



073782

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/25/2008	.	
	.	
	.	

1 The Committee on Regulated Industries (Jones) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

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

9 718.111 The association.--

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



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17 Legislature to encourage lower or stable insurance premiums for
18 associations described in this subsection ~~section~~.

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

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

29 2. The association may also provide adequate hazard
30 insurance coverage individually or for a group of no fewer than
31 three communities created and operating under this chapter,
32 chapter 719, chapter 720, or chapter 721 by obtaining and
33 maintaining for such communities insurance coverage sufficient to
34 cover an amount equal to the probable maximum loss for the
35 communities for a 250-year windstorm event. Such probable maximum
36 loss must be determined through the use of a competent model that
37 has been accepted by the Florida Commission on Hurricane Loss
38 Projection Methodology. No policy or program providing such
39 coverage shall be issued or renewed after July 1, 2008, unless it
40 has been reviewed and approved by the Office of Insurance
41 Regulation. The review and approval shall include approval of
42 the policy and related forms pursuant to ss. 627.410 and 627.411,
43 approval of the rates pursuant to s. 627.062, a determination
44 that the loss model approved by the Commission was accurately and
45 appropriately applied to the insured structures to determine the
46 250-year probable maximum loss, and a determination that complete



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47 | and accurate disclosure of all material provisions is provided
48 | to condominium unit owners prior to execution of the agreement by
49 | a condominium association.

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

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

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

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

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

71 | 3. The board shall establish the amount of deductibles
72 | based upon the level of available funds and predetermined
73 | assessment authority at a meeting of the board. Such meeting
74 | shall be open to all unit owners in the manner set forth in s.
75 | 718.112(2)(e). The notice of such meeting must state the proposed
76 | deductible and the available funds and the assessment authority



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77 relied upon by the board and estimate any potential assessment
78 amount against each unit, if any. The meeting described in this
79 paragraph may be held in conjunction with a meeting to consider
80 the proposed budget or an amendment thereto.

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

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

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

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

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

105 3. The coverage shall exclude all personal property within
106 the unit or limited common elements, and floor, wall, and ceiling



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107 coverings, electrical fixtures, appliances, water heaters, water
108 filters, built-in cabinets and countertops, and window
109 treatments, including curtains, drapes, blinds, hardware, and
110 similar window treatment components, or replacements of any of
111 the foregoing.

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

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

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



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136 the responsibility of the unit owner, may be collected in the
137 manner provided for the collection of assessments in s. 718.116.

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

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

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



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166 the association budget. The amendments shall be recorded as
167 required by s. 718.110.

168 (h) The association shall maintain insurance or fidelity
169 bonding of all persons who control or disburse funds of the
170 association. The insurance policy or fidelity bond must cover the
171 maximum funds that will be in the custody of the association or
172 its management agent at any one time. As used in this paragraph,
173 the term "persons who control or disburse funds of the
174 association" includes, but is not limited to, those individuals
175 authorized to sign checks on behalf of the association, and the
176 president, secretary, and treasurer of the association. The
177 association shall bear the cost of any such 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 the
181 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



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196 declaration or the rules of the association by a unit owner, the
197 members of his or her family, unit occupants, tenants, guests, or
198 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 property
203 also applies to the costs of repair or replacement of personal
204 property of other unit owners or the association, as well as
205 other property, whether real or personal, which the unit owners
206 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
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 it
220 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



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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.

236 (m) Any association or condominium voting to opt out of the
237 guidelines for repair or reconstruction expenses as described in
238 paragraph (j) must record a notice setting forth the date of the
239 opt-out vote and the page of the official records book on which
240 the declaration is recorded. The decision to opt out is effective
241 upon the date of recording of the notice in the public records by
242 the association. An association that has voted to opt out of
243 paragraph (j) may reverse that decision by the same vote required
244 in paragraphs (k) and (l), and notice thereof shall be recorded
245 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 for
250 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 located
253 within the unit. This paragraph does not relieve any party of its
254 obligations regarding recovery due under any insurance
255 implemented specifically for any such improvements.



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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 Financial~~
262 ~~Services for publication 18 months from the effective date of~~
263 ~~this act, evaluating premium increases or decreases for~~
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 appropriate.~~

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



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286 ~~insurance for directors and officers, insurance for the benefit~~
287 ~~of association employees, and flood insurance for common~~
288 ~~elements, association property, and units. Adequate insurance,~~
289 ~~regardless of any requirement in the declaration of condominium~~
290 ~~for coverage by the association for "full insurable value,"~~
291 ~~"replacement cost," or the like, may include reasonable~~
292 ~~deductibles as determined by the board based upon available funds~~
293 ~~or predetermined assessment authority at the time that the~~
294 ~~insurance is obtained.~~

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

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



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

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

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

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

327
328 ~~Anything to the contrary notwithstanding, the terms "condominium~~
329 ~~property," "building," "improvements," "insurable improvements,"~~
330 ~~"common elements," "association property," or any other term~~
331 ~~found in the declaration of condominium which defines the scope~~
332 ~~of property or casualty insurance that a condominium association~~
333 ~~must obtain shall exclude all floor, wall, and ceiling coverings,~~
334 ~~electrical fixtures, appliances, air conditioner or heating~~
335 ~~equipment, water heaters, water filters, built-in cabinets and~~
336 ~~countertops, and window treatments, including curtains, drapes,~~
337 ~~blinds, hardware, and similar window treatment components, or~~
338 ~~replacements of any of the foregoing which are located within the~~
339 ~~boundaries of a unit and serve only one unit and all air~~
340 ~~conditioning compressors that service only an individual unit,~~
341 ~~whether or not located within the unit boundaries. The foregoing~~
342 ~~is intended to establish the property or casualty insuring~~
343 ~~responsibilities of the association and those of the individual~~

