motels, or other places of public  
1456 accommodation selling public accommodations, or employees of  
1457 such hotels, motels, or other places of public accommodation,  
1458 when engaged solely in making arrangements for lodging,  
1459 accommodations, or sightseeing tours within the state, or taking  
1460 reservations for the traveler with times, dates, locations, and  
1461 accommodations certain at the time the reservations are made,  
1462 provided that hotels and motels registered with the Department  
1463 of Business and Professional Regulation pursuant to chapter 509  
1464 are excluded from the provisions of this chapter;

1465 (e) Persons involved solely in the rental, leasing, or  
1466 sale of residential property;

1467 (f) Persons involved solely in the rental, leasing, or  
1468 sale of transportation vehicles;

1469 (g) Persons who make travel arrangements for themselves;  
1470 for their employees or agents; for distributors, franchisees, or  
1471 dealers of the persons' products or services; for entities which  
1472 are financially related to the persons; or for the employees or  
1473 agents of the distributor, franchisee, or dealer or financially  
1474 related entity;

1475 (h) A developer of a timeshare plan or an exchange company  
1476 approved by the Division of Florida ~~Land Sales~~, Condominiums,  
1477 Timeshares, and Mobile Homes pursuant to chapter 721, but only  
1478 to the extent that the developer or exchange company engages in  
1479 conduct regulated under chapter 721; or

600723

4/21/2008 1:56 PM

Amendment No.

1480 (i) Persons or entities engaged solely in offering diving  
1481 services, including classes and sales or rentals of equipment,  
1482 when engaged in making any prearranged travel-related or  
1483 tourist-related services in conjunction with a primarily dive-  
1484 related event.

1485 Section 42. Subsection (17) of section 718.103, Florida  
1486 Statutes, is amended to read:

1487 718.103 Definitions.--As used in this chapter, the term:

1488 (17) "Division" means the Division of Florida ~~Land Sales,~~  
1489 Condominiums, Timeshares, and Mobile Homes of the Department of  
1490 Business and Professional Regulation.

1491 Section 43. Paragraph (c) of subsection (4) of section  
1492 718.105, Florida Statutes, is amended to read:

1493 718.105 Recording of declaration.--

1494 (4)

1495 (c) If the sum of money held by the clerk has not been  
1496 paid to the developer or association as provided in paragraph  
1497 (b) within ~~by~~ 3 years after the date the declaration was  
1498 originally recorded, the clerk ~~in his or her discretion~~ may  
1499 notify, in writing, the registered agent of the association that  
1500 the sum is still available and the purpose for which it was  
1501 deposited. If the association does not record the certificate  
1502 within 90 days after the clerk has given the notice, the clerk  
1503 may disburse the money to the developer. If the developer cannot  
1504 be located, the clerk shall disburse the money to the Division  
1505 of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile  
1506 Homes for deposit in the Division of Florida ~~Land Sales,~~  
1507 Condominiums, Timeshares, and Mobile Homes Trust Fund.

600723

4/21/2008 1:56 PM

Amendment No.

1508 Section 44. Subsection (4) of section 718.1255, Florida  
1509 Statutes, is amended to read:

1510 718.1255 Alternative dispute resolution; voluntary  
1511 mediation; mandatory nonbinding arbitration; legislative  
1512 findings.--

1513 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
1514 DISPUTES.--The Division of Florida ~~Land Sales~~, Condominiums,  
1515 Timeshares, and Mobile Homes of the Department of Business and  
1516 Professional Regulation shall employ full-time attorneys to act  
1517 as arbitrators to conduct the arbitration hearings provided by  
1518 this chapter. The division may also certify attorneys who are  
1519 not employed by the division to act as arbitrators to conduct  
1520 the arbitration hearings provided by this section. No person may  
1521 be employed by the department as a full-time arbitrator unless  
1522 he or she is a member in good standing of The Florida Bar. The  
1523 department shall adopt ~~promulgate~~ rules of procedure to govern  
1524 such arbitration hearings including mediation incident thereto.  
1525 The decision of an arbitrator shall be final; however, ~~such~~ a  
1526 decision shall not be deemed final agency action. Nothing in  
1527 this provision shall be construed to foreclose parties from  
1528 proceeding in a trial de novo unless the parties have agreed  
1529 that the arbitration is binding. If ~~such~~ judicial proceedings  
1530 are initiated, the final decision of the arbitrator shall be  
1531 admissible in evidence in the trial de novo.

1532 (a) Prior to the institution of court litigation, a party  
1533 to a dispute shall petition the division for nonbinding  
1534 arbitration. The petition must be accompanied by a filing fee in  
1535 the amount of \$50. Filing fees collected under this section must

600723

4/21/2008 1:56 PM



Amendment No.

1536 be used to defray the expenses of the alternative dispute  
1537 resolution program.

1538 (b) The petition must recite, and have attached thereto,  
1539 supporting proof that the petitioner gave the respondents:

1540 1. Advance written notice of the specific nature of the  
1541 dispute;

1542 2. A demand for relief, and a reasonable opportunity to  
1543 comply or to provide the relief; and

1544 3. Notice of the intention to file an arbitration petition  
1545 or other legal action in the absence of a resolution of the  
1546 dispute.

1547  
1548 Failure to include the allegations or proof of compliance with  
1549 these prerequisites requires dismissal of the petition without  
1550 prejudice.

1551 (c) Upon receipt, the petition shall be promptly reviewed  
1552 by the division to determine the existence of a dispute and  
1553 compliance with the requirements of paragraphs (a) and (b). If  
1554 emergency relief is required and is not available through  
1555 arbitration, a motion to stay the arbitration may be filed. The  
1556 motion must be accompanied by a verified petition alleging facts  
1557 that, if proven, would support entry of a temporary injunction,  
1558 and if an appropriate motion and supporting papers are filed,  
1559 the division may abate the arbitration pending a court hearing  
1560 and disposition of a motion for temporary injunction.

1561 (d) Upon determination by the division that a dispute  
1562 exists and that the petition substantially meets the  
1563 requirements of paragraphs (a) and (b) and any other applicable

600723

4/21/2008 1:56 PM

Amendment No.

1564 rules, a copy of the petition shall ~~forthwith~~ be served by the  
1565 division upon all respondents.

1566 (e) ~~Either~~ Before or after the filing of the respondents'  
1567 answer to the petition, any party may request that the  
1568 arbitrator refer the case to mediation under this section and  
1569 any rules adopted by the division. Upon receipt of a request for  
1570 mediation, the division shall promptly contact the parties to  
1571 determine if there is agreement that mediation would be  
1572 appropriate. If all parties agree, the dispute must be referred  
1573 to mediation. Notwithstanding a lack of an agreement by all  
1574 parties, the arbitrator may refer a dispute to mediation at any  
1575 time.

1576 (f) Upon referral of a case to mediation, the parties must  
1577 select a mutually acceptable mediator. To assist in the  
1578 selection, the arbitrator shall provide the parties with a list  
1579 of both volunteer and paid mediators that have been certified by  
1580 the division under s. 718.501. If the parties are unable to  
1581 agree on a mediator within the time allowed by the arbitrator,  
1582 the arbitrator shall appoint a mediator from the list of  
1583 certified mediators. If a case is referred to mediation, the  
1584 parties shall attend a mediation conference, as scheduled by the  
1585 parties and the mediator. If any party fails to attend a duly  
1586 noticed mediation conference, without the permission or approval  
1587 of the arbitrator or mediator, the arbitrator must impose  
1588 sanctions against the party, including the striking of any  
1589 pleadings filed, the entry of an order of dismissal or default  
1590 if appropriate, and the award of costs and attorneys' fees  
1591 incurred by the other parties. Unless otherwise agreed to by the

600723

4/21/2008 1:56 PM

Amendment No.

1592 parties or as provided by order of the arbitrator, a party is  
1593 deemed to have appeared at a mediation conference by the  
1594 physical presence of the party or its representative having full  
1595 authority to settle without further consultation, provided that  
1596 an association may comply by having one or more representatives  
1597 present with full authority to negotiate a settlement and  
1598 recommend that the board of administration ratify and approve  
1599 such a settlement within 5 days from the date of the mediation  
1600 conference. The parties shall share equally the expense of  
1601 mediation, unless they agree otherwise.

1602 (g) The purpose of mediation as provided for by this  
1603 section is to present the parties with an opportunity to resolve  
1604 the underlying dispute in good faith, and with a minimum  
1605 expenditure of time and resources.

1606 (h) Mediation proceedings must generally be conducted in  
1607 accordance with the Florida Rules of Civil Procedure, and these  
1608 proceedings are privileged and confidential to the same extent  
1609 as court-ordered mediation. Persons who are not parties to the  
1610 dispute are not allowed to attend the mediation conference  
1611 without the consent of all parties, with the exception of  
1612 counsel for the parties and corporate representatives designated  
1613 to appear for a party. If the mediator declares an impasse after  
1614 a mediation conference has been held, the arbitration proceeding  
1615 terminates, unless all parties agree in writing to continue the  
1616 arbitration proceeding, in which case the arbitrator's decision  
1617 shall be ~~either~~ binding or nonbinding, as agreed upon by the  
1618 parties; in the arbitration proceeding, the arbitrator shall not  
1619 consider any evidence relating to the unsuccessful mediation

600723

4/21/2008 1:56 PM

Amendment No.

1620 except in a proceeding to impose sanctions for failure to appear  
1621 at the mediation conference. If the parties do not agree to  
1622 continue arbitration, the arbitrator shall enter an order of  
1623 dismissal, and either party may institute a suit in a court of  
1624 competent jurisdiction. The parties may seek to recover any  
1625 costs and attorneys' fees incurred in connection with  
1626 arbitration and mediation proceedings under this section as part  
1627 of the costs and fees that may be recovered by the prevailing  
1628 party in any subsequent litigation.

1629 (i) Arbitration shall be conducted according to rules  
1630 adopted ~~promulgated~~ by the division. The filing of a petition  
1631 for arbitration shall toll the applicable statute of  
1632 limitations.

1633 (j) At the request of any party to the arbitration, the  
1634 ~~such~~ arbitrator shall issue subpoenas for the attendance of  
1635 witnesses and the production of books, records, documents, and  
1636 other evidence and any party on whose behalf a subpoena is  
1637 issued may apply to the court for orders compelling such  
1638 attendance and production. Subpoenas shall be served and shall  
1639 be enforceable in the manner provided by the Florida Rules of  
1640 Civil Procedure. Discovery may, in the discretion of the  
1641 arbitrator, be permitted in the manner provided by the Florida  
1642 Rules of Civil Procedure. Rules adopted by the division may  
1643 authorize any reasonable sanctions except contempt for a  
1644 violation of the arbitration procedural rules of the division or  
1645 for the failure of a party to comply with a reasonable nonfinal  
1646 order issued by an arbitrator which is not under judicial  
1647 review.

600723

4/21/2008 1:56 PM

Amendment No.

1648 (k) The arbitration decision shall be presented to the  
1649 parties in writing. An arbitration decision is final in those  
1650 disputes in which the parties have agreed to be bound. An  
1651 arbitration decision is also final if a complaint for a trial de  
1652 novo is not filed in a court of competent jurisdiction in which  
1653 the condominium is located within 30 days. The right to file for  
1654 a trial de novo entitles the parties to file a complaint in the  
1655 appropriate trial court for a judicial resolution of the  
1656 dispute. The prevailing party in an arbitration proceeding shall  
1657 be awarded the costs of the arbitration and reasonable  
1658 attorney's fees in an amount determined by the arbitrator. Such  
1659 an award shall include the costs and reasonable attorney's fees  
1660 incurred in the arbitration proceeding as well as the costs and  
1661 reasonable attorney's fees incurred in preparing for and  
1662 attending any scheduled mediation.

1663 (l) The party who files a complaint for a trial de novo  
1664 shall be assessed the other party's arbitration costs, court  
1665 costs, and other reasonable costs, including attorney's fees,  
1666 investigation expenses, and expenses for expert or other  
1667 testimony or evidence incurred after the arbitration hearing if  
1668 the judgment upon the trial de novo is not more favorable than  
1669 the arbitration decision. If the judgment is more favorable, the  
1670 party who filed a complaint for trial de novo shall be awarded  
1671 reasonable court costs and attorney's fees.

1672 (m) Any party to an arbitration proceeding may enforce an  
1673 arbitration award by filing a petition in a court of competent  
1674 jurisdiction in which the condominium is located. A petition may  
1675 not be granted unless the time for appeal by the filing of a

600723

4/21/2008 1:56 PM

Amendment No.

1676 complaint for trial de novo has expired. If a complaint for a  
1677 trial de novo has been filed, a petition may not be granted with  
1678 respect to an arbitration award that has been stayed. If the  
1679 petition for enforcement is granted, the petitioner shall  
1680 recover reasonable attorney's fees and costs incurred in  
1681 enforcing the arbitration award. A mediation settlement may also  
1682 be enforced through the county or circuit court, as applicable,  
1683 and any costs and fees incurred in the enforcement of a  
1684 settlement agreement reached at mediation must be awarded to the  
1685 prevailing party in any enforcement action.

1686 Section 45. Section 718.501, Florida Statutes, is amended  
1687 to read:

1688 718.501 Powers and duties of Division of Florida ~~Land~~  
1689 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

1690 (1) The Division of Florida ~~Land Sales~~, Condominiums,  
1691 Timeshares, and Mobile Homes of the Department of Business and  
1692 Professional Regulation, referred to as the "division" in this  
1693 part, ~~in addition to other powers and duties prescribed by~~  
1694 ~~chapter 498~~, has the power to enforce and ensure compliance with  
1695 the provisions of this chapter and rules ~~promulgated pursuant~~  
1696 ~~hereto~~ relating to the development, construction, sale, lease,  
1697 ownership, operation, and management of residential condominium  
1698 units. In performing its duties, the division has the following  
1699 powers and duties:

1700 (a)1. The division may make necessary public or private  
1701 investigations within or outside this state to determine whether  
1702 any person has violated this chapter or any rule or order

600723

4/21/2008 1:56 PM

Amendment No.

1703 hereunder, to aid in the enforcement of this chapter, or to aid  
1704 in the adoption of rules or forms hereunder.

1705 2. The division may submit any official written report,  
1706 worksheet, or other related paper, or a duly certified copy  
1707 thereof, compiled, prepared, drafted, or otherwise made by and  
1708 duly authenticated by a financial examiner or analyst to be  
1709 admitted as competent evidence in any hearing in which the  
1710 financial examiner or analyst is available for cross-examination  
1711 and attests under oath that such documents were prepared as a  
1712 result of an examination or inspection conducted pursuant to  
1713 this chapter.

1714 (b) The division may require or permit any person to file  
1715 a statement in writing, under oath or otherwise, as the division  
1716 determines, as to the facts and circumstances concerning a  
1717 matter to be investigated.

1718 (c) For the purpose of any investigation under this  
1719 chapter, the division director or any officer or employee  
1720 designated by the division director may administer oaths or  
1721 affirmations, subpoena witnesses and compel their attendance,  
1722 take evidence, and require the production of any matter which is  
1723 relevant to the investigation, including the existence,  
1724 description, nature, custody, condition, and location of any  
1725 books, documents, or other tangible things and the identity and  
1726 location of persons having knowledge of relevant facts or any  
1727 other matter reasonably calculated to lead to the discovery of  
1728 material evidence. Upon the failure by a person to obey a  
1729 subpoena or to answer questions propounded by the investigating  
1730 officer and upon reasonable notice to all persons affected

600723

4/21/2008 1:56 PM

Amendment No.

1731 thereby, the division may apply to the circuit court for an  
1732 order compelling compliance.

1733 (d) Notwithstanding any remedies available to unit owners  
1734 and associations, if the division has reasonable cause to  
1735 believe that a violation of any provision of this chapter or  
1736 related rule promulgated pursuant hereto has occurred, the  
1737 division may institute enforcement proceedings in its own name  
1738 against any developer, association, officer, or member of the  
1739 board of administration, or its assignees or agents, as follows:

1740 1. The division may permit a person whose conduct or  
1741 actions may be under investigation to waive formal proceedings  
1742 and enter into a consent proceeding whereby orders, rules, or  
1743 letters of censure or warning, whether formal or informal, may  
1744 be entered against the person.

1745 2. The division may issue an order requiring the  
1746 developer, association, officer, or member of the board of  
1747 administration, or its assignees or agents, to cease and desist  
1748 from the unlawful practice and take such affirmative action as  
1749 in the judgment of the division will carry out the purposes of  
1750 this chapter. ~~Such affirmative action may include, but is not~~  
1751 ~~limited to, an order requiring a developer to pay moneys~~  
1752 ~~determined to be owed to a condominium association. If the~~  
1753 ~~division finds that a developer, association, officer, or member~~  
1754 ~~of the board of administration, or its assignees or agents, is~~  
1755 ~~violating or is about to violate any provision of this chapter,~~  
1756 ~~any rule adopted or order issued by the division, or any written~~  
1757 ~~agreement entered into with the division, and presents an~~  
1758 ~~immediate danger to the public requiring an immediate final~~

600723

4/21/2008 1:56 PM



Amendment No.