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344 ~~unit owner and do not serve to broaden or extend the perils of~~
345 ~~coverage afforded by any insurance contract provided to the~~
346 ~~individual unit owner. Beginning January 1, 2004, the association~~
347 ~~shall have the authority to amend the declaration of condominium,~~
348 ~~without regard to any requirement for mortgagee approval of~~
349 ~~amendments affecting insurance requirements, to conform the~~
350 ~~declaration of condominium to the coverage requirements of this~~
351 ~~section.~~

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

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



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

376 718.115 Common expenses and common surplus.--

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



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

406 718.116 Assessments; liability; lien and priority;
407 interest; collection.--

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

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

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

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

426 (d) The authority to charge a fee under this section shall
427 be established by written resolution adopted by the board or
428 provided by written management, bookkeeping, or maintenance
429 contract. The fee is payable upon the preparation of the
430 certificate, and if the certificate is requested in conjunction
431 with the sale or mortgage of a unit and the closing does not
432 occur, the fee shall be refunded promptly upon written notice
433 from the person requesting the certificate stating that the sale



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434 or mortgage did not occur. Any such refund is the obligation of
435 the unit owner and is collectable in the same manner as an
436 assessment as provided in this section.

437 Section 4. Paragraph (c) of subsection (17) of section
438 718.117, Florida Statutes, is amended to read:

439 718.117 Termination of condominium.--

440 (17) DISTRIBUTION.--

441 (c) The proceeds from any sale of condominium property or
442 association property and any remaining condominium property or
443 association property, common surplus, and other assets shall be
444 distributed in the following priority:

445 1. To pay the reasonable termination trustee's fees and
446 costs and accounting fees and costs.

447 2. To lienholders of liens recorded prior to the recording
448 of the declaration.

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

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

454 5. To creditors of the association, as their interests
455 appear.

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

461 7. To unit owners, the remaining condominium property,
462 subject to satisfaction of liens on each unit in their order of
463 priority, in shares specified in the plan of termination, unless

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464 objected to by a unit owner or a lienor as provided in paragraph
465 (b).

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

472 Section 5. Section 720.30851, Florida Statutes, is created
473 to read:

474 720.30851 Estoppel certificates.--Within 15 days after the
475 date on which a request for an estoppel certificate is received
476 from a parcel owner or mortgagee, or his or her designee, the
477 association shall provide a certificate signed by an officer or
478 agent of the association stating all assessments and other moneys
479 owed to the association by the parcel owner or mortgagee with
480 respect to the parcel. An association may charge a fee for the
481 preparation of such certificate, and the amount of such fee must
482 be stated on the certificate.

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

485 (2) A summary proceeding pursuant to s. 51.011 may be
486 brought to compel compliance with this section, and the
487 prevailing party is entitled to recover reasonable attorney's
488 fees.

489 (3) The authority to charge a fee for a certificate
490 required by this section shall be established by written
491 resolution adopted by the board or provided by written
492 management, bookkeeping, or maintenance contract. The fee is
493 payable upon the preparation of the certificate, and, if the

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494 certificate is requested in conjunction with the sale or mortgage
495 of a unit and the closing does not occur, the fee shall be
496 refunded promptly upon written notice from the person requesting
497 the certificate stating that the sale or mortgage did not occur.
498 Any such refund is the obligation of the unit owner and is
499 collectible in the same manner as an assessment as provided in
500 this section.

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

503 20.165 Department of Business and Professional
504 Regulation.--There is created a Department of Business and
505 Professional Regulation.

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

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

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

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

513 73.073 Eminent domain procedure with respect to condominium
514 common elements.--

515 (2) With respect to the exercise of eminent domain or a
516 negotiated sale for the purchase or taking of a portion of the
517 common elements of a condominium, the condemning authority shall
518 have the responsibility of contacting the condominium association
519 and acquiring the most recent rolls indicating the names of the
520 unit owners or contacting the appropriate taxing authority to
521 obtain the names of the owners of record on the tax rolls.
522 Notification shall ~~thereupon~~ be sent by certified mail, return
523 receipt requested, to the unit owners of record of the



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524 condominium units by the condemning authority indicating the
525 intent to purchase or take the required property and requesting a
526 response from the unit owner. The condemning authority shall be
527 responsible for the expense of sending notification pursuant to
528 this section. Such notice shall, at a minimum, include:

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

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

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

532 (d) The appraisal value of the property.

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

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

540
541 The Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
542 Mobile Homes of the Department of Business and Professional
543 Regulation may adopt, by rule, a standard form for such notice
544 and may require the notice to include any additional relevant
545 information.

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

548 190.009 Disclosure of public financing.--

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

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553 ~~(2)~~(3) The Department of Community Affairs shall keep a
554 current list of districts and their disclosures pursuant to this
555 act and shall make such studies and reports and take such actions
556 as it deems necessary.

557 Section 9. Paragraph (e) of subsection (6) of section
558 192.037, Florida Statutes, is amended to read:

559 192.037 Fee timeshare real property; taxes and assessments;
560 escrow.--

561 (6)

562 (e) On or before May 1 of each year, a statement of
563 receipts and disbursements of the escrow account must be filed
564 with the Division of Florida ~~Land Sales~~, Condominiums,
565 Timeshares, and Mobile Homes of the Department of Business and
566 Professional Regulation, which may enforce this paragraph
567 pursuant to s. 721.26. This statement must appropriately show the
568 amount of principal and interest in such account.

569 Section 10. Paragraph (i) of subsection (8) of section
570 213.053, Florida Statutes, is amended to read:

571 213.053 Confidentiality and information sharing.--

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

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

578
579 Disclosure of information under this subsection shall be pursuant
580 to a written agreement between the executive director and the
581 agency. Such agencies, governmental or nongovernmental, shall be
582 bound by the same requirements of confidentiality as the



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583 Department of Revenue. Breach of confidentiality is a misdemeanor
584 of the first degree, punishable as provided by s. 775.082 or s.
585 775.083.