1759 order, it may issue an emergency cease and desist order reciting  
1760 with particularity the facts underlying such findings. The  
1761 emergency cease and desist order is effective for 90 days. If  
1762 the division begins nonemergency cease and desist proceedings,  
1763 the emergency cease and desist order remains effective until the  
1764 conclusion of the proceedings under ss. 120.569 and 120.57.

1765 3. The division may bring an action in circuit court on  
1766 behalf of a class of unit owners, lessees, or purchasers for  
1767 declaratory relief, injunctive relief, or restitution.

1768 4. The division may petition the court for the appointment  
1769 of a receiver or conservator. If appointed, the receiver or  
1770 conservator may take action to implement the court order to  
1771 ensure the performance of the order and to remedy any breach  
1772 thereof. In addition to all other means provided by law for the  
1773 enforcement of an injunction or temporary restraining order, the  
1774 circuit court may impound or sequester the property of a party  
1775 defendant, including books, papers, documents, and related  
1776 records, and allow the examination and use of the property by  
1777 the division and a court-appointed receiver or conservator.

1778 5. The division may apply to the circuit court for an  
1779 order of restitution whereby the defendant in an action brought  
1780 pursuant to subparagraph 4. shall be ordered to make restitution  
1781 of those sums shown by the division to have been obtained by the  
1782 defendant in violation of this chapter. Such restitution shall,  
1783 at the option of the court, be payable to the conservator or  
1784 receiver appointed pursuant to subparagraph 4. or directly to  
1785 the persons whose funds or assets were obtained in violation of  
1786 this chapter.

600723

4/21/2008 1:56 PM

Amendment No.

1787        ~~6.4-~~ The division may impose a civil penalty against a  
1788 developer or association, or its assignee or agent, for any  
1789 violation of this chapter or a rule adopted under this chapter  
1790 ~~promulgated pursuant hereto~~. The division may impose a civil  
1791 penalty individually against any officer or board member who  
1792 willfully and knowingly violates a provision of this chapter,  
1793 adopted a rule ~~adopted pursuant hereto~~, or a final order of the  
1794 division. The term "willfully and knowingly" means that the  
1795 division informed the officer or board member that his or her  
1796 action or intended action violates this chapter, a rule adopted  
1797 under this chapter, or a final order of the division and that  
1798 the officer or board member refused to comply with the  
1799 requirements of this chapter, a rule adopted under this chapter,  
1800 or a final order of the division. The division, prior to  
1801 initiating formal agency action under chapter 120, shall afford  
1802 the officer or board member an opportunity to voluntarily comply  
1803 with this chapter, a rule adopted under this chapter, or a final  
1804 order of the division. An officer or board member who complies  
1805 within 10 days is not subject to a civil penalty. A penalty may  
1806 be imposed on the basis of each day of continuing violation, but  
1807 in no event shall the penalty for any offense exceed \$5,000. By  
1808 January 1, 1998, the division shall adopt, by rule, penalty  
1809 guidelines applicable to possible violations or to categories of  
1810 violations of this chapter or rules adopted by the division. The  
1811 guidelines must specify a meaningful range of civil penalties  
1812 for each such violation of the statute and rules and must be  
1813 based upon the harm caused by the violation, the repetition of  
1814 the violation, and upon such other factors deemed relevant by

600723

4/21/2008 1:56 PM

HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

1815 the division. For example, the division may consider whether the  
1816 violations were committed by a developer or owner-controlled  
1817 association, the size of the association, and other factors. The  
1818 guidelines must designate the possible mitigating or aggravating  
1819 circumstances that justify a departure from the range of  
1820 penalties provided by the rules. It is the legislative intent  
1821 that minor violations be distinguished from those which endanger  
1822 the health, safety, or welfare of the condominium residents or  
1823 other persons and that such guidelines provide reasonable and  
1824 meaningful notice to the public of likely penalties that may be  
1825 imposed for proscribed conduct. This subsection does not limit  
1826 the ability of the division to informally dispose of  
1827 administrative actions or complaints by stipulation, agreed  
1828 settlement, or consent order. All amounts collected shall be  
1829 deposited with the Chief Financial Officer to the credit of the  
1830 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
1831 Mobile Homes Trust Fund. If a developer fails to pay the civil  
1832 penalty, the division shall ~~thereupon~~ issue an order directing  
1833 that such developer cease and desist from further operation  
1834 until such time as the civil penalty is paid or may pursue  
1835 enforcement of the penalty in a court of competent jurisdiction.  
1836 If an association fails to pay the civil penalty, the division  
1837 shall ~~thereupon~~ pursue enforcement in a court of competent  
1838 jurisdiction, and the order imposing the civil penalty or the  
1839 cease and desist order will not become effective until 20 days  
1840 after the date of such order. Any action commenced by the  
1841 division shall be brought in the county in which the division

600723

4/21/2008 1:56 PM

Amendment No.

1842 has its executive offices or in the county where the violation  
1843 occurred.

1844 7. In addition to subparagraph 6., the division may seek  
1845 the imposition of a civil penalty through the circuit court for  
1846 any violation for which the division may issue a notice to show  
1847 cause under paragraph (q). The civil penalty shall be at least  
1848 \$500 but no more than \$5,000 for each violation. The court may  
1849 also award to the prevailing party court costs and reasonable  
1850 attorney's fees and, if the division prevails, may also award  
1851 reasonable costs of investigation.

1852 (e) The division may ~~is authorized to~~ prepare and  
1853 disseminate a prospectus and other information to assist  
1854 prospective owners, purchasers, lessees, and developers of  
1855 residential condominiums in assessing the rights, privileges,  
1856 and duties pertaining thereto.

1857 (f) The division has authority to adopt rules pursuant to  
1858 ss. 120.536(1) and 120.54 to implement and enforce the  
1859 provisions of this chapter.

1860 (g) The division shall establish procedures for providing  
1861 notice to an association when the division is considering the  
1862 issuance of a declaratory statement with respect to the  
1863 declaration of condominium or any related document governing in  
1864 such condominium community.

1865 (h) The division shall furnish each association which pays  
1866 the fees required by paragraph (2)(a) a copy of this act,  
1867 subsequent changes to this act on an annual basis, an amended  
1868 version of this act as it becomes available from the Secretary

600723

4/21/2008 1:56 PM

Amendment No.

1869 of State's office on a biennial basis, and the rules adopted  
1870 ~~promulgated pursuant~~ thereto on an annual basis.

1871 (i) The division shall annually provide each association  
1872 with a summary of declaratory statements and formal legal  
1873 opinions relating to the operations of condominiums which were  
1874 rendered by the division during the previous year.

1875 (j) The division shall provide training programs for  
1876 condominium association board members and unit owners.

1877 (k) The division shall maintain a toll-free telephone  
1878 number accessible to condominium unit owners.

1879 (l) The division shall develop a program to certify both  
1880 volunteer and paid mediators to provide mediation of condominium  
1881 disputes. The division shall provide, upon request, a list of  
1882 such mediators to any association, unit owner, or other  
1883 participant in arbitration proceedings under s. 718.1255  
1884 requesting a copy of the list. The division shall include on the  
1885 list of volunteer mediators only the names of persons who have  
1886 received at least 20 hours of training in mediation techniques  
1887 or who have mediated at least 20 disputes. In order to become  
1888 initially certified by the division, paid mediators must be  
1889 certified by the Supreme Court to mediate court cases in ~~either~~  
1890 county or circuit courts. However, the division may adopt, by  
1891 rule, additional factors for the certification of paid  
1892 mediators, which factors must be related to experience,  
1893 education, or background. Any person initially certified as a  
1894 paid mediator by the division must, in order to continue to be  
1895 certified, comply with the factors or requirements imposed by  
1896 rules adopted by the division.

600723

4/21/2008 1:56 PM

Amendment No.

1897 (m) When a complaint is made, the division shall conduct  
1898 its inquiry with due regard to the interests of the affected  
1899 parties. Within 30 days after receipt of a complaint, the  
1900 division shall acknowledge the complaint in writing and notify  
1901 the complainant whether the complaint is within the jurisdiction  
1902 of the division and whether additional information is needed by  
1903 the division from the complainant. The division shall conduct  
1904 its investigation and shall, within 90 days after receipt of the  
1905 original complaint or of timely requested additional  
1906 information, take action upon the complaint. However, the  
1907 failure to complete the investigation within 90 days does not  
1908 prevent the division from continuing the investigation,  
1909 accepting or considering evidence obtained or received after 90  
1910 days, or taking administrative action if reasonable cause exists  
1911 to believe that a violation of this chapter or a rule of the  
1912 division has occurred. If an investigation is not completed  
1913 within the time limits established in this paragraph, the  
1914 division shall, on a monthly basis, notify the complainant in  
1915 writing of the status of the investigation. When reporting its  
1916 action to the complainant, the division shall inform the  
1917 complainant of any right to a hearing pursuant to ss. 120.569  
1918 and 120.57.

1919 (n) The division may:

1920 1. Contract with agencies in this state or other  
1921 jurisdictions to perform investigative functions; or

1922 2. Accept grants-in-aid from any source.

1923 (o) The division shall cooperate with similar agencies in  
1924 other jurisdictions to establish uniform filing procedures and

600723

4/21/2008 1:56 PM

Amendment No.

1925 forms, public offering statements, advertising standards, and  
1926 rules and common administrative practices.

1927 (p) The division shall consider notice to a developer to  
1928 be complete when it is delivered to the developer's address  
1929 currently on file with the division.

1930 (q) In addition to its enforcement authority, the division  
1931 may issue a notice to show cause, which shall provide for a  
1932 hearing, upon written request, in accordance with chapter 120.

1933 (2) (a) Effective January 1, 1992, Each condominium  
1934 association which operates more than two units shall pay to the  
1935 division an annual fee in the amount of \$4 for each residential  
1936 unit in condominiums operated by the association. If the fee is  
1937 not paid by March 1, ~~then~~ the association shall be assessed a  
1938 penalty of 10 percent of the amount due, and the association  
1939 will not have standing to maintain or defend any action in the  
1940 courts of this state until the amount due, plus any penalty, is  
1941 paid.

1942 (b) All fees shall be deposited in the Division of Florida  
1943 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust  
1944 Fund as provided by law.

1945 Section 46. Subsection (1) of section 718.5011, Florida  
1946 Statutes, is amended to read:

1947 718.5011 Ombudsman; appointment; administration.--

1948 (1) There is created an Office of the Condominium  
1949 Ombudsman, to be located for administrative purposes within the  
1950 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
1951 Mobile Homes. The functions of the office shall be funded by the  
1952 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and

600723

4/21/2008 1:56 PM

Amendment No.

1953 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief  
1954 of the division, and the office shall be set within the division  
1955 in the same manner as any other bureau is staffed and funded.

1956 Section 47. Paragraph (a) of subsection (2) of section  
1957 718.502, Florida Statutes, is amended to read:

1958 718.502 Filing prior to sale or lease.--

1959 (2)(a) Prior to filing as required by subsection (1), and  
1960 prior to acquiring an ownership, leasehold, or contractual  
1961 interest in the land upon which the condominium is to be  
1962 developed, a developer shall not offer a contract for purchase  
1963 of a unit or lease of a unit for more than 5 years. However, the  
1964 developer may accept deposits for reservations upon the approval  
1965 of a fully executed escrow agreement and reservation agreement  
1966 form properly filed with the Division of Florida ~~Land Sales,~~  
1967 Condominiums, Timeshares, and Mobile Homes. Each filing of a  
1968 proposed reservation program shall be accompanied by a filing  
1969 fee of \$250. Reservations shall not be taken on a proposed  
1970 condominium unless the developer has an ownership, leasehold, or  
1971 contractual interest in the land upon which the condominium is  
1972 to be developed. The division shall notify the developer within  
1973 20 days of receipt of the reservation filing of any deficiencies  
1974 contained therein. Such notification shall not preclude the  
1975 determination of reservation filing deficiencies at a later  
1976 date, nor shall it relieve the developer of any responsibility  
1977 under the law. The escrow agreement and the reservation  
1978 agreement form shall include a statement of the right of the  
1979 prospective purchaser to an immediate unqualified refund of the

600723

4/21/2008 1:56 PM



Amendment No.

1980 reservation deposit moneys upon written request to the escrow  
1981 agent by the prospective purchaser or the developer.

1982 Section 48. Section 718.504, Florida Statutes, is amended  
1983 to read:

1984 718.504 Prospectus or offering circular.--Every developer  
1985 of a residential condominium which contains more than 20  
1986 residential units, or which is part of a group of residential  
1987 condominiums which will be served by property to be used in  
1988 common by unit owners of more than 20 residential units, shall  
1989 prepare a prospectus or offering circular and file it with the  
1990 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
1991 Mobile Homes prior to entering into an enforceable contract of  
1992 purchase and sale of any unit or lease of a unit for more than 5  
1993 years and shall furnish a copy of the prospectus or offering  
1994 circular to each buyer. In addition to the prospectus or  
1995 offering circular, each buyer shall be furnished a separate page  
1996 entitled "Frequently Asked Questions and Answers," which shall  
1997 be in accordance with a format approved by the division and a  
1998 copy of the financial information required by s. 718.111. This  
1999 page shall, in readable language, inform prospective purchasers  
2000 regarding their voting rights and unit use restrictions,  
2001 including restrictions on the leasing of a unit; shall indicate  
2002 whether and in what amount the unit owners or the association is  
2003 obligated to pay rent or land use fees for recreational or other  
2004 commonly used facilities; shall contain a statement identifying  
2005 that amount of assessment which, pursuant to the budget, would  
2006 be levied upon each unit type, exclusive of any special  
2007 assessments, and which shall further identify the basis upon

600723

4/21/2008 1:56 PM

Amendment No.

2008 which assessments are levied, whether monthly, quarterly, or  
2009 otherwise; shall state and identify any court cases in which the  
2010 association is currently a party of record in which the  
2011 association may face liability in excess of \$100,000; and which  
2012 shall further state whether membership in a recreational  
2013 facilities association is mandatory, and if so, shall identify  
2014 the fees currently charged per unit type. The division shall by  
2015 rule require such other disclosure as in its judgment will  
2016 assist prospective purchasers. The prospectus or offering  
2017 circular may include more than one condominium, although not all  
2018 such units are being offered for sale as of the date of the  
2019 prospectus or offering circular. The prospectus or offering  
2020 circular must contain the following information:

2021 (1) The front cover or the first page must contain only:

2022 (a) The name of the condominium.

2023 (b) The following statements in conspicuous type:

2024 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
2025 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2026 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
2027 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
2028 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
2029 MATERIALS.

2030 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
2031 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
2032 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
2033 REPRESENTATIONS.

600723

4/21/2008 1:56 PM

Amendment No.

2034 (2) Summary: The next page must contain all statements  
2035 required to be in conspicuous type in the prospectus or offering  
2036 circular.

2037 (3) A separate index of the contents and exhibits of the  
2038 prospectus.

2039 (4) Beginning on the first page of the text (not including  
2040 the summary and index), a description of the condominium,  
2041 including, but not limited to, the following information:

2042 (a) Its name and location.

2043 (b) A description of the condominium property, including,  
2044 without limitation:

2045 1. The number of buildings, the number of units in each  
2046 building, the number of bathrooms and bedrooms in each unit, and  
2047 the total number of units, if the condominium is not a phase  
2048 condominium, or the maximum number of buildings that may be  
2049 contained within the condominium, the minimum and maximum  
2050 numbers of units in each building, the minimum and maximum  
2051 numbers of bathrooms and bedrooms that may be contained in each  
2052 unit, and the maximum number of units that may be contained  
2053 within the condominium, if the condominium is a phase  
2054 condominium.

2055 2. The page in the condominium documents where a copy of  
2056 the plot plan and survey of the condominium is located.

2057 3. The estimated latest date of completion of  
2058 constructing, finishing, and equipping. In lieu of a date, the  
2059 description shall include a statement that the estimated date of  
2060 completion of the condominium is in the purchase agreement and a

600723

4/21/2008 1:56 PM

Amendment No.

2061 reference to the article or paragraph containing that  
2062 information.

2063 (c) The maximum number of units that will use facilities  
2064 in common with the condominium. If the maximum number of units  
2065 will vary, a description of the basis for variation and the  
2066 minimum amount of dollars per unit to be spent for additional  
2067 recreational facilities or enlargement of such facilities. If  
2068 the addition or enlargement of facilities will result in a  
2069 material increase of a unit owner's maintenance expense or  
2070 rental expense, if any, the maximum increase and limitations  
2071 thereon shall be stated.

2072 (5) (a) A statement in conspicuous type describing whether  
2073 the condominium is created and being sold as fee simple  
2074 interests or as leasehold interests. If the condominium is  
2075 created or being sold on a leasehold, the location of the lease  
2076 in the disclosure materials shall be stated.

2077 (b) If timeshare estates are or may be created with  
2078 respect to any unit in the condominium, a statement in  
2079 conspicuous type stating that timeshare estates are created and  
2080 being sold in units in the condominium.

2081 (6) A description of the recreational and other commonly  
2082 used facilities that will be used only by unit owners of the  
2083 condominium, including, but not limited to, the following:

2084 (a) Each room and its intended purposes, location,  
2085 approximate floor area, and capacity in numbers of people.