586 Section 11. Paragraph (d) of subsection (4) of section
587 215.20, Florida Statutes, is amended to read:

588 215.20 Certain income and certain trust funds to contribute
589 to the General Revenue Fund.--

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

594 (d) Within the Department of Business and Professional
595 Regulation:

- 596 1. The Administrative Trust Fund.
- 597 2. The Alcoholic Beverage and Tobacco Trust Fund.
- 598 3. The Cigarette Tax Collection Trust Fund.
- 599 4. The Division of Florida ~~Land Sales~~, Condominiums,
600 Timeshares, and Mobile Homes Trust Fund.
- 601 5. The Hotel and Restaurant Trust Fund, with the exception
602 of those fees collected for the purpose of funding of the
603 hospitality education program as stated in s. 509.302.
- 604 6. The Professional Regulation Trust Fund.
- 605 7. The trust funds administered by the Division of Pari-
606 mutuel Wagering.

607
608 The enumeration of the foregoing moneys or trust funds shall not
609 prohibit the applicability ~~thereto~~ of s. 215.24 should the
610 Governor determine that for the reasons mentioned in s. 215.24
611 the money or trust funds should be exempt herefrom, as it is the
612 purpose of this law to exempt income from its force and effect



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613 when, by the operation of this law, federal matching funds or
614 contributions or private grants to any trust fund would be lost
615 to the state.

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

618 326.002 Definitions.--As used in ss. 326.001-326.006, the
619 term:

620 (2) "Division" means the Division of Florida ~~Land Sales,~~
621 Condominiums, Timeshares, and Mobile Homes of the Department of
622 Business and Professional Regulation.

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

625 326.006 Powers and duties of division.--

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

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

639 1. The division may permit a person whose conduct or
640 actions are under investigation to waive formal proceedings and
641 enter into a consent proceeding whereby orders, rules, or letters



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642 of censure or warning, whether formal or informal, may be entered
643 against the person.

644 2. The division may issue an order requiring the broker or
645 salesperson or any of his or her assignees or agents, or
646 requiring any unlicensed person or any of his or her assignees or
647 agents, to cease and desist from the unlawful practice and take
648 such affirmative action as in the judgment of the division will
649 carry out the purposes of this chapter.

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

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



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

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

677 380.05 Areas of critical state concern.--

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

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

698 380.06 Developments of regional impact.--

699 (20) VESTED RIGHTS.--Nothing in this section shall limit or
700 modify the rights of any person to complete any development that
701 was ~~has been~~ authorized by registration of a subdivision pursuant



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702 to former chapter 498, by recordation pursuant to local
703 subdivision plat law, or by a building permit or other
704 authorization to commence development on which there has been
705 reliance and a change of position and which registration or
706 recordation was accomplished, or which permit or authorization
707 was issued, prior to July 1, 1973. If a developer has, by his or
708 her actions in reliance on prior regulations, obtained vested or
709 other legal rights that in law would have prevented a local
710 government from changing those regulations in a way adverse to
711 the developer's interests, nothing in this chapter authorizes any
712 governmental agency to abridge those rights.

713 (a) For the purpose of determining the vesting of rights
714 under this subsection, approval pursuant to local subdivision
715 plat law, ordinances, or regulations of a subdivision plat by
716 formal vote of a county or municipal governmental body having
717 jurisdiction after August 1, 1967, and prior to July 1, 1973, is
718 sufficient to vest all property rights for the purposes of this
719 subsection; and no action in reliance on, or change of position
720 concerning, such local governmental approval is required for
721 vesting to take place. Anyone claiming vested rights under this
722 paragraph must ~~se~~ notify the department in writing by January 1,
723 1986. Such notification shall include information adequate to
724 document the rights established by this subsection. When such
725 notification requirements are met, in order for the vested rights
726 authorized pursuant to this paragraph to remain valid after June
727 30, 1990, development of the vested plan must be commenced prior
728 to that date upon the property that the state land planning
729 agency has determined to have acquired vested rights following
730 the notification or in a binding letter of interpretation. When
731 the notification requirements have not been met, the vested



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732 rights authorized by this paragraph shall expire June 30, 1986,
733 unless development commenced prior to that date.

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

740 Section 16. Paragraph (a) of subsection (4) of section
741 380.0651, Florida Statutes, is amended to read:

742 380.0651 Statewide guidelines and standards.--

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

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

751 1.a. The same person has retained or shared control of the
752 developments;

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

755 c. There is common management of the developments
756 controlling the form of physical development or disposition of
757 parcels of the development.

758 2. There is a reasonable closeness in time between the
759 completion of 80 percent or less of one development and the
760 submission to a governmental agency of a master plan or series of



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761 plans or drawings for the other development which is indicative
762 of a common development effort.

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

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

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

783 Section 17. Paragraph (c) of subsection (4) of section
784 381.0065, Florida Statutes, is amended to read:

785 381.0065 Onsite sewage treatment and disposal systems;
786 regulation.--

787 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may
788 not construct, repair, modify, abandon, or operate an onsite
789 sewage treatment and disposal system without first obtaining a
790 permit approved by the department. The department may issue

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791 | permits to carry out this section, but shall not make the
792 | issuance of such permits contingent upon prior approval by the
793 | Department of Environmental Protection, except that the issuance
794 | of a permit for work seaward of the coastal construction control
795 | line established under s. 161.053 shall be contingent upon
796 | receipt of any required coastal construction control line permit
797 | from the Department of Environmental Protection. A construction
798 | permit is valid for 18 months from the issuance date and may be
799 | extended by the department for one 90-day period under rules
800 | adopted by the department. A repair permit is valid for 90 days
801 | from the date of issuance. An operating permit must be obtained
802 | prior to the use of any aerobic treatment unit or if the
803 | establishment generates commercial waste. Buildings or
804 | establishments that use an aerobic treatment unit or generate
805 | commercial waste shall be inspected by the department at least
806 | annually to assure compliance with the terms of the operating
807 | permit. The operating permit for a commercial wastewater system
808 | is valid for 1 year from the date of issuance and must be renewed
809 | annually. The operating permit for an aerobic treatment unit is
810 | valid for 2 years from the date of issuance and must be renewed
811 | every 2 years. If all information pertaining to the siting,
812 | location, and installation conditions or repair of an onsite
813 | sewage treatment and disposal system remains the same, a
814 | construction or repair permit for the onsite sewage treatment and
815 | disposal system may be transferred to another person, if the
816 | transferee files, within 60 days after the transfer of ownership,
817 | an amended application providing all corrected information and
818 | proof of ownership of the property. There is no fee associated
819 | with the processing of this supplemental information. A person
820 | may not contract to construct, modify, alter, repair, service,