2086 (b) Each swimming pool, as to its general location,  
2087 approximate size and depths, approximate deck size and capacity,  
2088 and whether heated.

600723

4/21/2008 1:56 PM

Amendment No.

2089 (c) Additional facilities, as to the number of each  
2090 facility, its approximate location, approximate size, and  
2091 approximate capacity.

2092 (d) A general description of the items of personal  
2093 property and the approximate number of each item of personal  
2094 property that the developer is committing to furnish for each  
2095 room or other facility or, in the alternative, a representation  
2096 as to the minimum amount of expenditure that will be made to  
2097 purchase the personal property for the facility.

2098 (e) The estimated date when each room or other facility  
2099 will be available for use by the unit owners.

2100 (f)1. An identification of each room or other facility to  
2101 be used by unit owners that will not be owned by the unit owners  
2102 or the association;

2103 2. A reference to the location in the disclosure materials  
2104 of the lease or other agreements providing for the use of those  
2105 facilities; and

2106 3. A description of the terms of the lease or other  
2107 agreements, including the length of the term; the rent payable,  
2108 directly or indirectly, by each unit owner, and the total rent  
2109 payable to the lessor, stated in monthly and annual amounts for  
2110 the entire term of the lease; and a description of any option to  
2111 purchase the property leased under any such lease, including the  
2112 time the option may be exercised, the purchase price or how it  
2113 is to be determined, the manner of payment, and whether the  
2114 option may be exercised for a unit owner's share or only as to  
2115 the entire leased property.

600723

4/21/2008 1:56 PM

Amendment No.

2116 (g) A statement as to whether the developer may provide  
2117 additional facilities not described above; their general  
2118 locations and types; improvements or changes that may be made;  
2119 the approximate dollar amount to be expended; and the maximum  
2120 additional common expense or cost to the individual unit owners  
2121 that may be charged during the first annual period of operation  
2122 of the modified or added facilities.

2123  
2124 Descriptions as to locations, areas, capacities, numbers,  
2125 volumes, or sizes may be stated as approximations or minimums.

2126 (7) A description of the recreational and other facilities  
2127 that will be used in common with other condominiums, community  
2128 associations, or planned developments which require the payment  
2129 of the maintenance and expenses of such facilities, ~~either~~  
2130 directly or indirectly, by the unit owners. The description  
2131 shall include, but not be limited to, the following:

2132 (a) Each building and facility committed to be built.

2133 (b) Facilities not committed to be built except under  
2134 certain conditions, and a statement of those conditions or  
2135 contingencies.

2136 (c) As to each facility committed to be built, or which  
2137 will be committed to be built upon the happening of one of the  
2138 conditions in paragraph (b), a statement of whether it will be  
2139 owned by the unit owners having the use thereof or by an  
2140 association or other entity which will be controlled by them, or  
2141 others, and the location in the exhibits of the lease or other  
2142 document providing for use of those facilities.

600723

4/21/2008 1:56 PM

Amendment No.

2143 (d) The year in which each facility will be available for  
2144 use by the unit owners or, in the alternative, the maximum  
2145 number of unit owners in the project at the time each of all of  
2146 the facilities is committed to be completed.

2147 (e) A general description of the items of personal  
2148 property, and the approximate number of each item of personal  
2149 property, that the developer is committing to furnish for each  
2150 room or other facility or, in the alternative, a representation  
2151 as to the minimum amount of expenditure that will be made to  
2152 purchase the personal property for the facility.

2153 (f) If there are leases, a description thereof, including  
2154 the length of the term, the rent payable, and a description of  
2155 any option to purchase.

2156  
2157 Descriptions shall include location, areas, capacities, numbers,  
2158 volumes, or sizes and may be stated as approximations or  
2159 minimums.

2160 (8) Recreation lease or associated club membership:

2161 (a) If any recreational facilities or other facilities  
2162 offered by the developer and available to, or to be used by,  
2163 unit owners are to be leased or have club membership associated,  
2164 the following statement in conspicuous type shall be included:  
2165 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
2166 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
2167 CONDOMINIUM. There shall be a reference to the location in the  
2168 disclosure materials where the recreation lease or club  
2169 membership is described in detail.

600723

4/21/2008 1:56 PM

Amendment No.

2170 (b) If it is mandatory that unit owners pay a fee, rent,  
2171 dues, or other charges under a recreational facilities lease or  
2172 club membership for the use of facilities, there shall be in  
2173 conspicuous type the applicable statement:

2174 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
2175 MANDATORY FOR UNIT OWNERS; or

2176 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
2177 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2178 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
2179 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
2180 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
2181 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2182 4. A similar statement of the nature of the organization  
2183 or the manner in which the use rights are created, and that unit  
2184 owners are required to pay.

2185  
2186 Immediately following the applicable statement, the location in  
2187 the disclosure materials where the development is described in  
2188 detail shall be stated.

2189 (c) If the developer, or any other person other than the  
2190 unit owners and other persons having use rights in the  
2191 facilities, reserves, or is entitled to receive, any rent, fee,  
2192 or other payment for the use of the facilities, then there shall  
2193 be the following statement in conspicuous type: THE UNIT OWNERS  
2194 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
2195 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately  
2196 following this statement, the location in the disclosure

600723

4/21/2008 1:56 PM



Amendment No.

2197 materials where the rent or land use fees are described in  
2198 detail shall be stated.

2199 (d) If, in any recreation format, whether leasehold, club,  
2200 or other, any person other than the association has the right to  
2201 a lien on the units to secure the payment of assessments, rent,  
2202 or other exactions, there shall appear a statement in  
2203 conspicuous type in substantially the following form:

2204 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2205 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
2206 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
2207 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2208 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2209 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
2210 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
2211 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE  
2212 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2213  
2214 Immediately following the applicable statement, the location in  
2215 the disclosure materials where the lien or lien right is  
2216 described in detail shall be stated.

2217 (9) If the developer or any other person has the right to  
2218 increase or add to the recreational facilities at any time after  
2219 the establishment of the condominium whose unit owners have use  
2220 rights therein, without the consent of the unit owners or  
2221 associations being required, there shall appear a statement in  
2222 conspicuous type in substantially the following form:

2223 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
2224 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this

600723

4/21/2008 1:56 PM

Amendment No.

2225 statement, the location in the disclosure materials where such  
2226 reserved rights are described shall be stated.

2227 (10) A statement of whether the developer's plan includes  
2228 a program of leasing units rather than selling them, or leasing  
2229 units and selling them subject to such leases. If so, there  
2230 shall be a description of the plan, including the number and  
2231 identification of the units and the provisions and term of the  
2232 proposed leases, and a statement in boldfaced type that: **THE**  
2233 **UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

2234 (11) The arrangements for management of the association  
2235 and maintenance and operation of the condominium property and of  
2236 other property that will serve the unit owners of the  
2237 condominium property, and a description of the management  
2238 contract and all other contracts for these purposes having a  
2239 term in excess of 1 year, including the following:

2240 (a) The names of contracting parties.

2241 (b) The term of the contract.

2242 (c) The nature of the services included.

2243 (d) The compensation, stated on a monthly and annual  
2244 basis, and provisions for increases in the compensation.

2245 (e) A reference to the volumes and pages of the  
2246 condominium documents and of the exhibits containing copies of  
2247 such contracts.

2248  
2249 Copies of all described contracts shall be attached as exhibits.  
2250 If there is a contract for the management of the condominium  
2251 property, then a statement in conspicuous type in substantially  
2252 the following form shall appear, identifying the proposed or

600723

4/21/2008 1:56 PM

Amendment No.

2253 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
2254 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE  
2255 CONTRACT MANAGER). Immediately following this statement, the  
2256 location in the disclosure materials of the contract for  
2257 management of the condominium property shall be stated.

2258 (12) If the developer or any other person or persons other  
2259 than the unit owners has the right to retain control of the  
2260 board of administration of the association for a period of time  
2261 which can exceed 1 year after the closing of the sale of a  
2262 majority of the units in that condominium to persons other than  
2263 successors or alternate developers, then a statement in  
2264 conspicuous type in substantially the following form shall be  
2265 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
2266 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
2267 HAVE BEEN SOLD. Immediately following this statement, the  
2268 location in the disclosure materials where this right to control  
2269 is described in detail shall be stated.

2270 (13) If there are any restrictions upon the sale,  
2271 transfer, conveyance, or leasing of a unit, then a statement in  
2272 conspicuous type in substantially the following form shall be  
2273 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
2274 CONTROLLED. Immediately following this statement, the location  
2275 in the disclosure materials where the restriction, limitation,  
2276 or control on the sale, lease, or transfer of units is described  
2277 in detail shall be stated.

2278 (14) If the condominium is part of a phase project, the  
2279 following information shall be stated:

600723

4/21/2008 1:56 PM

Amendment No.

2280 (a) A statement in conspicuous type in substantially the  
2281 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
2282 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following  
2283 this statement, the location in the disclosure materials where  
2284 the phasing is described shall be stated.

2285 (b) A summary of the provisions of the declaration which  
2286 provide for the phasing.

2287 (c) A statement as to whether or not residential buildings  
2288 and units which are added to the condominium may be  
2289 substantially different from the residential buildings and units  
2290 originally in the condominium. If the added residential  
2291 buildings and units may be substantially different, there shall  
2292 be a general description of the extent to which such added  
2293 residential buildings and units may differ, and a statement in  
2294 conspicuous type in substantially the following form shall be  
2295 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM  
2296 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
2297 UNITS IN THE CONDOMINIUM. Immediately following this statement,  
2298 the location in the disclosure materials where the extent to  
2299 which added residential buildings and units may substantially  
2300 differ is described shall be stated.

2301 (d) A statement of the maximum number of buildings  
2302 containing units, the maximum and minimum numbers of units in  
2303 each building, the maximum number of units, and the minimum and  
2304 maximum square footage of the units that may be contained within  
2305 each parcel of land which may be added to the condominium.

600723

4/21/2008 1:56 PM

Amendment No.

2306 (15) If a condominium created on or after July 1, 2000, is  
2307 or may become part of a multicondominium, the following  
2308 information must be provided:

2309 (a) A statement in conspicuous type in substantially the  
2310 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
2311 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
2312 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following  
2313 this statement, the location in the prospectus or offering  
2314 circular and its exhibits where the multicondominium aspects of  
2315 the offering are described must be stated.

2316 (b) A summary of the provisions in the declaration,  
2317 articles of incorporation, and bylaws which establish and  
2318 provide for the operation of the multicondominium, including a  
2319 statement as to whether unit owners in the condominium will have  
2320 the right to use recreational or other facilities located or  
2321 planned to be located in other condominiums operated by the same  
2322 association, and the manner of sharing the common expenses  
2323 related to such facilities.

2324 (c) A statement of the minimum and maximum number of  
2325 condominiums, and the minimum and maximum number of units in  
2326 each of those condominiums, which will or may be operated by the  
2327 association, and the latest date by which the exact number will  
2328 be finally determined.

2329 (d) A statement as to whether any of the condominiums in  
2330 the multicondominium may include units intended to be used for  
2331 nonresidential purposes and the purpose or purposes permitted  
2332 for such use.

600723

4/21/2008 1:56 PM

Amendment No.

2333 (e) A general description of the location and approximate  
2334 acreage of any land on which any additional condominiums to be  
2335 operated by the association may be located.

2336 (16) If the condominium is created by conversion of  
2337 existing improvements, the following information shall be  
2338 stated:

2339 (a) The information required by s. 718.616.

2340 (b) A caveat that there are no express warranties unless  
2341 they are stated in writing by the developer.

2342 (17) A summary of the restrictions, if any, to be imposed  
2343 on units concerning the use of any of the condominium property,  
2344 including statements as to whether there are restrictions upon  
2345 children and pets, and reference to the volumes and pages of the  
2346 condominium documents where such restrictions are found, or if  
2347 such restrictions are contained elsewhere, then a copy of the  
2348 documents containing the restrictions shall be attached as an  
2349 exhibit.

2350 (18) If there is any land that is offered by the developer  
2351 for use by the unit owners and that is neither owned by them nor  
2352 leased to them, the association, or any entity controlled by  
2353 unit owners and other persons having the use rights to such  
2354 land, a statement shall be made as to how such land will serve  
2355 the condominium. If any part of such land will serve the  
2356 condominium, the statement shall describe the land and the  
2357 nature and term of service, and the declaration or other  
2358 instrument creating such servitude shall be included as an  
2359 exhibit.

600723

4/21/2008 1:56 PM

Amendment No.

2360 (19) The manner in which utility and other services,  
2361 including, but not limited to, sewage and waste disposal, water  
2362 supply, and storm drainage, will be provided and the person or  
2363 entity furnishing them.

2364 (20) An explanation of the manner in which the  
2365 apportionment of common expenses and ownership of the common  
2366 elements has been determined.

2367 (21) An estimated operating budget for the condominium and  
2368 the association, and a schedule of the unit owner's expenses  
2369 shall be attached as an exhibit and shall contain the following  
2370 information:

2371 (a) The estimated monthly and annual expenses of the  
2372 condominium and the association that are collected from unit  
2373 owners by assessments.

2374 (b) The estimated monthly and annual expenses of each unit  
2375 owner for a unit, other than common expenses paid by all unit  
2376 owners, payable by the unit owner to persons or entities other  
2377 than the association, as well as to the association, including  
2378 fees assessed pursuant to s. 718.113(1) for maintenance of  
2379 limited common elements where such costs are shared only by  
2380 those entitled to use the limited common element, and the total  
2381 estimated monthly and annual expense. There may be excluded from  
2382 this estimate expenses which are not provided for or  
2383 contemplated by the condominium documents, including, but not  
2384 limited to, the costs of private telephone; maintenance of the  
2385 interior of condominium units, which is not the obligation of  
2386 the association; maid or janitorial services privately  
2387 contracted for by the unit owners; utility bills billed directly

600723

4/21/2008 1:56 PM

Amendment No.

2388 to each unit owner for utility services to his or her unit;  
2389 insurance premiums other than those incurred for policies  
2390 obtained by the condominium; and similar personal expenses of  
2391 the unit owner. A unit owner's estimated payments for  
2392 assessments shall also be stated in the estimated amounts for  
2393 the times when they will be due.

2394 (c) The estimated items of expenses of the condominium and  
2395 the association, except as excluded under paragraph (b),  
2396 including, but not limited to, the following items, which shall  
2397 be stated ~~either~~ as an association expense collectible by  
2398 assessments or as unit owners' expenses payable to persons other  
2399 than the association:

- 2400 1. Expenses for the association and condominium:  
2401 a. Administration of the association.  
2402 b. Management fees.  
2403 c. Maintenance.  
2404 d. Rent for recreational and other commonly used  
2405 facilities.  
2406 e. Taxes upon association property.  
2407 f. Taxes upon leased areas.  
2408 g. Insurance.  
2409 h. Security provisions.  
2410 i. Other expenses.  
2411 j. Operating capital.  
2412 k. Reserves.  
2413 1. Fees payable to the division.  
2414 2. Expenses for a unit owner:  
2415 a. Rent for the unit, if subject to a lease.

600723

4/21/2008 1:56 PM



Amendment No.

2416           b. Rent payable by the unit owner directly to the lessor  
2417 or agent under any recreational lease or lease for the use of  
2418 commonly used facilities, which use and payment is a mandatory  
2419 condition of ownership and is not included in the common expense  
2420 or assessments for common maintenance paid by the unit owners to  
2421 the association.

2422           (d) The following statement in conspicuous type: THE  
2423 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
2424 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE  
2425 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
2426 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
2427 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
2428 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN  
2429 THE OFFERING.

2430           (e) Each budget for an association prepared by a developer  
2431 consistent with this subsection shall be prepared in good faith  
2432 and shall reflect accurate estimated amounts for the required  
2433 items in paragraph (c) at the time of the filing of the offering  
2434 circular with the division, and subsequent increased amounts of  
2435 any item included in the association's estimated budget that are  
2436 beyond the control of the developer shall not be considered an  
2437 amendment that would give rise to rescission rights set forth in  
2438 s. 718.503(1)(a) or (b), nor shall such increases modify, void,  
2439 or otherwise affect any guarantee of the developer contained in  
2440 the offering circular or any purchase contract. It is the intent  
2441 of this paragraph to clarify existing law.

2442           (f) The estimated amounts shall be stated for a period of  
2443 at least 12 months and may distinguish between the period prior  
600723

4/21/2008 1:56 PM

Amendment No.

2444 to the time unit owners other than the developer elect a  
2445 majority of the board of administration and the period after  
2446 that date.

2447 (22) A schedule of estimated closing expenses to be paid  
2448 by a buyer or lessee of a unit and a statement of whether title  
2449 opinion or title insurance policy is available to the buyer and,  
2450 if so, at whose expense.

2451 (23) The identity of the developer and the chief operating  
2452 officer or principal directing the creation and sale of the  
2453 condominium and a statement of its and his or her experience in  
2454 this field.

2455 (24) Copies of the following, to the extent they are  
2456 applicable, shall be included as exhibits:

2457 (a) The declaration of condominium, or the proposed  
2458 declaration if the declaration has not been recorded.

2459 (b) The articles of incorporation creating the  
2460 association.

2461 (c) The bylaws of the association.

2462 (d) The ground lease or other underlying lease of the  
2463 condominium.

2464 (e) The management agreement and all maintenance and other  
2465 contracts for management of the association and operation of the  
2466 condominium and facilities used by the unit owners having a  
2467 service term in excess of 1 year.

2468 (f) The estimated operating budget for the condominium and  
2469 the required schedule of unit owners' expenses.

600723

4/21/2008 1:56 PM

Amendment No.

2470 (g) A copy of the floor plan of the unit and the plot plan  
2471 showing the location of the residential buildings and the  
2472 recreation and other common areas.

2473 (h) The lease of recreational and other facilities that  
2474 will be used only by unit owners of the subject condominium.

2475 (i) The lease of facilities used by owners and others.

2476 (j) The form of unit lease, if the offer is of a  
2477 leasehold.

2478 (k) A declaration of servitude of properties serving the  
2479 condominium but not owned by unit owners or leased to them or  
2480 the association.

2481 (l) The statement of condition of the existing building or  
2482 buildings, if the offering is of units in an operation being  
2483 converted to condominium ownership.

2484 (m) The statement of inspection for termite damage and  
2485 treatment of the existing improvements, if the condominium is a  
2486 conversion.

2487 (n) The form of agreement for sale or lease of units.

2488 (o) A copy of the agreement for escrow of payments made to  
2489 the developer prior to closing.

2490 (p) A copy of the documents containing any restrictions on  
2491 use of the property required by subsection (17).

2492 (25) Any prospectus or offering circular complying, prior  
2493 to the effective date of this act, with the provisions of former  
2494 ss. 711.69 and 711.802 may continue to be used without amendment  
2495 or may be amended to comply with ~~the provisions of~~ this chapter.

2496 (26) A brief narrative description of the location and  
2497 effect of all existing and intended easements located or to be

600723

4/21/2008 1:56 PM

HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

2498 located on the condominium property other than those described  
2499 in the declaration.

2500 (27) If the developer is required by state or local  
2501 authorities to obtain acceptance or approval of any dock or  
2502 marina facilities intended to serve the condominium, a copy of  
2503 any such acceptance or approval acquired by the time of filing  
2504 with the division under s. 718.502(1) or a statement that such  
2505 acceptance or approval has not been acquired or received.

2506 (28) Evidence demonstrating that the developer has an  
2507 ownership, leasehold, or contractual interest in the land upon  
2508 which the condominium is to be developed.

2509 Section 49. Section 718.508, Florida Statutes, is amended  
2510 to read:

2511 718.508 Regulation by Division of Hotels and  
2512 Restaurants.--In addition to the authority, regulation, or  
2513 control exercised by the Division of Florida ~~Land Sales,~~  
2514 Condominiums, Timeshares, and Mobile Homes pursuant to this act  
2515 with respect to condominiums, buildings included in a  
2516 condominium property are ~~shall be~~ subject to the authority,  
2517 regulation, or control of the Division of Hotels and Restaurants  
2518 of the Department of Business and Professional Regulation, to  
2519 the extent provided ~~for~~ in chapter 399.

2520 Section 50. Section 718.509, Florida Statutes, is amended,  
2521 and section 498.019, Florida Statutes, is transferred,  
2522 renumbered as subsections (1) and (2) of that section, and  
2523 amended to read:

2524 718.509 Division of Florida ~~Land Sales,~~ Condominiums,  
2525 Timeshares, and Mobile Homes Trust Fund.--~~All funds collected by~~  
600723

4/21/2008 1:56 PM

HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

2526 ~~the division and any amount paid for a fee or penalty under this~~  
2527 ~~chapter shall be deposited in the State Treasury to the credit~~  
2528 ~~of the Division of Florida Land Sales, Condominiums, and Mobile~~  
2529 ~~Homes Trust Fund created by s. 498.019.~~

2530 ~~498.019 Division of Florida Land Sales, Condominiums, and~~  
2531 ~~Mobile Homes Trust Fund.~~

2532 (1) There is created within the State Treasury the  
2533 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
2534 Mobile Homes Trust Fund to be used for the administration and  
2535 operation of this chapter and chapters 718, 719, 721, and 723 by  
2536 the division.

2537 (2) All moneys collected by the division from fees, fines,  
2538 or penalties or from costs awarded to the division by a court or  
2539 administrative final order shall be paid into the Division of  
2540 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes  
2541 Trust Fund. The Legislature shall appropriate funds from this  
2542 trust fund sufficient to carry out the provisions of this  
2543 chapter and the provisions of law with respect to each category  
2544 of business covered by the ~~this~~ trust fund. The division shall  
2545 maintain separate revenue accounts in the trust fund for each of  
2546 the businesses regulated by the division. The division shall  
2547 provide for the proportionate allocation among the accounts of  
2548 expenses incurred by the division in the performance of its  
2549 duties with respect to each of these businesses. As part of its  
2550 normal budgetary process, the division shall prepare an annual  
2551 report of revenue and allocated expenses related to the  
2552 operation of each of these businesses which may be used to

600723

4/21/2008 1:56 PM

Amendment No.

2553 determine fees charged by the division. This subsection shall  
2554 operate pursuant to the provisions of s. 215.20.

2555 Section 51. Paragraph (a) of subsection (2) of section  
2556 718.608, Florida Statutes, is amended to read:

2557 718.608 Notice of intended conversion; time of delivery;  
2558 content.--

2559 (2) (a) Each notice of intended conversion shall be dated  
2560 and in writing. The notice shall contain the following  
2561 statement, with the phrases of the following statement which  
2562 appear in upper case printed in conspicuous type:

2563

2564 These apartments are being converted to condominium by  
2565 (name of developer) , the developer.

2566 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
2567 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
2568 AGREEMENT AS FOLLOWS:

2569 a. If you have continuously been a resident of these  
2570 apartments during the last 180 days and your rental agreement  
2571 expires during the next 270 days, you may extend your rental  
2572 agreement for up to 270 days after the date of this notice.

2573 b. If you have not been a continuous resident of these  
2574 apartments for the last 180 days and your rental agreement  
2575 expires during the next 180 days, you may extend your rental  
2576 agreement for up to 180 days after the date of this notice.

2577 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
2578 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
2579 DATE OF THIS NOTICE.

600723

4/21/2008 1:56 PM

Amendment No.

2580           2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
2581 you may extend your rental agreement for up to 45 days after the  
2582 date of this notice while you decide whether to extend your  
2583 rental agreement as explained above. To do so, you must notify  
2584 the developer in writing. You will then have the full 45 days to  
2585 decide whether to extend your rental agreement as explained  
2586 above.

2587           3. During the extension of your rental agreement you will  
2588 be charged the same rent that you are now paying.

2589           4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
2590 OF THE RENTAL AGREEMENT AS FOLLOWS:

2591           a. If your rental agreement began or was extended or  
2592 renewed after May 1, 1980, and your rental agreement, including  
2593 extensions and renewals, has an unexpired term of 180 days or  
2594 less, you may cancel your rental agreement upon 30 days' written  
2595 notice and move. Also, upon 30 days' written notice, you may  
2596 cancel any extension of the rental agreement.

2597           b. If your rental agreement was not begun or was not  
2598 extended or renewed after May 1, 1980, you may not cancel the  
2599 rental agreement without the consent of the developer. If your  
2600 rental agreement, including extensions and renewals, has an  
2601 unexpired term of 180 days or less, you may, however, upon 30  
2602 days' written notice cancel any extension of the rental  
2603 agreement.

2604           5. All notices must be given in writing and sent by mail,  
2605 return receipt requested, or delivered in person to the  
2606 developer at this address: (name and address of developer) .

600723

4/21/2008 1:56 PM

Amendment No.

2607           6. If you have continuously been a resident of these  
2608 apartments during the last 180 days:

2609           a. You have the right to purchase your apartment and will  
2610 have 45 days to decide whether to purchase. If you do not buy  
2611 the unit at that price and the unit is later offered at a lower  
2612 price, you will have the opportunity to buy the unit at the  
2613 lower price. However, in all events your right to purchase the  
2614 unit ends when the rental agreement or any extension of the  
2615 rental agreement ends or when you waive this right in writing.

2616           b. Within 90 days you will be provided purchase  
2617 information relating to your apartment, including the price of  
2618 your unit and the condition of the building. If you do not  
2619 receive this information within 90 days, your rental agreement  
2620 and any extension will be extended 1 day for each day over 90  
2621 days until you are given the purchase information. If you do not  
2622 want this rental agreement extension, you must notify the  
2623 developer in writing.

2624           7. If you have any questions regarding this conversion or  
2625 the Condominium Act, you may contact the developer or the state  
2626 agency which regulates condominiums: The Division of Florida  
2627 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,  
2628 (Tallahassee address and telephone number of division) .

2629           Section 52. Subsection (17) of section 719.103, Florida  
2630 Statutes, is amended to read:

2631           719.103 Definitions.--As used in this chapter:

2632           (17) "Division" means the Division of Florida ~~Land Sales~~,  
2633 Condominiums, Timeshares, and Mobile Homes of the Department of  
2634 Business and Professional Regulation.

600723

4/21/2008 1:56 PM



HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

2635 Section 53. Section 719.1255, Florida Statutes, is amended  
2636 to read:

2637 719.1255 Alternative resolution of disputes.--The Division  
2638 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile  
2639 Homes of the Department of Business and Professional Regulation  
2640 shall provide for alternative dispute resolution in accordance  
2641 with s. 718.1255.

2642 Section 54. Section 719.501, Florida Statutes, is amended  
2643 to read:

2644 719.501 Powers and duties of Division of Florida ~~Land~~  
2645 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

2646 (1) The Division of Florida ~~Land Sales~~, Condominiums,  
2647 Timeshares, and Mobile Homes of the Department of Business and  
2648 Professional Regulation, referred to as the "division" in this  
2649 part, in addition to other powers and duties prescribed by  
2650 chapter 718 498, has the power to enforce and ensure compliance  
2651 with ~~the provisions of~~ this chapter and adopted rules  
2652 ~~promulgated pursuant hereto~~ relating to the development,  
2653 construction, sale, lease, ownership, operation, and management  
2654 of residential cooperative units. In performing its duties, the  
2655 division shall have the following powers and duties:

2656 (a) The division may make necessary public or private  
2657 investigations within or outside this state to determine whether  
2658 any person has violated this chapter or any rule or order  
2659 hereunder, to aid in the enforcement of this chapter, or to aid  
2660 in the adoption of rules or forms hereunder.

2661 (b) The division may require or permit any person to file  
2662 a statement in writing, under oath or otherwise, as the division

600723

4/21/2008 1:56 PM

Amendment No.

2663 determines, as to the facts and circumstances concerning a  
2664 matter to be investigated.

2665 (c) For the purpose of any investigation under this  
2666 chapter, the division director or any officer or employee  
2667 designated by the division director may administer oaths or  
2668 affirmations, subpoena witnesses and compel their attendance,  
2669 take evidence, and require the production of any matter which is  
2670 relevant to the investigation, including the existence,  
2671 description, nature, custody, condition, and location of any  
2672 books, documents, or other tangible things and the identity and  
2673 location of persons having knowledge of relevant facts or any  
2674 other matter reasonably calculated to lead to the discovery of  
2675 material evidence. Upon failure by a person to obey a subpoena  
2676 or to answer questions propounded by the investigating officer  
2677 and upon reasonable notice to all persons affected thereby, the  
2678 division may apply to the circuit court for an order compelling  
2679 compliance.

2680 (d) Notwithstanding any remedies available to unit owners  
2681 and associations, if the division has reasonable cause to  
2682 believe that a violation of any provision of this chapter or  
2683 related rule ~~promulgated pursuant hereto~~ has occurred, the  
2684 division may institute enforcement proceedings in its own name  
2685 against a developer, association, officer, or member of the  
2686 board, or its assignees or agents, as follows:

2687 1. The division may permit a person whose conduct or  
2688 actions may be under investigation to waive formal proceedings  
2689 and enter into a consent proceeding whereby orders, rules, or

600723

4/21/2008 1:56 PM

Amendment No.

2690 letters of censure or warning, whether formal or informal, may  
2691 be entered against the person.

2692 2. The division may issue an order requiring the  
2693 developer, association, officer, or member of the board, or its  
2694 assignees or agents, to cease and desist from the unlawful  
2695 practice and take such affirmative action as in the judgment of  
2696 the division will carry out the purposes of this chapter. Such  
2697 affirmative action may include, but is not limited to, an order  
2698 requiring a developer to pay moneys determined to be owed to a  
2699 condominium association.

2700 3. The division may bring an action in circuit court on  
2701 behalf of a class of unit owners, lessees, or purchasers for  
2702 declaratory relief, injunctive relief, or restitution.

2703 4. The division may impose a civil penalty against a  
2704 developer or association, or its assignees or agents, for any  
2705 violation of this chapter or related a rule ~~promulgated pursuant~~  
2706 ~~hereto~~. The division may impose a civil penalty individually  
2707 against any officer or board member who willfully and knowingly  
2708 violates a provision of this chapter, a rule adopted pursuant to  
2709 this chapter, or a final order of the division. The term  
2710 "willfully and knowingly" means that the division informed the  
2711 officer or board member that his or her action or intended  
2712 action violates this chapter, a rule adopted under this chapter,  
2713 or a final order of the division, and that the officer or board  
2714 member refused to comply with the requirements of this chapter,  
2715 a rule adopted under this chapter, or a final order of the  
2716 division. The division, prior to initiating formal agency action  
2717 under chapter 120, shall afford the officer or board member an

600723

4/21/2008 1:56 PM

Amendment No.

2718 opportunity to voluntarily comply with this chapter, a rule  
2719 adopted under this chapter, or a final order of the division. An  
2720 officer or board member who complies within 10 days is not  
2721 subject to a civil penalty. A penalty may be imposed on the  
2722 basis of each day of continuing violation, but in no event shall  
2723 the penalty for any offense exceed \$5,000. By January 1, 1998,  
2724 the division shall adopt, by rule, penalty guidelines applicable  
2725 to possible violations or to categories of violations of this  
2726 chapter or rules adopted by the division. The guidelines must  
2727 specify a meaningful range of civil penalties for each such  
2728 violation of the statute and rules and must be based upon the  
2729 harm caused by the violation, the repetition of the violation,  
2730 and upon such other factors deemed relevant by the division. For  
2731 example, the division may consider whether the violations were  
2732 committed by a developer or owner-controlled association, the  
2733 size of the association, and other factors. The guidelines must  
2734 designate the possible mitigating or aggravating circumstances  
2735 that justify a departure from the range of penalties provided by  
2736 the rules. It is the legislative intent that minor violations be  
2737 distinguished from those which endanger the health, safety, or  
2738 welfare of the cooperative residents or other persons and that  
2739 such guidelines provide reasonable and meaningful notice to the  
2740 public of likely penalties that may be imposed for proscribed  
2741 conduct. This subsection does not limit the ability of the  
2742 division to informally dispose of administrative actions or  
2743 complaints by stipulation, agreed settlement, or consent order.  
2744 All amounts collected shall be deposited with the Chief  
2745 Financial Officer to the credit of the Division of Florida Land

600723

4/21/2008 1:56 PM

Amendment No.

2746 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If  
2747 a developer fails to pay the civil penalty, the division shall  
2748 thereupon issue an order directing that such developer cease and  
2749 desist from further operation until such time as the civil  
2750 penalty is paid or may pursue enforcement of the penalty in a  
2751 court of competent jurisdiction. If an association fails to pay  
2752 the civil penalty, the division shall thereupon pursue  
2753 enforcement in a court of competent jurisdiction, and the order  
2754 imposing the civil penalty or the cease and desist order shall  
2755 not become effective until 20 days after the date of such order.  
2756 Any action commenced by the division shall be brought in the  
2757 county in which the division has its executive offices or in the  
2758 county where the violation occurred.

2759 (e) The division may ~~is authorized to~~ prepare and  
2760 disseminate a prospectus and other information to assist  
2761 prospective owners, purchasers, lessees, and developers of  
2762 residential cooperatives in assessing the rights, privileges,  
2763 and duties pertaining thereto.

2764 (f) The division has authority to adopt rules pursuant to  
2765 ss. 120.536(1) and 120.54 to implement and enforce the  
2766 provisions of this chapter.

2767 (g) The division shall establish procedures for providing  
2768 notice to an association when the division is considering the  
2769 issuance of a declaratory statement with respect to the  
2770 cooperative documents governing such cooperative community.

2771 (h) The division shall furnish each association which pays  
2772 the fees required by paragraph (2)(a) a copy of this act,  
2773 subsequent changes to this act on an annual basis, an amended

600723

4/21/2008 1:56 PM

Amendment No.

2774 version of this act as it becomes available from the Secretary  
2775 of State's office on a biennial basis, and the rules adopted  
2776 ~~promulgated pursuant~~ thereto on an annual basis.

2777 (i) The division shall annually provide each association  
2778 with a summary of declaratory statements and formal legal  
2779 opinions relating to the operations of cooperatives which were  
2780 rendered by the division during the previous year.

2781 (j) The division shall adopt uniform accounting  
2782 principles, policies, and standards to be used by all  
2783 associations in the preparation and presentation of all  
2784 financial statements required by this chapter. The principles,  
2785 policies, and standards shall take into consideration the size  
2786 of the association and the total revenue collected by the  
2787 association.