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821 abandon, or maintain any portion of an onsite sewage treatment
822 and disposal system without being registered under part III of
823 chapter 489. A property owner who personally performs
824 construction, maintenance, or repairs to a system serving his or
825 her own owner-occupied single-family residence is exempt from
826 registration requirements for performing such construction,
827 maintenance, or repairs on that residence, but is subject to all
828 permitting requirements. A municipality or political subdivision
829 of the state may not issue a building or plumbing permit for any
830 building that requires the use of an onsite sewage treatment and
831 disposal system unless the owner or builder has received a
832 construction permit for such system from the department. A
833 building or structure may not be occupied and a municipality,
834 political subdivision, or any state or federal agency may not
835 authorize occupancy until the department approves the final
836 installation of the onsite sewage treatment and disposal system.
837 A municipality or political subdivision of the state may not
838 approve any change in occupancy or tenancy of a building that
839 uses an onsite sewage treatment and disposal system until the
840 department has reviewed the use of the system with the proposed
841 change, approved the change, and amended the operating permit.

842 (c) Notwithstanding ~~the provisions of~~ paragraphs (a) and
843 (b), for subdivisions platted of record on or before October 1,
844 1991, when a developer or other appropriate entity has previously
845 made or makes provisions, including financial assurances or other
846 commitments, acceptable to the Department of Health, that a
847 central water system will be installed by a regulated public
848 utility based on a density formula, private potable wells may be
849 used with onsite sewage treatment and disposal systems until the
850 agreed-upon densities are reached. ~~The department may consider~~



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851 ~~assurances filed with the Department of Business and Professional~~
852 ~~Regulation under chapter 498 in determining the adequacy of the~~
853 ~~financial assurance required by this paragraph.~~ In a subdivision
854 regulated by this paragraph, the average daily sewage flow may
855 not exceed 2,500 gallons per acre per day. This section does not
856 affect the validity of existing prior agreements. After October
857 1, 1991, the exception provided under this paragraph is not
858 available to a developer or other appropriate entity.

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

861 450.33 Duties of farm labor contractor.--Every farm labor
862 contractor must:

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

865 (8)~~(9)~~ Produce evidence to the department that each vehicle
866 he or she uses for the transportation of employees complies with
867 the requirements and specifications established in chapter 316,
868 s. 316.622, or Pub. L. No. 93-518 as amended by Pub. L. No. 97-
869 470 meeting Department of Transportation requirements or, in lieu
870 thereof, bears a valid inspection sticker showing that the
871 vehicle has passed the inspection in the state in which the
872 vehicle is registered.

873 (9)~~(10)~~ Comply with all applicable statutes, rules, and
874 regulations of the United States and of the State of Florida for
875 the protection or benefit of labor, including, but not limited
876 to, those providing for wages, hours, fair labor standards,
877 social security, workers' compensation, unemployment
878 compensation, child labor, and transportation.

879 (10)~~(11)~~ Maintain accurate daily field records for each
880 employee actually paid by the farm labor contractor reflecting



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881 the hours worked for the farm labor contractor and, if paid by
882 unit, the number of units harvested and the amount paid per unit.

883 ~~(11)-(12)~~ Clearly display on each vehicle used to transport
884 migrant or seasonal farm workers a display sticker issued by the
885 department, which states that the vehicle is authorized by the
886 department to transport farm workers and the expiration date of
887 the authorization.

888 Section 19. Subsection (10) is added to section 455.203,
889 Florida Statutes, to read:

890 455.203 Department; powers and duties.--The department, for
891 the boards under its jurisdiction, shall:

892 (10) Have authority to:

893 (a) Close and terminate deficient license application files
894 2 years after the board or the department notifies the applicant
895 of the deficiency; and

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

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

900 455.116 Regulation trust funds.--The following trust funds
901 shall be placed in the department:

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

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

906 455.217 Examinations.--This section shall be read in
907 conjunction with the appropriate practice act associated with
908 each regulated profession under this chapter.

909 (1) The Division of Technology, ~~Licensure, and Testing~~ of
910 the Department of Business and Professional Regulation shall

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911 provide, contract, or approve services for the development,
912 preparation, administration, scoring, score reporting, and
913 evaluation of all examinations. The division shall seek the
914 advice of the appropriate board in providing such services.

915 (a) The department, acting in conjunction with the Division
916 of Technology, ~~Licensure, and Testing~~ and the Division of Real
917 Estate, as appropriate, shall ensure that examinations adequately
918 and reliably measure an applicant's ability to practice the
919 profession regulated by the department. After an examination
920 developed or approved by the department has been administered,
921 the board or department may reject any question which does not
922 reliably measure the general areas of competency specified in the
923 rules of the board or department, when there is no board. The
924 department shall use professional testing services for the
925 development, preparation, and evaluation of examinations, when
926 such services are available and approved by the board.

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

939 (c) If a practical examination is deemed to be necessary,
940 rules shall specify the criteria by which examiners are to be



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941 selected, the grading criteria to be used by the examiner, the
942 relative weight to be assigned in grading each criterion, and the
943 score necessary to achieve a passing grade. When a mandatory
944 standardization exercise for a practical examination is required
945 by law, the board may conduct such exercise. Therefore, board
946 members may serve as examiners at a practical examination with
947 the consent of the board.