2788 (k) The division shall provide training programs for  
2789 cooperative association board members and unit owners.

2790 (l) The division shall maintain a toll-free telephone  
2791 number accessible to cooperative unit owners.

2792 (m) When a complaint is made to the division, the division  
2793 shall conduct its inquiry with reasonable dispatch and with due  
2794 regard to the interests of the affected parties. Within 30 days  
2795 after receipt of a complaint, the division shall acknowledge the  
2796 complaint in writing and notify the complainant whether the  
2797 complaint is within the jurisdiction of the division and whether  
2798 additional information is needed by the division from the  
2799 complainant. The division shall conduct its investigation and  
2800 shall, within 90 days after receipt of the original complaint or  
2801 timely requested additional information, take action upon the

600723

4/21/2008 1:56 PM

Amendment No.

2802 complaint. However, the failure to complete the investigation  
2803 within 90 days does not prevent the division from continuing the  
2804 investigation, accepting or considering evidence obtained or  
2805 received after 90 days, or taking administrative action if  
2806 reasonable cause exists to believe that a violation of this  
2807 chapter or a rule of the division has occurred. If an  
2808 investigation is not completed within the time limits  
2809 established in this paragraph, the division shall, on a monthly  
2810 basis, notify the complainant in writing of the status of the  
2811 investigation. When reporting its action to the complainant, the  
2812 division shall inform the complainant of any right to a hearing  
2813 pursuant to ss. 120.569 and 120.57.

2814 (n) The division shall develop a program to certify both  
2815 volunteer and paid mediators to provide mediation of cooperative  
2816 disputes. The division shall provide, upon request, a list of  
2817 such mediators to any association, unit owner, or other  
2818 participant in arbitration proceedings under s. 718.1255  
2819 requesting a copy of the list. The division shall include on the  
2820 list of voluntary mediators only persons who have received at  
2821 least 20 hours of training in mediation techniques or have  
2822 mediated at least 20 disputes. In order to become initially  
2823 certified by the division, paid mediators must be certified by  
2824 the Supreme Court to mediate court cases in ~~either~~ county or  
2825 circuit courts. However, the division may adopt, by rule,  
2826 additional factors for the certification of paid mediators,  
2827 which factors must be related to experience, education, or  
2828 background. Any person initially certified as a paid mediator by  
2829 the division must, in order to continue to be certified, comply

600723

4/21/2008 1:56 PM

Amendment No.

2830 with the factors or requirements imposed by rules adopted by the  
2831 division.

2832 (2) (a) Each cooperative association shall pay to the  
2833 division, on or before January 1 of each year, an annual fee in  
2834 the amount of \$4 for each residential unit in cooperatives  
2835 operated by the association. If the fee is not paid by March 1,  
2836 then the association shall be assessed a penalty of 10 percent  
2837 of the amount due, and the association shall not have the  
2838 standing to maintain or defend any action in the courts of this  
2839 state until the amount due is paid.

2840 (b) All fees shall be deposited in the Division of Florida  
2841 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust  
2842 Fund as provided by law.

2843 Section 55. Paragraph (a) of subsection (2) of section  
2844 719.502, Florida Statutes, is amended to read:

2845 719.502 Filing prior to sale or lease.--

2846 (2) (a) Prior to filing as required by subsection (1), and  
2847 prior to acquiring an ownership, leasehold, or contractual  
2848 interest in the land upon which the cooperative is to be  
2849 developed, a developer shall not offer a contract for purchase  
2850 or lease of a unit for more than 5 years. However, the developer  
2851 may accept deposits for reservations upon the approval of a  
2852 fully executed escrow agreement and reservation agreement form  
2853 properly filed with the Division of Florida ~~Land Sales~~,  
2854 Condominiums, Timeshares, and Mobile Homes. Each filing of a  
2855 proposed reservation program shall be accompanied by a filing  
2856 fee of \$250. Reservations shall not be taken on a proposed  
2857 cooperative unless the developer has an ownership, leasehold, or  
600723

4/21/2008 1:56 PM



Amendment No.

2858 contractual interest in the land upon which the cooperative is  
2859 to be developed. The division shall notify the developer within  
2860 20 days of receipt of the reservation filing of any deficiencies  
2861 contained therein. Such notification shall not preclude the  
2862 determination of reservation filing deficiencies at a later  
2863 date, nor shall it relieve the developer of any responsibility  
2864 under the law. The escrow agreement and the reservation  
2865 agreement form shall include a statement of the right of the  
2866 prospective purchaser to an immediate unqualified refund of the  
2867 reservation deposit moneys upon written request to the escrow  
2868 agent by the prospective purchaser or the developer.

2869 Section 56. Section 719.504, Florida Statutes, is amended  
2870 to read:

2871 719.504 Prospectus or offering circular.--Every developer  
2872 of a residential cooperative which contains more than 20  
2873 residential units, or which is part of a group of residential  
2874 cooperatives which will be served by property to be used in  
2875 common by unit owners of more than 20 residential units, shall  
2876 prepare a prospectus or offering circular and file it with the  
2877 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
2878 Mobile Homes prior to entering into an enforceable contract of  
2879 purchase and sale of any unit or lease of a unit for more than 5  
2880 years and shall furnish a copy of the prospectus or offering  
2881 circular to each buyer. In addition to the prospectus or  
2882 offering circular, each buyer shall be furnished a separate page  
2883 entitled "Frequently Asked Questions and Answers," which must be  
2884 in accordance with a format approved by the division. This page  
2885 must, in readable language: inform prospective purchasers

600723

4/21/2008 1:56 PM

Amendment No.

2886 regarding their voting rights and unit use restrictions,  
2887 including restrictions on the leasing of a unit; indicate  
2888 whether and in what amount the unit owners or the association is  
2889 obligated to pay rent or land use fees for recreational or other  
2890 commonly used facilities; contain a statement identifying that  
2891 amount of assessment which, pursuant to the budget, would be  
2892 levied upon each unit type, exclusive of any special  
2893 assessments, and which identifies the basis upon which  
2894 assessments are levied, whether monthly, quarterly, or  
2895 otherwise; state and identify any court cases in which the  
2896 association is currently a party of record in which the  
2897 association may face liability in excess of \$100,000; and state  
2898 whether membership in a recreational facilities association is  
2899 mandatory and, if so, identify the fees currently charged per  
2900 unit type. The division shall by rule require such other  
2901 disclosure as in its judgment will assist prospective  
2902 purchasers. The prospectus or offering circular may include more  
2903 than one cooperative, although not all such units are being  
2904 offered for sale as of the date of the prospectus or offering  
2905 circular. The prospectus or offering circular must contain the  
2906 following information:

2907 (1) The front cover or the first page must contain only:

2908 (a) The name of the cooperative.

2909 (b) The following statements in conspicuous type:

2910 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
2911 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2912 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
2913 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
600723

4/21/2008 1:56 PM

Amendment No.

2914 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
2915 MATERIALS.

2916 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
2917 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
2918 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
2919 REPRESENTATIONS.

2920 (2) Summary: The next page must contain all statements  
2921 required to be in conspicuous type in the prospectus or offering  
2922 circular.

2923 (3) A separate index of the contents and exhibits of the  
2924 prospectus.

2925 (4) Beginning on the first page of the text (not including  
2926 the summary and index), a description of the cooperative,  
2927 including, but not limited to, the following information:

2928 (a) Its name and location.

2929 (b) A description of the cooperative property, including,  
2930 without limitation:

2931 1. The number of buildings, the number of units in each  
2932 building, the number of bathrooms and bedrooms in each unit, and  
2933 the total number of units, if the cooperative is not a phase  
2934 cooperative; or, if the cooperative is a phase cooperative, the  
2935 maximum number of buildings that may be contained within the  
2936 cooperative, the minimum and maximum number of units in each  
2937 building, the minimum and maximum number of bathrooms and  
2938 bedrooms that may be contained in each unit, and the maximum  
2939 number of units that may be contained within the cooperative.

2940 2. The page in the cooperative documents where a copy of  
2941 the survey and plot plan of the cooperative is located.

600723

4/21/2008 1:56 PM

Amendment No.

2942 3. The estimated latest date of completion of  
2943 constructing, finishing, and equipping. In lieu of a date, a  
2944 statement that the estimated date of completion of the  
2945 cooperative is in the purchase agreement and a reference to the  
2946 article or paragraph containing that information.

2947 (c) The maximum number of units that will use facilities  
2948 in common with the cooperative. If the maximum number of units  
2949 will vary, a description of the basis for variation and the  
2950 minimum amount of dollars per unit to be spent for additional  
2951 recreational facilities or enlargement of such facilities. If  
2952 the addition or enlargement of facilities will result in a  
2953 material increase of a unit owner's maintenance expense or  
2954 rental expense, if any, the maximum increase and limitations  
2955 thereon shall be stated.

2956 (5) (a) A statement in conspicuous type describing whether  
2957 the cooperative is created and being sold as fee simple  
2958 interests or as leasehold interests. If the cooperative is  
2959 created or being sold on a leasehold, the location of the lease  
2960 in the disclosure materials shall be stated.

2961 (b) If timeshare estates are or may be created with  
2962 respect to any unit in the cooperative, a statement in  
2963 conspicuous type stating that timeshare estates are created and  
2964 being sold in such specified units in the cooperative.

2965 (6) A description of the recreational and other common  
2966 areas that will be used only by unit owners of the cooperative,  
2967 including, but not limited to, the following:

2968 (a) Each room and its intended purposes, location,  
2969 approximate floor area, and capacity in numbers of people.

600723

4/21/2008 1:56 PM

Amendment No.

2970 (b) Each swimming pool, as to its general location,  
2971 approximate size and depths, approximate deck size and capacity,  
2972 and whether heated.

2973 (c) Additional facilities, as to the number of each  
2974 facility, its approximate location, approximate size, and  
2975 approximate capacity.

2976 (d) A general description of the items of personal  
2977 property and the approximate number of each item of personal  
2978 property that the developer is committing to furnish for each  
2979 room or other facility or, in the alternative, a representation  
2980 as to the minimum amount of expenditure that will be made to  
2981 purchase the personal property for the facility.

2982 (e) The estimated date when each room or other facility  
2983 will be available for use by the unit owners.

2984 (f)1. An identification of each room or other facility to  
2985 be used by unit owners that will not be owned by the unit owners  
2986 or the association;

2987 2. A reference to the location in the disclosure materials  
2988 of the lease or other agreements providing for the use of those  
2989 facilities; and

2990 3. A description of the terms of the lease or other  
2991 agreements, including the length of the term; the rent payable,  
2992 directly or indirectly, by each unit owner, and the total rent  
2993 payable to the lessor, stated in monthly and annual amounts for  
2994 the entire term of the lease; and a description of any option to  
2995 purchase the property leased under any such lease, including the  
2996 time the option may be exercised, the purchase price or how it  
2997 is to be determined, the manner of payment, and whether the

600723

4/21/2008 1:56 PM

Amendment No.

2998 option may be exercised for a unit owner's share or only as to  
2999 the entire leased property.

3000 (g) A statement as to whether the developer may provide  
3001 additional facilities not described above, their general  
3002 locations and types, improvements or changes that may be made,  
3003 the approximate dollar amount to be expended, and the maximum  
3004 additional common expense or cost to the individual unit owners  
3005 that may be charged during the first annual period of operation  
3006 of the modified or added facilities.

3007

3008 Descriptions as to locations, areas, capacities, numbers,  
3009 volumes, or sizes may be stated as approximations or minimums.

3010 (7) A description of the recreational and other facilities  
3011 that will be used in common with other cooperatives, community  
3012 associations, or planned developments which require the payment  
3013 of the maintenance and expenses of such facilities, ~~either~~  
3014 directly or indirectly, by the unit owners. The description  
3015 shall include, but not be limited to, the following:

3016 (a) Each building and facility committed to be built.

3017 (b) Facilities not committed to be built except under  
3018 certain conditions, and a statement of those conditions or  
3019 contingencies.

3020 (c) As to each facility committed to be built, or which  
3021 will be committed to be built upon the happening of one of the  
3022 conditions in paragraph (b), a statement of whether it will be  
3023 owned by the unit owners having the use thereof or by an  
3024 association or other entity which will be controlled by them, or

600723

4/21/2008 1:56 PM

Amendment No.

3025 others, and the location in the exhibits of the lease or other  
3026 document providing for use of those facilities.

3027 (d) The year in which each facility will be available for  
3028 use by the unit owners or, in the alternative, the maximum  
3029 number of unit owners in the project at the time each of all of  
3030 the facilities is committed to be completed.

3031 (e) A general description of the items of personal  
3032 property, and the approximate number of each item of personal  
3033 property, that the developer is committing to furnish for each  
3034 room or other facility or, in the alternative, a representation  
3035 as to the minimum amount of expenditure that will be made to  
3036 purchase the personal property for the facility.

3037 (f) If there are leases, a description thereof, including  
3038 the length of the term, the rent payable, and a description of  
3039 any option to purchase.

3040  
3041 Descriptions shall include location, areas, capacities, numbers,  
3042 volumes, or sizes and may be stated as approximations or  
3043 minimums.

3044 (8) Recreation lease or associated club membership:

3045 (a) If any recreational facilities or other common areas  
3046 offered by the developer and available to, or to be used by,  
3047 unit owners are to be leased or have club membership associated,  
3048 the following statement in conspicuous type shall be included:  
3049 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
3050 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
3051 COOPERATIVE. There shall be a reference to the location in the

600723

4/21/2008 1:56 PM

Amendment No.

3052 disclosure materials where the recreation lease or club  
3053 membership is described in detail.

3054 (b) If it is mandatory that unit owners pay a fee, rent,  
3055 dues, or other charges under a recreational facilities lease or  
3056 club membership for the use of facilities, there shall be in  
3057 conspicuous type the applicable statement:

3058 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
3059 MANDATORY FOR UNIT OWNERS; or

3060 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
3061 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3062 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
3063 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
3064 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
3065 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

3066 4. A similar statement of the nature of the organization  
3067 or manner in which the use rights are created, and that unit  
3068 owners are required to pay.

3069  
3070 Immediately following the applicable statement, the location in  
3071 the disclosure materials where the development is described in  
3072 detail shall be stated.

3073 (c) If the developer, or any other person other than the  
3074 unit owners and other persons having use rights in the  
3075 facilities, reserves, or is entitled to receive, any rent, fee,  
3076 or other payment for the use of the facilities, then there shall  
3077 be the following statement in conspicuous type: THE UNIT OWNERS  
3078 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
3079 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this

600723

4/21/2008 1:56 PM



Amendment No.

3080 statement, the location in the disclosure materials where the  
3081 rent or land use fees are described in detail shall be stated.

3082 (d) If, in any recreation format, whether leasehold, club,  
3083 or other, any person other than the association has the right to  
3084 a lien on the units to secure the payment of assessments, rent,  
3085 or other exactions, there shall appear a statement in  
3086 conspicuous type in substantially the following form:

3087 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
3088 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
3089 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
3090 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

3091 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
3092 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
3093 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
3094 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE  
3095 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

3096  
3097 Immediately following the applicable statement, the location in  
3098 the disclosure materials where the lien or lien right is  
3099 described in detail shall be stated.

3100 (9) If the developer or any other person has the right to  
3101 increase or add to the recreational facilities at any time after  
3102 the establishment of the cooperative whose unit owners have use  
3103 rights therein, without the consent of the unit owners or  
3104 associations being required, there shall appear a statement in  
3105 conspicuous type in substantially the following form:

3106 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
3107 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this

600723

4/21/2008 1:56 PM

Amendment No.

3108 statement, the location in the disclosure materials where such  
3109 reserved rights are described shall be stated.

3110 (10) A statement of whether the developer's plan includes  
3111 a program of leasing units rather than selling them, or leasing  
3112 units and selling them subject to such leases. If so, there  
3113 shall be a description of the plan, including the number and  
3114 identification of the units and the provisions and term of the  
3115 proposed leases, and a statement in boldfaced type that: **THE**  
3116 **UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

3117 (11) The arrangements for management of the association  
3118 and maintenance and operation of the cooperative property and of  
3119 other property that will serve the unit owners of the  
3120 cooperative property, and a description of the management  
3121 contract and all other contracts for these purposes having a  
3122 term in excess of 1 year, including the following:

3123 (a) The names of contracting parties.

3124 (b) The term of the contract.

3125 (c) The nature of the services included.

3126 (d) The compensation, stated on a monthly and annual  
3127 basis, and provisions for increases in the compensation.

3128 (e) A reference to the volumes and pages of the  
3129 cooperative documents and of the exhibits containing copies of  
3130 such contracts.

3131  
3132 Copies of all described contracts shall be attached as exhibits.

3133 If there is a contract for the management of the cooperative  
3134 property, then a statement in conspicuous type in substantially  
3135 the following form shall appear, identifying the proposed or

600723

4/21/2008 1:56 PM

Amendment No.

3136 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
3137 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE  
3138 CONTRACT MANAGER). Immediately following this statement, the  
3139 location in the disclosure materials of the contract for  
3140 management of the cooperative property shall be stated.