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



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970 (e) The department shall adopt rules regarding the security
971 and monitoring of examinations. In order to maintain the security
972 of examinations, the department may employ the procedures set
973 forth in s. 455.228 to seek fines and injunctive relief against
974 an examinee who violates the provisions of s. 455.2175 or the
975 rules adopted pursuant to this paragraph. The department, or any
976 agent thereof, may, for the purposes of investigation, confiscate
977 any written, photographic, or recording material or device in the
978 possession of the examinee at the examination site which the
979 department deems necessary to enforce such provisions or rules.

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



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999 | portion within a reasonable time of his or her passing the other
1000 | portion.

1001 | Section 22. Subsection (6) is added to section 455.2273,
1002 | Florida Statutes, to read:

1003 | 455.2273 Disciplinary guidelines.--

1004 | (6) Notwithstanding s. 455.017, this section applies to
1005 | disciplinary guidelines adopted by all boards or divisions within
1006 | the department.

1007 | Section 23. Paragraph (d) of subsection (1) and paragraph
1008 | (d) of subsection (2) of section 468.841, Florida Statutes, are
1009 | amended to read:

1010 | 468.841 Exemptions.--

1011 | (1) The following persons are not required to comply with
1012 | any provisions of this part relating to mold assessment:

1013 | (d) Persons or business organizations acting within the
1014 | scope of the respective licenses required under chapter 471, part
1015 | I of chapter 481, chapter 482, ~~or~~ chapter 489, or part XV of this
1016 | chapter, are acting on behalf of an insurer under part VI of
1017 | chapter 626, or are persons in the manufactured housing industry
1018 | who are licensed under chapter 320, except when any such persons
1019 | or business organizations hold themselves out for hire to the
1020 | public as a "certified mold assessor ~~remediator,~~" "registered
1021 | mold assessor ~~remediator,~~" "licensed mold assessor ~~remediator,~~"
1022 | "mold assessor ~~remediator,~~" "professional mold assessor
1023 | ~~remediator,~~" or any combination thereof stating or implying
1024 | licensure under this part.

1025 | (2) The following persons are not required to comply with
1026 | any provisions of this part relating to mold remediation:

1027 | (d) Persons or business organizations that are acting
1028 | within the scope of the respective licenses required under



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1029 chapter 471, part I of chapter 481, chapter 482, ~~or~~ chapter 489,
1030 or part XV of this chapter, are acting on behalf of an insurer
1031 under part VI of chapter 626, or are persons in the manufactured
1032 housing industry who are licensed under chapter 320, except when
1033 any such persons or business organizations hold themselves out
1034 for hire to the public as a "certified mold remediator ~~assessor,~~"
1035 "registered mold remediator ~~assessor,~~" "licensed mold remediator
1036 ~~assessor,~~" "mold remediator ~~assessor,~~" "professional mold
1037 remediator ~~assessor,~~" or any combination thereof stating or
1038 implying licensure under this part.

1039 Section 24. Paragraph (b) of subsection (2) of section
1040 475.17, Florida Statutes, is amended to read:

1041 475.17 Qualifications for practice.--

1042 (2)

1043 (b) A person may not be licensed as a real estate broker
1044 unless, in addition to the other requirements of law, the person
1045 has held:

1046 1. An active real estate sales associate's license for at
1047 least 24 ~~12~~ months during the preceding 5 years in the office of
1048 one or more real estate brokers licensed in this state or any
1049 other state, territory, or jurisdiction of the United States or
1050 in any foreign national jurisdiction;

1051 2. A current and valid real estate sales associate's
1052 license for at least 24 ~~12~~ months during the preceding 5 years in
1053 the employ of a governmental agency for a salary and performing
1054 the duties authorized in this part for real estate licensees; or

1055 3. A current and valid real estate broker's license for at
1056 least 24 ~~12~~ months during the preceding 5 years in any other
1057 state, territory, or jurisdiction of the United States or in any
1058 foreign national jurisdiction.

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1060 ~~This paragraph does not apply to a person employed as a real~~
1061 ~~estate investigator by the Division of Real Estate, provided the~~
1062 ~~person has been employed as a real estate investigator for at~~
1063 ~~least 24 months. The person must be currently employed as a real~~
1064 ~~estate investigator to sit for the real estate broker's~~
1065 ~~examination and have held a valid and current sales associate's~~
1066 ~~license for at least 12 months.~~

1067 Section 25. Subsection (9) of section 475.451, Florida
1068 Statutes, is amended to read:

1069 475.451 Schools teaching real estate practice.--

1070 ~~(9) (a) Each school permitholder of a proprietary real~~
1071 ~~estate school, each chief administrative person of such an~~
1072 ~~institution, or each course sponsor shall deliver to the~~
1073 ~~department, in a format acceptable to the department, a copy of~~
1074 ~~the classroom course roster of courses that require satisfactory~~
1075 ~~completion of an examination no later than 30 days beyond the end~~
1076 ~~of the calendar month in which the course was completed.~~

1077 ~~(b) The course roster shall consist of the institution or~~
1078 ~~school name and permit number, if applicable, the instructor's~~
1079 ~~name and permit number, if applicable, course title, beginning~~
1080 ~~and ending dates of the course, number of course hours, course~~
1081 ~~location, if applicable, each student's full name and license~~
1082 ~~number, if applicable, each student's mailing address, and the~~
1083 ~~numerical grade each student achieved. The course roster shall~~
1084 ~~also include the signature of the school permitholder, the chief~~
1085 ~~administrative person, or the course sponsor.~~

1086 Section 26. Section 475.455, Florida Statutes, is amended
1087 to read:



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1088 475.455 Exchange of disciplinary information.--The
1089 commission shall inform the Division of Florida ~~Land Sales,~~
1090 Condominiums, Timeshares, and Mobile Homes of the Department of
1091 Business and Professional Regulation of any disciplinary action
1092 the commission has taken against any of its licensees. The
1093 division shall inform the commission of any disciplinary action
1094 the division has taken against any broker or sales associate
1095 registered with the division.

1096 Section 27. Subsection (6) of section 489.105, Florida
1097 Statutes, is amended to read:

1098 489.105 Definitions.--As used in this part:

1099 (6) "Contracting" means, except as exempted in this part,
1100 engaging in business as a contractor and includes, but is not
1101 limited to, performance of any of the acts as set forth in
1102 subsection (3) which define types of contractors. The attempted
1103 sale of contracting services and the negotiation or bid for a
1104 contract on these services also constitutes contracting. If the
1105 services offered require licensure or agent qualification, the
1106 offering, negotiation for a bid, or attempted sale of these
1107 services requires the corresponding licensure. However, the term
1108 "contracting" shall not extend to an individual, partnership,
1109 corporation, trust, or other legal entity that offers to sell or
1110 sells completed residences on property on which the individual or
1111 business entity has any legal or equitable interest, or to the
1112 individual or business entity that offers to sell or sells
1113 manufactured or factory-built buildings that will be completed on
1114 site on property on which either party to a contract has any
1115 legal or equitable interest, if the services of a qualified
1116 contractor certified or registered pursuant to the requirements



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1117 of this chapter have been or will be retained for the purpose of
1118 constructing or completing such residences.

1119 Section 28. Section 489.511, Florida Statutes, is amended
1120 to read:

1121 489.511 Certification; application; examinations;
1122 endorsement.--

1123 (1) (a) Any person who is at least 18 years of age may take
1124 the certification examination.

1125 (b) Any person desiring to be certified as a contractor
1126 shall apply to the department in writing and must meet the
1127 following criteria: ~~to take the certification examination.~~

1128 ~~(2) (a) A person shall be entitled to take the certification~~
1129 ~~examination for the purpose of determining whether he or she is~~
1130 ~~qualified to engage in contracting throughout the state as a~~
1131 ~~contractor if the person:~~

1132 ~~1. Is at least 18 years of age;~~

1133 ~~1.2. Be ~~is~~ of good moral character;~~

1134 ~~2. Pass the certification examination, achieving a passing~~
1135 ~~grade as established by board rule; and~~

1136 ~~3. Meet ~~Meets~~ eligibility requirements according to one of~~
1137 ~~the following criteria:~~

1138 a. Has, within the 6 years immediately preceding the filing
1139 of the application, at least 3 years' proven management
1140 experience in the trade or education equivalent thereto, or a
1141 combination thereof, but not more than one-half of such
1142 experience may be educational equivalent;

1143 b. Has, within the 8 years immediately preceding the filing
1144 of the application, at least 4 years' experience as a supervisor
1145 or contractor in the trade for which he or she is making
1146 application;



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1147 c. Has, within the 12 years immediately preceding the
1148 filing of the application, at least 6 years of comprehensive
1149 training, technical education, or supervisory experience
1150 associated with an electrical or alarm system contracting
1151 business, or at least 6 years of technical experience in
1152 electrical or alarm system work with the Armed Forces or a
1153 governmental entity;

1154 d. Has, within the 12 years immediately preceding the
1155 filing of the application, been licensed for 3 years as a
1156 professional engineer who is qualified by education, training, or
1157 experience to practice electrical engineering; or

1158 e. Has any combination of qualifications under sub-
1159 subparagraphs a.-c. totaling 6 years of experience.

1160 ~~(c)~~ ~~(b)~~ For purposes of this subsection, "supervisor" means
1161 a person having the experience gained while having the general
1162 duty of overseeing the technical duties of the trade, provided
1163 that such experience is gained by a person who is able to perform
1164 the technical duties of the trade without supervision.

1165 ~~(d)~~ ~~(e)~~ For purposes of this subsection, at least 40 percent
1166 of the work experience for an alarm system contractor I must be
1167 in the types of fire alarm systems typically used in a commercial
1168 setting.

1169 ~~(2)~~ ~~(3)~~ The board may determine by rule the number of times
1170 per year the applicant may take the examination and after three
1171 unsuccessful attempts may ~~On or after October 1, 1998, every~~
1172 ~~applicant who is qualified shall be allowed to take the~~
1173 ~~examination three times, notwithstanding the number of times the~~
1174 ~~applicant has previously failed the examination. If an applicant~~
1175 ~~fails the examination three times after October 1, 1998, the~~
1176 ~~board shall~~ require the applicant to complete additional college-



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1177 level or technical education courses in the areas of deficiency,
1178 as determined by the board, as a condition of future eligibility
1179 to take the examination. ~~The applicant must also submit a new~~
1180 ~~application that meets all certification requirements at the time~~
1181 ~~of its submission and must pay all appropriate fees.~~

1182 (3)~~(4)~~(a) "Good moral character" means a personal history
1183 of honesty, fairness, and respect for the rights of others and
1184 for laws of this state and nation.

1185 (b) The board may determine that an individual applying for
1186 certification is ineligible ~~to take the examination~~ for failure
1187 to satisfy the requirement of good moral character only if:

1188 1. There is a substantial connection between the lack of
1189 good moral character of the individual and the professional
1190 responsibilities of a certified contractor; and

1191 2. The finding by the board of lack of good moral character
1192 is supported by clear and convincing evidence.

1193 (c) When an individual is found to be unqualified for
1194 certification ~~examination~~ because of a lack of good moral
1195 character, the board shall furnish such individual a statement
1196 containing the findings of the board, a complete record of the
1197 evidence upon which the determination was based, and a notice of
1198 the rights of the individual to a rehearing and appeal.

1199 (4)~~(5)~~ The board shall, by rule, designate those types of
1200 specialty electrical or alarm system contractors who may be
1201 certified under this part. The limit of the scope of work and
1202 responsibility of a certified specialty contractor shall be
1203 established by board rule. A certified specialty contractor
1204 category exists as an optional statewide licensing category.
1205 Qualification for certification in a specialty category created
1206 by rule shall be the same as set forth in paragraph (1) (b)



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1207 ~~(2)(a)~~. The existence of a specialty category created by rule
1208 does not itself create any licensing requirement; however,
1209 neither does its optional nature remove any licensure requirement
1210 established elsewhere in this part.