3141 (12) If the developer or any other person or persons other  
3142 than the unit owners has the right to retain control of the  
3143 board of administration of the association for a period of time  
3144 which can exceed 1 year after the closing of the sale of a  
3145 majority of the units in that cooperative to persons other than  
3146 successors or alternate developers, then a statement in  
3147 conspicuous type in substantially the following form shall be  
3148 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
3149 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
3150 HAVE BEEN SOLD. Immediately following this statement, the  
3151 location in the disclosure materials where this right to control  
3152 is described in detail shall be stated.

3153 (13) If there are any restrictions upon the sale,  
3154 transfer, conveyance, or leasing of a unit, then a statement in  
3155 conspicuous type in substantially the following form shall be  
3156 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
3157 CONTROLLED. Immediately following this statement, the location  
3158 in the disclosure materials where the restriction, limitation,  
3159 or control on the sale, lease, or transfer of units is described  
3160 in detail shall be stated.

3161 (14) If the cooperative is part of a phase project, the  
3162 following shall be stated:

600723

4/21/2008 1:56 PM

Amendment No.

3163 (a) A statement in conspicuous type in substantially the  
3164 following form shall be included: THIS IS A PHASE COOPERATIVE.  
3165 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.  
3166 Immediately following this statement, the location in the  
3167 disclosure materials where the phasing is described shall be  
3168 stated.

3169 (b) A summary of the provisions of the declaration  
3170 providing for the phasing.

3171 (c) A statement as to whether or not residential buildings  
3172 and units which are added to the cooperative may be  
3173 substantially different from the residential buildings and units  
3174 originally in the cooperative, and, if the added residential  
3175 buildings and units may be substantially different, there shall  
3176 be a general description of the extent to which such added  
3177 residential buildings and units may differ, and a statement in  
3178 conspicuous type in substantially the following form shall be  
3179 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE  
3180 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND  
3181 UNITS IN THE COOPERATIVE. Immediately following this statement,  
3182 the location in the disclosure materials where the extent to  
3183 which added residential buildings and units may substantially  
3184 differ is described shall be stated.

3185 (d) A statement of the maximum number of buildings  
3186 containing units, the maximum and minimum number of units in  
3187 each building, the maximum number of units, and the minimum and  
3188 maximum square footage of the units that may be contained within  
3189 each parcel of land which may be added to the cooperative.

600723

4/21/2008 1:56 PM

Amendment No.

3190 (15) If the cooperative is created by conversion of  
3191 existing improvements, the following information shall be  
3192 stated:

3193 (a) The information required by s. 719.616.

3194 (b) A caveat that there are no express warranties unless  
3195 they are stated in writing by the developer.

3196 (16) A summary of the restrictions, if any, to be imposed  
3197 on units concerning the use of any of the cooperative property,  
3198 including statements as to whether there are restrictions upon  
3199 children and pets, and reference to the volumes and pages of the  
3200 cooperative documents where such restrictions are found, or if  
3201 such restrictions are contained elsewhere, then a copy of the  
3202 documents containing the restrictions shall be attached as an  
3203 exhibit.

3204 (17) If there is any land that is offered by the developer  
3205 for use by the unit owners and that is neither owned by them nor  
3206 leased to them, the association, or any entity controlled by  
3207 unit owners and other persons having the use rights to such  
3208 land, a statement shall be made as to how such land will serve  
3209 the cooperative. If any part of such land will serve the  
3210 cooperative, the statement shall describe the land and the  
3211 nature and term of service, and the cooperative documents or  
3212 other instrument creating such servitude shall be included as an  
3213 exhibit.

3214 (18) The manner in which utility and other services,  
3215 including, but not limited to, sewage and waste disposal, water  
3216 supply, and storm drainage, will be provided and the person or  
3217 entity furnishing them.

600723

4/21/2008 1:56 PM

Amendment No.

3218 (19) An explanation of the manner in which the  
3219 apportionment of common expenses and ownership of the common  
3220 areas have been determined.

3221 (20) An estimated operating budget for the cooperative and  
3222 the association, and a schedule of the unit owner's expenses  
3223 shall be attached as an exhibit and shall contain the following  
3224 information:

3225 (a) The estimated monthly and annual expenses of the  
3226 cooperative and the association that are collected from unit  
3227 owners by assessments.

3228 (b) The estimated monthly and annual expenses of each unit  
3229 owner for a unit, other than assessments payable to the  
3230 association, payable by the unit owner to persons or entities  
3231 other than the association, and the total estimated monthly and  
3232 annual expense. There may be excluded from this estimate  
3233 expenses that are personal to unit owners, which are not  
3234 uniformly incurred by all unit owners, or which are not provided  
3235 for or contemplated by the cooperative documents, including, but  
3236 not limited to, the costs of private telephone; maintenance of  
3237 the interior of cooperative units, which is not the obligation  
3238 of the association; maid or janitorial services privately  
3239 contracted for by the unit owners; utility bills billed directly  
3240 to each unit owner for utility services to his or her unit;  
3241 insurance premiums other than those incurred for policies  
3242 obtained by the cooperative; and similar personal expenses of  
3243 the unit owner. A unit owner's estimated payments for  
3244 assessments shall also be stated in the estimated amounts for  
3245 the times when they will be due.

600723

4/21/2008 1:56 PM

Amendment No.

3246 (c) The estimated items of expenses of the cooperative and  
3247 the association, except as excluded under paragraph (b),  
3248 including, but not limited to, the following items, which shall  
3249 be stated ~~either~~ as an association expense collectible by  
3250 assessments or as unit owners' expenses payable to persons other  
3251 than the association:

- 3252 1. Expenses for the association and cooperative:
- 3253 a. Administration of the association.
  - 3254 b. Management fees.
  - 3255 c. Maintenance.
  - 3256 d. Rent for recreational and other commonly used areas.
  - 3257 e. Taxes upon association property.
  - 3258 f. Taxes upon leased areas.
  - 3259 g. Insurance.
  - 3260 h. Security provisions.
  - 3261 i. Other expenses.
  - 3262 j. Operating capital.
  - 3263 k. Reserves.
- 3264 1. Fee payable to the division.
- 3265 2. Expenses for a unit owner:
- 3266 a. Rent for the unit, if subject to a lease.
  - 3267 b. Rent payable by the unit owner directly to the lessor  
3268 or agent under any recreational lease or lease for the use of  
3269 commonly used areas, which use and payment are a mandatory  
3270 condition of ownership and are not included in the common  
3271 expense or assessments for common maintenance paid by the unit  
3272 owners to the association.

600723

4/21/2008 1:56 PM

Amendment No.

3273 (d) The following statement in conspicuous type: THE  
3274 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN  
3275 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE  
3276 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON  
3277 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.  
3278 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH  
3279 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN  
3280 THE OFFERING.

3281 (e) Each budget for an association prepared by a developer  
3282 consistent with this subsection shall be prepared in good faith  
3283 and shall reflect accurate estimated amounts for the required  
3284 items in paragraph (c) at the time of the filing of the offering  
3285 circular with the division, and subsequent increased amounts of  
3286 any item included in the association's estimated budget that are  
3287 beyond the control of the developer shall not be considered an  
3288 amendment that would give rise to rescission rights set forth in  
3289 s. 719.503(1)(a) or (b), nor shall such increases modify, void,  
3290 or otherwise affect any guarantee of the developer contained in  
3291 the offering circular or any purchase contract. It is the intent  
3292 of this paragraph to clarify existing law.

3293 (f) The estimated amounts shall be stated for a period of  
3294 at least 12 months and may distinguish between the period prior  
3295 to the time unit owners other than the developer elect a  
3296 majority of the board of administration and the period after  
3297 that date.

3298 (21) A schedule of estimated closing expenses to be paid  
3299 by a buyer or lessee of a unit and a statement of whether title

600723

4/21/2008 1:56 PM



Amendment No.

3300 opinion or title insurance policy is available to the buyer and,  
3301 if so, at whose expense.

3302 (22) The identity of the developer and the chief operating  
3303 officer or principal directing the creation and sale of the  
3304 cooperative and a statement of its and his or her experience in  
3305 this field.

3306 (23) Copies of the following, to the extent they are  
3307 applicable, shall be included as exhibits:

3308 (a) The cooperative documents, or the proposed cooperative  
3309 documents if the documents have not been recorded.

3310 (b) The articles of incorporation creating the  
3311 association.

3312 (c) The bylaws of the association.

3313 (d) The ground lease or other underlying lease of the  
3314 cooperative.

3315 (e) The management agreement and all maintenance and other  
3316 contracts for management of the association and operation of the  
3317 cooperative and facilities used by the unit owners having a  
3318 service term in excess of 1 year.

3319 (f) The estimated operating budget for the cooperative and  
3320 the required schedule of unit owners' expenses.

3321 (g) A copy of the floor plan of the unit and the plot plan  
3322 showing the location of the residential buildings and the  
3323 recreation and other common areas.

3324 (h) The lease of recreational and other facilities that  
3325 will be used only by unit owners of the subject cooperative.

3326 (i) The lease of facilities used by owners and others.

600723

4/21/2008 1:56 PM

Amendment No.

3327 (j) The form of unit lease, if the offer is of a  
3328 leasehold.

3329 (k) A declaration of servitude of properties serving the  
3330 cooperative but not owned by unit owners or leased to them or  
3331 the association.

3332 (l) The statement of condition of the existing building or  
3333 buildings, if the offering is of units in an operation being  
3334 converted to cooperative ownership.

3335 (m) The statement of inspection for termite damage and  
3336 treatment of the existing improvements, if the cooperative is a  
3337 conversion.

3338 (n) The form of agreement for sale or lease of units.

3339 (o) A copy of the agreement for escrow of payments made to  
3340 the developer prior to closing.

3341 (p) A copy of the documents containing any restrictions on  
3342 use of the property required by subsection (16).

3343 (24) Any prospectus or offering circular complying with  
3344 the provisions of former ss. 711.69 and 711.802 may continue to  
3345 be used without amendment, or may be amended to comply with ~~the~~  
3346 ~~provisions of~~ this chapter.

3347 (25) A brief narrative description of the location and  
3348 effect of all existing and intended easements located or to be  
3349 located on the cooperative property other than those in the  
3350 declaration.

3351 (26) If the developer is required by state or local  
3352 authorities to obtain acceptance or approval of any dock or  
3353 marina facility intended to serve the cooperative, a copy of  
3354 such acceptance or approval acquired by the time of filing with  
600723

4/21/2008 1:56 PM

Amendment No.

3355 the division pursuant to s. 719.502 or a statement that such  
3356 acceptance has not been acquired or received.

3357 (27) Evidence demonstrating that the developer has an  
3358 ownership, leasehold, or contractual interest in the land upon  
3359 which the cooperative is to be developed.

3360 Section 57. Section 719.508, Florida Statutes, is amended  
3361 to read:

3362 719.508 Regulation by Division of Hotels and  
3363 Restaurants.--In addition to the authority, regulation, or  
3364 control exercised by the Division of Florida ~~Land Sales,~~  
3365 Condominiums, Timeshares, and Mobile Homes pursuant to this act  
3366 with respect to cooperatives, buildings included in a  
3367 cooperative property shall be subject to the authority,  
3368 regulation, or control of the Division of Hotels and Restaurants  
3369 of the Department of Business and Professional Regulation, to  
3370 the extent provided ~~for~~ in chapters 399 and 509.

3371 Section 58. Paragraph (a) of subsection (2) of section  
3372 719.608, Florida Statutes, is amended to read:

3373 719.608 Notice of intended conversion; time of delivery;  
3374 content.--

3375 (2) (a) Each notice of intended conversion shall be dated  
3376 and in writing. The notice shall contain the following  
3377 statement, with the phrases of the following statement which  
3378 appear in upper case printed in conspicuous type:

3379  
3380 These apartments are being converted to cooperative by  
3381 (name of developer) , the developer.

Amendment No.

3382 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
3383 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
3384 AGREEMENT AS FOLLOWS:

3385 a. If you have continuously been a resident of these  
3386 apartments during the last 180 days and your rental agreement  
3387 expires during the next 270 days, you may extend your rental  
3388 agreement for up to 270 days after the date of this notice.

3389 b. If you have not been a continuous resident of these  
3390 apartments for the last 180 days and your rental agreement  
3391 expires during the next 180 days, you may extend your rental  
3392 agreement for up to 180 days after the date of this notice.

3393 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
3394 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
3395 DATE OF THIS NOTICE.

3396 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
3397 you may extend your rental agreement for up to 45 days after the  
3398 date of this notice while you decide whether to extend your  
3399 rental agreement as explained above. To do so, you must notify  
3400 the developer in writing. You will then have the full 45 days to  
3401 decide whether to extend your rental agreement as explained  
3402 above.

3403 3. During the extension of your rental agreement you will  
3404 be charged the same rent that you are now paying.

3405 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
3406 OF THE RENTAL AGREEMENT AS FOLLOWS:

3407 a. If your rental agreement began or was extended or  
3408 renewed after May 1, 1980, and your rental agreement, including  
3409 extensions and renewals, has an unexpired term of 180 days or

600723

4/21/2008 1:56 PM

Amendment No.

3410 less, you may cancel your rental agreement upon 30 days' written  
3411 notice and move. Also, upon 30 days' written notice, you may  
3412 cancel any extension of the rental agreement.

3413 b. If your rental agreement was not begun or was not  
3414 extended or renewed after May 1, 1980, you may not cancel the  
3415 rental agreement without the consent of the developer. If your  
3416 rental agreement, including extensions and renewals, has an  
3417 unexpired term of 180 days or less, you may, however, upon 30  
3418 days' written notice cancel any extension of the rental  
3419 agreement.

3420 5. All notices must be given in writing and sent by mail,  
3421 return receipt requested, or delivered in person to the  
3422 developer at this address: (name and address of developer) .

3423 6. If you have continuously been a resident of these  
3424 apartments during the last 180 days:

3425 a. You have the right to purchase your apartment and will  
3426 have 45 days to decide whether to purchase. If you do not buy  
3427 the unit at that price and the unit is later offered at a lower  
3428 price, you will have the opportunity to buy the unit at the  
3429 lower price. However, in all events your right to purchase the  
3430 unit ends when the rental agreement or any extension of the  
3431 rental agreement ends or when you waive this right in writing.

3432 b. Within 90 days you will be provided purchase  
3433 information relating to your apartment, including the price of  
3434 your unit and the condition of the building. If you do not  
3435 receive this information within 90 days, your rental agreement  
3436 and any extension will be extended 1 day for each day over 90  
3437 days until you are given the purchase information. If you do not

600723

4/21/2008 1:56 PM

Amendment No.

3438 want this rental agreement extension, you must notify the  
3439 developer in writing.

3440 7. If you have any questions regarding this conversion or  
3441 the Cooperative Act, you may contact the developer or the state  
3442 agency which regulates cooperatives: The Division of Florida  
3443 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,  
3444 (Tallahassee address and telephone number of division) .

3445 Section 59. Subsection (7) of section 720.301, Florida  
3446 Statutes, is amended to read:

3447 720.301 Definitions.--As used in this chapter, the term:

3448 (7) "Division" means the Division of Florida ~~Land Sales~~,  
3449 Condominiums, Timeshares, and Mobile Homes in the Department of  
3450 Business and Professional Regulation.

3451 Section 60. Subsection (2) of section 720.401, Florida  
3452 Statutes, is amended to read:

3453 720.401 Prospective purchasers subject to association  
3454 membership requirement; disclosure required; covenants;  
3455 assessments; contract cancellation.--

3456 (2) This section does not apply to any association  
3457 regulated under chapter 718, chapter 719, chapter 721, or  
3458 chapter 723 ~~or to a subdivider registered under chapter 498~~; and  
3459 also does not apply if disclosure regarding the association is  
3460 otherwise made in connection with the requirements of chapter  
3461 718, chapter 719, chapter 721, or chapter 723.

3462 Section 61. Paragraph (c) of subsection (1) of section  
3463 721.03, Florida Statutes, is amended to read:

3464 721.03 Scope of chapter.--

600723

4/21/2008 1:56 PM

Amendment No.

3465 (1) This chapter applies to all timeshare plans consisting  
3466 of more than seven timeshare periods over a period of at least 3  
3467 years in which the accommodations and facilities, if any, are  
3468 located within this state or offered within this state; provided  
3469 that:

3470 (c) All timeshare accommodations or facilities which are  
3471 located outside the state but offered for sale in this state  
3472 shall be governed by the following:

3473 1. The offering for sale in this state of timeshare  
3474 accommodations and facilities located outside the state is  
3475 subject only to the provisions of ss. 721.01-721.12, 721.18,  
3476 721.20, 721.21, 721.26, 721.28, and part II.

3477 2. The division shall not require a developer of timeshare  
3478 accommodations or facilities located outside of this state to  
3479 make changes in any timeshare instrument to conform to the  
3480 provisions of s. 721.07 or s. 721.55. The division shall have  
3481 the power to require disclosure of those provisions of the  
3482 timeshare instrument that do not conform to s. 721.07 or s.  
3483 721.55 as the director determines is necessary to fairly,  
3484 meaningfully, and effectively disclose all aspects of the  
3485 timeshare plan.

3486 3. Except as provided in this subparagraph, the division  
3487 shall have no authority to determine whether any person has  
3488 complied with another state's laws or to disapprove any filing  
3489 out-of-state, timeshare instrument, or component site document,  
3490 based solely upon the lack or degree of timeshare regulation in  
3491 another state. The division may require a developer to obtain  
3492 and provide to the division existing documentation relating to

600723

4/21/2008 1:56 PM

Amendment No.

3493 an out-of-state filing, timeshare instrument, or component site  
3494 document and prove compliance of same with the laws of that  
3495 state. In this regard, the division may accept any evidence of  
3496 the approval or acceptance of any out-of-state filing, timeshare  
3497 instrument, or component site document by another state in lieu  
3498 of requiring a developer to file the out-of-state filing,  
3499 timeshare instrument, or component site document with the  
3500 division pursuant to this section, or the division may accept an  
3501 opinion letter from an attorney or law firm opining as to the  
3502 compliance of such out-of-state filing, timeshare instrument, or  
3503 component site document with the laws of another state. The  
3504 division may refuse to approve the inclusion of any out-of-state  
3505 filing, timeshare instrument, or component site document as part  
3506 of a public offering statement based upon the inability of the  
3507 developer to establish the compliance of same with the laws of  
3508 another state.

3509 4. The division is authorized to enter into an agreement  
3510 with another state for the purpose of facilitating the  
3511 processing of out-of-state timeshare instruments or other  
3512 component site documents pursuant to this chapter and for the  
3513 purpose of facilitating the referral of consumer complaints to  
3514 the appropriate state.

3515 5. Notwithstanding any other provision of this paragraph,  
3516 the offer, in this state, of an additional interest to existing  
3517 purchasers in the same timeshare plan, the same nonspecific  
3518 multisite timeshare plan, or the same component site of a  
3519 multisite timeshare plan with accommodations and facilities  
3520 located outside of this state shall not be subject to the

600723

4/21/2008 1:56 PM



Amendment No.

3521 provisions of this chapter if the offer complies with the  
3522 provisions of s. 721.11(4).

3523 Section 62. Subsection (11) of section 721.05, Florida  
3524 Statutes, is amended to read:

3525 721.05 Definitions.--As used in this chapter, the term:

3526 (11) "Division" means the Division of Florida ~~Land Sales,~~  
3527 Condominiums, Timeshares, and Mobile Homes of the Department of  
3528 Business and Professional Regulation.

3529 Section 63. Paragraph (d) of subsection (2) of section  
3530 721.07, Florida Statutes, is amended to read:

3531 721.07 Public offering statement.--Prior to offering any  
3532 timeshare plan, the developer must submit a filed public  
3533 offering statement to the division for approval as prescribed by  
3534 s. 721.03, s. 721.55, or this section. Until the division  
3535 approves such filing, any contract regarding the sale of that  
3536 timeshare plan is subject to cancellation by the purchaser  
3537 pursuant to s. 721.10.

3538 (2)

3539 (d) A developer shall have the authority to deliver to  
3540 purchasers any purchaser public offering statement that is not  
3541 yet approved by the division, provided that the following shall  
3542 apply:

3543 1. At the time the developer delivers an unapproved  
3544 purchaser public offering statement to a purchaser pursuant to  
3545 this paragraph, the developer shall deliver a fully completed  
3546 and executed copy of the purchase contract required by s. 721.06  
3547 that contains the following statement in conspicuous type in

600723

4/21/2008 1:56 PM

Amendment No.

3548 substantially the following form which shall replace the  
3549 statements required by s. 721.06(1)(g):

3550  
3551 The developer is delivering to you a public offering statement  
3552 that has been filed with but not yet approved by the Division of  
3553 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes.  
3554 Any revisions to the unapproved public offering statement you  
3555 have received must be delivered to you, but only if the  
3556 revisions materially alter or modify the offering in a manner  
3557 adverse to you. After the division approves the public offering  
3558 statement, you will receive notice of the approval from the  
3559 developer and the required revisions, if any.

3560  
3561 Your statutory right to cancel this transaction without any  
3562 penalty or obligation expires 10 calendar days after the date  
3563 you signed your purchase contract or the date on which you  
3564 receive the last of all documents required to be given to you  
3565 pursuant to section 721.07(6), Florida Statutes, or 10 calendar  
3566 days after you receive revisions required to be delivered to  
3567 you, if any, whichever is later. If you decide to cancel this  
3568 contract, you must notify the seller in writing of your intent  
3569 to cancel. Your notice of cancellation shall be effective upon  
3570 the date sent and shall be sent to (Name of Seller) at  
3571 (Address of Seller) . Any attempt to obtain a waiver of your  
3572 cancellation right is void and of no effect. While you may  
3573 execute all closing documents in advance, the closing, as  
3574 evidenced by delivery of the deed or other document, before  
3575 expiration of your 10-day cancellation period, is prohibited.

600723

4/21/2008 1:56 PM

Amendment No.

3576  
3577  
3578  
3579  
3580  
3581  
3582  
3583  
3584  
3585  
3586  
3587  
3588  
3589  
3590  
3591  
3592  
3593  
3594  
3595  
3596  
3597  
3598  
3599  
3600  
3601  
3602

2. After receipt of approval from the division and prior to closing, if any revisions made to the documents contained in the purchaser public offering statement materially alter or modify the offering in a manner adverse to a purchaser, the developer shall send the purchaser such revisions together with a notice containing a statement in conspicuous type in substantially the following form:

The unapproved public offering statement previously delivered to you, together with the enclosed revisions, has been approved by the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes. Accordingly, your cancellation right expires 10 calendar days after you sign your purchase contract or 10 calendar days after you receive these revisions, whichever is later. If you have any questions regarding your cancellation rights, you may contact the division at [insert division's current address].

3. After receipt of approval from the division and prior to closing, if no revisions have been made to the documents contained in the unapproved purchaser public offering statement, or if such revisions do not materially alter or modify the offering in a manner adverse to a purchaser, the developer shall send the purchaser a notice containing a statement in conspicuous type in substantially the following form:

600723  
4/21/2008 1:56 PM

Amendment No.

3603 The unapproved public offering statement previously delivered to  
3604 you has been approved by the Division of Florida ~~Land Sales,~~  
3605 Condominiums, Timeshares, and Mobile Homes. Revisions made to  
3606 the unapproved public offering statement, if any, are ~~either~~ not  
3607 required to be delivered to you or are not deemed by the  
3608 developer, in its opinion, to materially alter or modify the  
3609 offering in a manner that is adverse to you. Accordingly, your  
3610 cancellation right expired 10 days after you signed your  
3611 purchase contract. A complete copy of the approved public  
3612 offering statement is available through the managing entity for  
3613 inspection as part of the books and records of the plan. If you  
3614 have any questions regarding your cancellation rights, you may  
3615 contact the division at [insert division's current address].

3616 Section 64. Subsection (8) of section 721.08, Florida  
3617 Statutes, is amended to read:

3618 721.08 Escrow accounts; nondisturbance instruments;  
3619 alternate security arrangements; transfer of legal title.--

3620 (8) An escrow agent holding escrowed funds pursuant to  
3621 this chapter that have not been claimed for a period of 5 years  
3622 after the date of deposit shall make at least one reasonable  
3623 attempt to deliver such unclaimed funds to the purchaser who  
3624 submitted such funds to escrow. In making such attempt, an  
3625 escrow agent is entitled to rely on a purchaser's last known  
3626 address as set forth in the books and records of the escrow  
3627 agent and is not required to conduct any further search for the  
3628 purchaser. If an escrow agent's attempt to deliver unclaimed  
3629 funds to any purchaser is unsuccessful, the escrow agent may  
3630 deliver such unclaimed funds to the division and the division  
600723

4/21/2008 1:56 PM

Amendment No.

3631 shall deposit such unclaimed funds in the Division of Florida  
3632 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust  
3633 Fund, 30 days after giving notice in a publication of general  
3634 circulation in the county in which the timeshare property  
3635 containing the purchaser's timeshare interest is located. The  
3636 purchaser may claim the same at any time prior to the delivery  
3637 of such funds to the division. After delivery of such funds to  
3638 the division, the purchaser shall have no more rights to the  
3639 unclaimed funds. The escrow agent shall not be liable for any  
3640 claims from any party arising out of the escrow agent's delivery  
3641 of the unclaimed funds to the division pursuant to this section.

3642 Section 65. Section 721.26, Florida Statutes, is amended  
3643 to read:

3644 721.26 Regulation by division.--The division has the power  
3645 to enforce and ensure compliance with ~~the provisions of~~ this  
3646 chapter, except for parts III and IV, using the powers provided  
3647 in this chapter, as well as the powers prescribed in chapters  
3648 ~~498~~, 718~~7~~ and 719. In performing its duties, the division shall  
3649 have the following powers and duties:

3650 (1) To aid in the enforcement of this chapter, or any  
3651 division rule adopted or order ~~promulgated or~~ issued pursuant to  
3652 this chapter, the division may make necessary public or private  
3653 investigations within or outside this state to determine whether  
3654 any person has violated or is about to violate this chapter, or  
3655 any division rule adopted or order ~~promulgated or~~ issued  
3656 pursuant to this chapter.

3657 (2) The division may require or permit any person to file  
3658 a written statement under oath or otherwise, as the division

600723

4/21/2008 1:56 PM

Amendment No.

3659 determines, as to the facts and circumstances concerning a  
3660 matter under investigation.

3661 (3) For the purpose of any investigation under this  
3662 chapter, the director of the division or any officer or employee  
3663 designated by the director may administer oaths or affirmations,  
3664 subpoena witnesses and compel their attendance, take evidence,  
3665 and require the production of any matter which is relevant to  
3666 the investigation, including the identity, existence,  
3667 description, nature, custody, condition, and location of any  
3668 books, documents, or other tangible things and the identity and  
3669 location of persons having knowledge of relevant facts or any  
3670 other matter reasonably calculated to lead to the discovery of  
3671 material evidence. Failure to obey a subpoena or to answer  
3672 questions propounded by the investigating officer and upon  
3673 reasonable notice to all persons affected thereby shall be a  
3674 violation of this chapter. In addition to the other enforcement  
3675 powers authorized in this subsection, the division may, ~~at its~~  
3676 ~~discretion,~~ apply to the circuit court for an order compelling  
3677 compliance.

3678 (4) The division may prepare and disseminate a prospectus  
3679 and other information to assist prospective purchasers, sellers,  
3680 and managing entities of timeshare plans in assessing the  
3681 rights, privileges, and duties pertaining thereto.

3682 (5) Notwithstanding any remedies available to purchasers,  
3683 if the division has reasonable cause to believe that a violation  
3684 of this chapter, or of any division rule adopted or order  
3685 ~~promulgated or~~ issued pursuant to this chapter, has occurred,  
3686 the division may institute enforcement proceedings in its own

600723

4/21/2008 1:56 PM

Amendment No.

3687 name against any regulated party, as such term is defined in  
3688 this subsection:

3689 (a)1. "Regulated party," for purposes of this section,  
3690 means any developer, exchange company, seller, managing entity,  
3691 owners' association, owners' association director, owners'  
3692 association officer, manager, management firm, escrow agent,  
3693 trustee, any respective assignees or agents, or any other person  
3694 having duties or obligations pursuant to this chapter.

3695 2. Any person who materially participates in any offer or  
3696 disposition of any interest in, or the management or operation  
3697 of, a timeshare plan in violation of this chapter or relevant  
3698 rules involving fraud, deception, false pretenses,  
3699 misrepresentation, or false advertising or the disbursement,  
3700 concealment, or diversion of any funds or assets, which conduct  
3701 adversely affects the interests of a purchaser, and which person  
3702 directly or indirectly controls a regulated party or is a  
3703 general partner, officer, director, agent, or employee of such  
3704 regulated party, shall be jointly and severally liable under  
3705 this subsection with such regulated party, unless such person  
3706 did not know, and in the exercise of reasonable care could not  
3707 have known, of the existence of the facts giving rise to the  
3708 violation of this chapter. A right of contribution shall exist  
3709 among jointly and severally liable persons pursuant to this  
3710 paragraph.

3711 (b) The division may permit any person whose conduct or  
3712 actions may be under investigation to waive formal proceedings  
3713 and enter into a consent proceeding whereby an order, rule, or

600723

4/21/2008 1:56 PM

Amendment No.

3714 letter of censure or warning, whether formal or informal, may be  
3715 entered against that person.

3716 (c) The division may issue an order requiring a regulated  
3717 party to cease and desist from an unlawful practice under this  
3718 chapter and take such affirmative action as in the judgment of  
3719 the division will carry out the purposes of this chapter.

3720 (d)1. The division may bring an action in circuit court  
3721 for declaratory or injunctive relief or for other appropriate  
3722 relief, including restitution.

3723 2. The division shall have broad authority and discretion  
3724 to petition the circuit court to appoint a receiver with respect  
3725 to any managing entity which fails to perform its duties and  
3726 obligations under this chapter with respect to the operation of  
3727 a timeshare plan. The circumstances giving rise to an  
3728 appropriate petition for receivership under this subparagraph  
3729 include, but are not limited to:

3730 a. Damage to or destruction of any of the accommodations  
3731 or facilities of a timeshare plan, where the managing entity has  
3732 failed to repair or reconstruct same.

3733 b. A breach of fiduciary duty by the managing entity,  
3734 including, but not limited to, undisclosed self-dealing or  
3735 failure to timely assess, collect, or disburse the common  
3736 expenses of the timeshare plan.

3737 c. Failure of the managing entity to operate the timeshare  
3738 plan in accordance with the timeshare instrument and this  
3739 chapter.

3740

600723

4/21/2008 1:56 PM



Amendment No.

3741 If, under the circumstances, it appears that the events giving  
3742 rise to the petition for receivership cannot be reasonably and  
3743 timely corrected in a cost-effective manner consistent with the  
3744 timeshare instrument, the receiver may petition the circuit  
3745 court to implement such amendments or revisions to the timeshare  
3746 instrument as may be necessary to enable the managing entity to  
3747 resume effective operation of the timeshare plan, or to enter an  
3748 order terminating the timeshare plan, or to enter such further  
3749 orders regarding the disposition of the timeshare property as  
3750 the court deems appropriate, including the disposition and sale  
3751 of the timeshare property held by the owners' association or the  
3752 purchasers. In the event of a receiver's sale, all rights,  
3753 title, and interest held by the owners' association or any  
3754 purchaser shall be extinguished and title shall vest in the  
3755 buyer. This provision applies to timeshare estates, personal  
3756 property timeshare interests, and timeshare licenses. All  
3757 reasonable costs and fees of the receiver relating to the  
3758 receivership shall become common expenses of the timeshare plan  
3759 upon order of the court.

3760 3. The division may revoke its approval of any filing for  
3761 any timeshare plan for which a petition for receivership has  
3762 been filed pursuant to this paragraph.

3763 (e)1. The division may impose a penalty against any  
3764 regulated party for a violation of this chapter or any rule  
3765 adopted thereunder. A penalty may be imposed on the basis of  
3766 each day of continuing violation, but in no event may the  
3767 penalty for any offense exceed \$10,000. All accounts collected  
3768 shall be deposited with the Chief Financial Officer to the

600723

4/21/2008 1:56 PM

Amendment No.

3769 credit of the Division of Florida ~~Land Sales~~, Condominiums,  
3770 Timeshares, and Mobile Homes Trust Fund.

3771 2.a. If a regulated party fails to pay a penalty, the  
3772 division shall thereupon issue an order directing that such  
3773 regulated party cease and desist from further operation until  
3774 such time as the penalty is paid; or the division may pursue  
3775 enforcement of the penalty in a court of competent jurisdiction.

3776 b. If an owners' association or managing entity fails to  
3777 pay a civil penalty, the division may pursue enforcement in a  
3778 court of competent jurisdiction.

3779 (f) In order to permit the regulated party an opportunity  
3780 ~~either~~ to appeal such decision administratively or to seek  
3781 relief in a court of competent jurisdiction, the order imposing  
3782 the penalty or the cease and desist order shall not become  
3783 effective until 20 days after the date of such order.

3784 (g) Any action commenced by the division shall be brought  
3785 in the county in which the division has its executive offices or  
3786 in the county where the violation occurred.

3787 (h) Notice to any regulated party shall be complete when  
3788 delivered by United States mail, return receipt requested, to  
3789 the party's address currently on file with the division or to  
3790 such other address at which the division is able to locate the  
3791 party. Every regulated party has an affirmative duty to notify  
3792 the division of any change of address at least 5 business days  
3793 prior to such change.

3794 (6) The division has authority to adopt rules pursuant to  
3795 ss. 120.536(1) and 120.54 to implement and enforce the  
3796 provisions of this chapter.

600723

4/21/2008 1:56 PM

Amendment No.

3797 (7) (a) The use of any unfair or deceptive act or practice  
3798 by any person in connection with the sales or other operations  
3799 of an exchange program or timeshare plan is a violation of this  
3800 chapter.

3801 (b) Any violation of the Florida Deceptive and Unfair  
3802 Trade Practices Act, ss. 501.201 et seq., relating to the  
3803 creation, promotion, sale, operation, or management of any  
3804 timeshare plan shall also be a violation of this chapter.

3805 (c) The division may ~~is authorized to~~ institute  
3806 proceedings against any such person and take any appropriate  
3807 action authorized in this section in connection therewith,  
3808 notwithstanding any remedies available to purchasers.