1211 ~~(5)(6)~~ The board shall certify as qualified for
1212 certification by endorsement any individual applying for
1213 certification who:

1214 (a) Meets the requirements for certification as set forth
1215 in this section; has passed a national, regional, state, or
1216 United States territorial licensing examination that is
1217 substantially equivalent to the examination required by this
1218 part; and has satisfied the requirements set forth in s. 489.521;
1219 or

1220 (b) Holds a valid license to practice electrical or alarm
1221 system contracting issued by another state or territory of the
1222 United States, if the criteria for issuance of such license was
1223 substantially equivalent to the certification criteria that
1224 existed in this state at the time the certificate was issued.

1225 ~~(6)(7)~~ Upon the issuance of a certificate, any previously
1226 issued registered licenses for the classification in which the
1227 certification is issued are rendered void.

1228 Section 29. Paragraph (b) of subsection (1) of section
1229 489.515, Florida Statutes, is amended to read:

1230 489.515 Issuance of certificates; registrations.--

1231 (1)

1232 (b) The board shall certify as qualified for certification
1233 any person who satisfies the requirements of s. 489.511, ~~who~~
1234 ~~successfully passes the certification examination administered by~~
1235 ~~the department, achieving a passing grade as established by board~~
1236 ~~rule,~~ and who submits satisfactory evidence that he or she has

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1237 obtained both workers' compensation insurance or an acceptable
1238 exemption certificate issued by the department and public
1239 liability and property damage insurance for the health, safety,
1240 and welfare of the public in amounts determined by rule of the
1241 board, and furnishes evidence of financial responsibility,
1242 credit, and business reputation of either himself or herself or
1243 the business organization he or she desires to qualify.

1244 Section 30. Section 494.008, Florida Statutes, is amended
1245 to read:

1246 494.008 Mortgages offered by land developers ~~licensed~~
1247 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~
1248 requirements; prohibitions.--No mortgage loan which has a face
1249 amount of \$35,000 or less and is secured by vacant land
1250 ~~registered under the Florida Uniform Land Sales Practices Law,~~
1251 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial
1252 institution, by any person unless all of the following
1253 requirements are met:

1254 (1) Each mortgage securing a note or other obligation sold
1255 or offered for sale shall be eligible for a recordation as a
1256 first mortgage.

1257 (2) Each mortgage negotiated pursuant to this section must
1258 include a mortgagee's title insurance policy or an opinion of
1259 title, from an attorney who is licensed to practice law in this
1260 state, on each parcel of land which is described in the mortgage.
1261 The policy or opinion shall reflect that there are no other
1262 mortgages on the property. A notice stating the priority of the
1263 mortgage shall be placed on the face of each mortgage in an
1264 amount over \$35,000 issued pursuant to this section.

1265 (3) Contracts to purchase a mortgage loan shall contain,
1266 immediately above the purchaser's signature line, the statement



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1267 in 10-point boldfaced type: "This mortgage is secured by vacant
1268 land subject to development at a future time." This statement
1269 shall also be typed or printed in 10-point type on the face of
1270 the note and mortgage sold.

1271 (4) The most recent assessment for tax purposes made by the
1272 county property appraiser of each parcel of land described in the
1273 mortgage shall be furnished to each mortgagee.

1274 (5) The mortgage broker shall record or cause to be
1275 recorded all mortgages or other similar documents prior to
1276 delivery of the note and mortgage to the mortgagee.

1277 (6) All funds received by the mortgage broker pursuant to
1278 this section shall promptly be deposited in the broker's trust
1279 account where they shall remain until the note and mortgage are
1280 fully executed and recorded.

1281 (7) Willful failure to comply with any of the above
1282 provisions shall subject the person to the penalties of s.
1283 494.05.

1284 Section 31. Section 498.009, Florida Statutes, is
1285 renumbered as section 718.50152, Florida Statutes.

1286 Section 32. Section 498.011, Florida Statutes, is
1287 renumbered as section 718.50153, Florida Statutes, and amended to
1288 read:

1289 718.50153 ~~498.011~~ Payment of per diem, mileage, and other
1290 expenses to division employees.--The amount of per diem and
1291 mileage and expense money paid to employees shall be as provided
1292 in s. 112.061, except that the division shall establish by rule
1293 the standards for reimbursement of actual verified expenses
1294 incurred in connection with an on-site review ~~inspection~~ or
1295 investigation ~~of subdivided lands~~.



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1296 Section 33. Section 498.013, Florida Statutes, is
1297 renumbered as section 718.50154, Florida Statutes.

1298 Section 34. Section 498.057, Florida Statutes, is
1299 renumbered as section 718.50155, Florida Statutes, and amended,
1300 to read:

1301 718.50155 ~~498.057~~ Service of process.--

1302 (1) In addition to the methods of service provided for in
1303 the Florida Rules of Civil Procedure and the Florida Statutes,
1304 service may be made and ~~by delivering a copy of the process to~~
1305 ~~the director of the division, which~~ shall be binding upon the
1306 defendant or respondent if:

1307 (a) The division plaintiff, which is acting as the
1308 petitioner or plaintiff ~~may be the division~~, immediately sends a
1309 copy of the process and of the pleading by certified mail to the
1310 defendant or respondent at his or her last known address;; and

1311 (b) The division plaintiff files an affidavit of compliance
1312 with this section on or before the return date of the process or
1313 within the time set by the court.

1314 (2) If any person, including any nonresident of this state,
1315 allegedly engages in conduct prohibited by this chapter, or any
1316 rule or order of the division, and has not filed a consent to
1317 service of process, and personal jurisdiction over him or her
1318 cannot otherwise be obtained in this state, the director shall be
1319 authorized to receive service of process in any noncriminal
1320 proceeding against that person or his or her successor which
1321 grows out of the conduct and which is brought by the division
1322 under this chapter or any rule or order of the division. The
1323 process shall have the same force and validity as if personally
1324 served. Notice shall be given as provided in subsection (1).