3809 (8) The failure of any person to comply with any order of  
3810 the division is a violation of this chapter.

3811 Section 66. Section 721.28, Florida Statutes, is amended  
3812 to read:

3813 721.28 Division of Florida ~~Land Sales,~~ Condominiums,  
3814 Timeshares, and Mobile Homes Trust Fund.--All funds collected by  
3815 the division and any amounts paid as fees or penalties under  
3816 this chapter shall be deposited in the State Treasury to the  
3817 credit of the Division of Florida ~~Land Sales,~~ Condominiums,  
3818 Timeshares, and Mobile Homes Trust Fund created by s. 718.509  
3819 ~~498.019~~.

3820 Section 67. Paragraph (c) of subsection (1) of section  
3821 721.301, Florida Statutes, is amended to read:

3822 721.301 Florida Timesharing, Vacation Club, and  
3823 Hospitality Program.--

3824 (1)

600723

4/21/2008 1:56 PM

Amendment No.

3825 (c) The director may designate funds from the Division of  
3826 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes  
3827 Trust Fund, not to exceed \$50,000 annually, to support the  
3828 projects and proposals undertaken pursuant to paragraph (b). All  
3829 state trust funds to be expended pursuant to this section must  
3830 be matched equally with private moneys and shall comprise no  
3831 more than half of the total moneys expended annually.

3832 Section 68. Section 721.50, Florida Statutes, is amended  
3833 to read:

3834 721.50 Short title.--This part may be cited as the  
3835 "McAllister Act" in recognition and appreciation for the years  
3836 of extraordinary and insightful contributions by Mr. Bryan C.  
3837 McAllister, Examinations Supervisor of the former, Division of  
3838 Florida Land Sales, Condominiums, and Mobile Homes.

3839 Section 69. Subsection (1) of section 723.003, Florida  
3840 Statutes, is amended to read:

3841 723.003 Definitions.--As used in this chapter, the  
3842 following words and terms have the following meanings unless  
3843 clearly indicated otherwise:

3844 (1) The term "division" means the Division of Florida ~~Land~~  
3845 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the  
3846 Department of Business and Professional Regulation.

3847 Section 70. Paragraph (e) of subsection (5) of section  
3848 723.006, Florida Statutes, is amended to read:

3849 723.006 Powers and duties of division.--In performing its  
3850 duties, the division has the following powers and duties:

3851 (5) Notwithstanding any remedies available to mobile home  
3852 owners, mobile home park owners, and homeowners' associations,  
600723

4/21/2008 1:56 PM

Amendment No.

3853 if the division has reasonable cause to believe that a violation  
3854 of any provision of this chapter or related ~~any rule promulgated~~  
3855 ~~pursuant hereto~~ has occurred, the division may institute  
3856 enforcement proceedings in its own name against a developer,  
3857 mobile home park owner, or homeowners' association, or its  
3858 assignee or agent, as follows:

3859 (e)1. The division may impose a civil penalty against a  
3860 mobile home park owner or homeowners' association, or its  
3861 assignee or agent, for any violation of this chapter, a properly  
3862 adopted ~~promulgated~~ park rule or regulation, or a rule adopted  
3863 ~~or regulation promulgated~~ pursuant hereto. A penalty may be  
3864 imposed on the basis of each separate violation and, if the  
3865 violation is a continuing one, for each day of continuing  
3866 violation, but in no event may the penalty for each separate  
3867 violation or for each day of continuing violation exceed \$5,000.  
3868 All amounts collected shall be deposited with the Chief  
3869 Financial Officer to the credit of the Division of Florida ~~Land~~  
3870 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund.

3871 2. If a violator fails to pay the civil penalty, the  
3872 division shall thereupon issue an order directing that such  
3873 violator cease and desist from further violation until such time  
3874 as the civil penalty is paid or may pursue enforcement of the  
3875 penalty in a court of competent jurisdiction. If a homeowners'  
3876 association fails to pay the civil penalty, the division shall  
3877 thereupon pursue enforcement in a court of competent  
3878 jurisdiction, and the order imposing the civil penalty or the  
3879 cease and desist order shall not become effective until 20 days  
3880 after the date of such order. Any action commenced by the

600723

4/21/2008 1:56 PM

HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

3881 division shall be brought in the county in which the division  
3882 has its executive offices or in which the violation occurred.

3883 Section 71. Section 723.009, Florida Statutes, is amended  
3884 to read:

3885 723.009 Division of Florida ~~Land Sales~~, Condominiums,  
3886 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the  
3887 fees, penalties, and fines imposed pursuant to this chapter  
3888 shall be deposited into the Division of Florida ~~Land Sales~~,  
3889 Condominiums, Timeshares, and Mobile Homes Trust Fund created by  
3890 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the  
3891 Legislature pursuant to chapter 216, may be used to defray the  
3892 expenses incurred by the division in administering the  
3893 provisions of this chapter.

3894 Section 72. Paragraph (c) of subsection (2) of section  
3895 723.0611, Florida Statutes, is amended to read:

3896 723.0611 Florida Mobile Home Relocation Corporation.--  
3897 (2)

3898 (c) The corporation shall, for purposes of s. 768.28, be  
3899 considered an agency of the state. Agents or employees of the  
3900 corporation, members of the board of directors of the  
3901 corporation, or representatives of the Division of Florida ~~Land~~  
3902 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be  
3903 considered officers, employees, or agents of the state, and  
3904 actions against them and the corporation shall be governed by s.  
3905 768.28.

3906 Section 73. Except as otherwise expressly provided in this  
3907 act, this act shall take effect July 1, 2008.

3908

600723

4/21/2008 1:56 PM

Amendment No.

3909  
3910  
3911  
3912  
3913  
3914  
3915  
3916  
3917  
3918  
3919  
3920  
3921  
3922  
3923  
3924  
3925  
3926  
3927  
3928  
3929  
3930  
3931  
3932  
3933  
3934  
3935  
3936

-----

**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

A bill to be entitled

An act relating to the Department of Business and Professional Regulation; amending s. 718.111, F.S.; requiring that hazard insurance be based upon the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal; requiring that the full insurable value be determined at specified intervals; providing a means by which an association may provide adequate hazard insurance; authorizing an association to consider certain information when determining coverage amounts; providing for coverage by developer-controlled associations; providing that policies may include deductibles as determined by the association's board of directors; providing requirements and guidelines for the establishment of such deductibles; requiring that the amounts of deductibles be set at a meeting of the board; providing requirements for such meeting; requiring that an association controlled by unit owners operating as a residential condominium use its best efforts to obtain and maintain adequate insurance to protect the association and property under its supervision or control; providing that a declaration of condominium may provide that condominium property consisting of freestanding buildings comprised of no more than one building in or on such unit need not be insured by the association if the declaration requires the unit owner to obtain

600723  
4/21/2008 1:56 PM

Amendment No.

3937 adequate insurance for the condominium property; authorizing an  
3938 association to obtain and maintain liability insurance for  
3939 directors and officers, insurance for the benefit of association  
3940 employees, and flood insurance for common elements, association  
3941 property, and units; requiring that every hazard insurance  
3942 policy issued or renewed on or after a specified date for the  
3943 purpose of protecting the condominium provide certain coverage;  
3944 requiring that such policies contain certain provisions;  
3945 providing that such policies issued to individual unit owners do  
3946 not provide rights of subrogation against the condominium  
3947 association; providing for the insurance of improvements or  
3948 additions benefiting fewer than all unit owners; requiring that  
3949 an association require each owner to provide evidence of a  
3950 current policy of hazard and liability insurance upon request;  
3951 limiting the frequency with which an association may make such a  
3952 request; authorizing an association to purchase coverage on  
3953 behalf of an owner under certain circumstances; providing for  
3954 the collection of the costs of such a policy; providing  
3955 responsibilities of the unit owner and association with regard  
3956 to reconstruction work and associated costs after a casualty  
3957 loss; authorizing a multicondominium association to operate such  
3958 condominiums as a single condominium for certain purposes by  
3959 majority vote of the members of all applicable condominiums;  
3960 providing that such election constitutes an amendment to the  
3961 declaration of all applicable condominiums; requiring that an  
3962 association maintain insurance or fidelity bonding for all  
3963 persons who control or disburse association funds; requiring  
3964 that such insurance policy or fidelity bond cover the maximum

600723

4/21/2008 1:56 PM



Amendment No.

3965 funds in the custody of the association or its management agent  
3966 at any one time; defining the term "persons who control or  
3967 disburse funds of the association"; authorizing an association  
3968 to amend the declaration of condominium without regard to any  
3969 requirement for approval by mortgagees of amendments affecting  
3970 insurance requirements for the purpose of conforming the  
3971 declaration of condominium to certain coverage requirements;  
3972 providing that any portion of the condominium property required  
3973 to be insured by the association against casualty loss which is  
3974 damaged be reconstructed, repaired, or replaced as necessary by  
3975 the association as a common expense; providing that all hazard  
3976 insurance deductibles, uninsured losses, and other damages in  
3977 excess of hazard insurance coverage under the hazard insurance  
3978 policies maintained by the association are a common expense of  
3979 the condominium; providing exceptions; allocating responsibility  
3980 for certain costs of repair or reconstruction; authorizing an  
3981 association to opt out of certain requirements related to such  
3982 allocation of responsibility by majority vote; providing a  
3983 procedure by which a multicondominium association that has not  
3984 consolidated its financial operations may opt out of such  
3985 allocation of responsibility; requiring that a decision to opt  
3986 out be recorded; providing that such decision takes effect on  
3987 the date on which it is recorded; authorizing the reversal of  
3988 such decision; providing a procedure for reversal; providing  
3989 that an association is not obligated to pay for any  
3990 reconstruction or repair expenses for improvements made by an  
3991 owner or the development if an improvement benefits only the  
3992 unit for which it was installed; amending s. 718.115, F.S.;

600723

4/21/2008 1:56 PM

HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

3993 requiring that certain expenses be designated as common  
3994 expenses; amending s. 718.116, F.S.; authorizing the designee of  
3995 a unit owner or mortgagee to request a certificate of  
3996 assessment; requiring that the fee for preparation of such  
3997 certificate be stated on the certificate; providing for the  
3998 establishment of such fees; providing for payment of the fee;  
3999 requiring that the fee be refunded if a planned sale or mortgage  
4000 does not occur; providing that any such refund is the obligation  
4001 of the unit owner and is collectable in the same manner as an  
4002 assessment; amending s. 718.117, F.S.; prohibiting the  
4003 distribution of proceeds from the sale of a condominium unit to  
4004 a lienholder from exceeding a unit owner's share of the  
4005 proceeds; creating s. 720.30851, F.S.; requiring that the  
4006 association provide a certificate signed by an officer or agent  
4007 of the association stating all assessments and other moneys owed  
4008 to the association by the parcel owner or mortgagee with respect  
4009 to the parcel within a specified period after the association's  
4010 receipt of a request for an estoppel certificate by an owner or  
4011 mortgagee; providing that any person other than a parcel owner  
4012 who relies upon a certificate receives the benefits and  
4013 protection thereof; providing that a summary proceeding may be  
4014 brought to compel the association to comply with the requirement  
4015 to provide a certificate; providing that the prevailing party is  
4016 entitled to recover reasonable attorney's fees; requiring that  
4017 the fee for preparation of such certificate be stated on the  
4018 certificate; providing for the establishment of such fees;  
4019 providing for payment of the fee; requiring that the fee be  
4020 refunded if a planned sale or mortgage does not occur; providing

600723

4/21/2008 1:56 PM

HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

4021 that any such refund is the obligation of the unit owner and is  
4022 collectable in the same manner as an assessment; amending s.  
4023 20.165, F.S.; changing the name of the Division of Florida Land  
4024 Sales, Condominiums, and Mobile Homes to the Division of Florida  
4025 Condominiums, Timeshares, and Mobile Homes and the Division of  
4026 Technology, Licensure, and Testing to the Division of  
4027 Technology; amending s. 215.20, F.S.; conforming the name of the  
4028 division's trust fund to correspond to the name change of the  
4029 division; amending s. 450.33, F.S.; removing the requirement for  
4030 a farm labor contractor to file a set of fingerprints with the  
4031 department; amending s. 455.203, F.S.; authorizing the  
4032 department to close and terminate deficient license applications  
4033 and to approve professional license applications meeting certain  
4034 criteria; amending s. 455.217, F.S.; conforming terminology to  
4035 changes made by the act; amending s. 455.2273, F.S.; authorizing  
4036 the section to apply to disciplinary guidelines adopted by all  
4037 boards and divisions; amending s. 468.841, F.S.; clarifying  
4038 exemption provisions for license provisions governing mold-  
4039 related services; amending s. 475.17, F.S.; revising  
4040 requirements for licensure as a real estate broker; amending s.  
4041 475.451, F.S.; deleting requirements relating to the submission  
4042 of certain real estate course rosters to the department;  
4043 amending s. 489.105, F.S.; clarifying that individuals and  
4044 business entities that sell manufactured and factory-built  
4045 buildings can legally enter into contracts for those sales;  
4046 amending s. 489.511, F.S.; revising requirements for taking the  
4047 electrical or alarm system contractor certification examination;  
4048 providing requirements for certification; amending s. 489.515,  
600723

4/21/2008 1:56 PM

HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

4049 F.S.; revising requirements for certification as a certified  
4050 contractor by the Electrical Contractors' Licensing Board to  
4051 reflect changes made to s. 489.511, F.S., by this act;  
4052 renumbering s. 498.009, F.S., relating to the location of the  
4053 division's offices; amending and renumbering s. 498.011, F.S.,  
4054 relating to payment of per diem, mileage, and other expenses for  
4055 division employees; providing for reimbursement of expenses for  
4056 on-site review; deleting the expense reimbursement for  
4057 inspection of subdivided lands; renumbering s. 498.013, F.S.,  
4058 relating to the authentication of records; amending and  
4059 renumbering s. 498.057, F.S., relating to service of process;  
4060 deleting provision that service may be made by delivering a copy  
4061 of the process to the division director; providing that the  
4062 division can be the petitioner or the plaintiff; repealing ss.  
4063 498.001, 498.003, 498.005, 498.007, 498.017, 498.021, 498.022,  
4064 498.023, 498.024, 498.025, 498.027, 498.028, 498.029, 498.031,  
4065 498.033, 498.035, 498.037, 498.039, 498.041, 498.047, 498.049,  
4066 498.051, 498.053, 498.059, 498.061, and 498.063, F.S., relating  
4067 to regulation of land sales practices; amending s. 548.0065,  
4068 F.S.; including amateur mixed martial arts in a provision  
4069 relating to the authority of the Florida State Boxing Commission  
4070 to suspend amateur matches for violation of certain health and  
4071 safety standards; amending s. 548.008, F.S.; removing  
4072 prohibition against holding amateur mixed martial arts matches  
4073 in this state; amending s. 548.041, F.S.; providing additional  
4074 licensure requirements for boxing participants; amending s.  
4075 718.501, F.S.; providing additional powers and duties of the  
4076 division; providing for additional enforcement proceedings for  
600723

4/21/2008 1:56 PM

HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

4077 carrying out the purposes of ch. 718, F.S.; deleting the payment  
4078 of money by a developer to a condominium association as a  
4079 permissible affirmative action; providing for actions of  
4080 conservator or receiver; providing for application to circuit  
4081 court for an order of restitution; providing for imposition of  
4082 civil penalties and award of court costs, attorney's fees, and  
4083 costs of investigation under certain circumstances; providing  
4084 for contracting for investigative services; providing for  
4085 acceptance of grants-in-aid; requiring the cooperation with  
4086 similar agencies on establishment of certain procedures,  
4087 standards, and forms; providing what constitutes completeness of  
4088 notice; authorizing the division to issue a notice to show  
4089 cause; providing conforming changes; amending s. 718.509, F.S.,  
4090 and transferring, renumbering, and amending s. 498.019, F.S.;  
4091 consolidating and revising provisions relating to the creation,  
4092 purposes, and sources of funds of the Division of Florida  
4093 Condominiums, Timeshares, and Mobile Homes Trust Fund; revising  
4094 provisions to conform to the change in division name; providing  
4095 for the deposit of moneys resulting from an administrative final  
4096 order; amending s. 721.03, F.S.; clarifying that timeshare plan  
4097 includes a nonspecific multisite timeshare plan; amending ss.  
4098 73.073, 190.009, 192.037, 213.053, 326.002, 326.006, 380.05,  
4099 380.06, 380.0651, 381.0065, 455.116, 475.455, 494.008, 509.512,  
4100 517.301, 559.935, 718.103, 718.105, 718.1255, 718.5011, 718.502,  
4101 718.504, 718.508, 718.608, 719.103, 719.1255, 719.501, 719.502,  
4102 719.504, 719.508, 719.608, 720.301, 720.401, 721.05, 721.07,  
4103 721.08, 721.26, 721.28, 721.301, 721.50, 723.003, 723.006,

600723

4/21/2008 1:56 PM

HOUSE AMENDMENT

Bill No. CS/HB 1249

Amendment No.

4104 723.009, and 723.0611, F.S., to conform; providing effective  
4105 dates.

600723

4/21/2008 1:56 PM