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1325 Section 35. Sections 498.001, 498.003, 498.005, 498.007,
1326 498.017, 498.019, 498.021, 498.022, 498.023, 498.024, 498.025,
1327 498.027, 498.028, 498.029, 498.031, 498.033, 498.035, 498.037,
1328 498.039, 498.041, 498.047, 498.049, 498.051, 498.053, 498.059,
1329 498.061, and 498.063, Florida Statutes, are repealed.

1330 Section 36. Section 509.512, Florida Statutes, is amended
1331 to read:

1332 509.512 Timeshare plan developer and exchange company
1333 exemption.--Sections 509.501-509.511 do not apply to a developer
1334 of a timeshare plan or an exchange company approved by the
1335 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
1336 Mobile Homes pursuant to chapter 721, but only to the extent that
1337 the developer or exchange company engages in conduct regulated
1338 under chapter 721.

1339 Section 37. Subsection (2) of section 517.301, Florida
1340 Statutes, is amended to read:

1341 517.301 Fraudulent transactions; falsification or
1342 concealment of facts.--

1343 (2) For purposes of ss. 517.311 and 517.312 and this
1344 section, the term "investment" means any commitment of money or
1345 property principally induced by a representation that an economic
1346 benefit may be derived from such commitment, except that the term
1347 "~~investment~~" does not include a commitment of money or property
1348 for:

1349 (a) The purchase of a business opportunity, business
1350 enterprise, or real property through a person licensed under
1351 chapter 475 or registered under former chapter 498; or

1352 (b) The purchase of tangible personal property through a
1353 person not engaged in telephone solicitation, where said property
1354 is offered and sold in accordance with the following conditions:



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1355 1. There are no specific representations or guarantees made
1356 by the offeror or seller as to the economic benefit to be derived
1357 from the purchase;

1358 2. The tangible property is delivered to the purchaser
1359 within 30 days after sale, except that such 30-day period may be
1360 extended by the office if market conditions so warrant; and

1361 3. The seller has offered the purchaser a full refund
1362 policy in writing, exercisable by the purchaser within 10 days of
1363 the date of delivery of such tangible personal property, except
1364 that the amount of such refund may not ~~in no event shall~~ exceed
1365 the bid price in effect at the time the property is returned to
1366 the seller. If the applicable sellers' market is closed at the
1367 time the property is returned to the seller for a refund, the
1368 amount of such refund shall be based on the bid price for such
1369 property at the next opening of such market.

1370 Section 38. Subsection (4) of section 548.0065, Florida
1371 Statutes, is amended to read:

1372 548.0065 Amateur matches; sanctioning and supervision;
1373 health and safety standards; compliance checks; continuation,
1374 suspension, and revocation of sanctioning approval.--

1375 (4) Any member of the commission or the executive director
1376 of the commission may suspend the approval of an amateur
1377 sanctioning organization for failure to supervise amateur matches
1378 or to enforce the approved health and safety standards required
1379 under this chapter, provided that the suspension complies with
1380 the procedures for summary suspensions in s. 120.60(6). At any
1381 amateur boxing, ~~or~~ kickboxing, or mixed martial arts contest, any
1382 member of the commission or a representative of the commission
1383 may immediately suspend one or more matches in an event whenever
1384 it appears that the match or matches violate the health and



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1385 safety standards established by rule as required by this chapter.
1386 A law enforcement officer may assist any member of the commission
1387 or a representative of the commission to enforce an order to stop
1388 a contest if called upon to do so by a member of the commission
1389 or a representative of the commission.

1390 Section 39. Subsections (2), (3), and (4) of section
1391 548.008, Florida Statutes, are amended to read:

1392 548.008 Prohibited competitions.--

1393 ~~(2) No amateur mixed martial arts match may be held in this~~
1394 ~~state.~~

1395 (2)~~(3)~~ No professional match may be held in this state
1396 unless it meets the requirements for holding the match as
1397 provided in this chapter and the rules adopted by the commission.

1398 (3)~~(4)~~(a) Any person participating in a match prohibited
1399 under this section, knowing the match to be prohibited, commits a
1400 misdemeanor of the second degree, punishable as provided in s.
1401 775.082 or s. 775.083.

1402 (b) Any person holding, promoting, or sponsoring a match
1403 prohibited under this section commits a felony of the third
1404 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1405 775.084.

1406 Section 40. Subsection (1) of section 548.041, Florida
1407 Statutes, is amended to read:

1408 548.041 Age, condition, and suspension of participants.--

1409 (1) A person may ~~shall~~ not be licensed as a participant,
1410 and the license of a any participant shall be suspended or
1411 revoked, if such person:

1412 (a) Is under the age of 18;



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1413 (b) Has participated in a match in this state which was not
1414 sanctioned by the commission or by a Native American commission
1415 properly constituted under federal law; ~~or~~

1416 (c) Does not meet certain health and medical examination
1417 conditions as required by rule of the commission; ~~or~~

1418 (d) Has not competed in a minimum number of amateur boxing
1419 events as determined by commission rule prior to licensure; or

1420 (e) Has not participated in a minimum number of amateur
1421 mixed martial arts events as determined by commission rule prior
1422 to licensure.

1423 Section 41. Subsection (1) of section 559.935, Florida
1424 Statutes, is amended to read:

1425 559.935 Exemptions.--

1426 (1) This part does not apply to:

1427 (a) A bona fide employee of a seller of travel who is
1428 engaged solely in the business of her or his employer;

1429 (b) Any direct common carrier of passengers or property
1430 regulated by an agency of the Federal Government or employees of
1431 such carrier when engaged solely in the transportation business
1432 of the carrier as identified in the carrier's certificate;

1433 (c) An intrastate common carrier of passengers or property
1434 selling only transportation as defined in the applicable state or
1435 local registration or certification, or employees of such carrier
1436 when engaged solely in the transportation business of the
1437 carrier;

1438 (d) Hotels, motels, or other places of public accommodation
1439 selling public accommodations, or employees of such hotels,
1440 motels, or other places of public accommodation, when engaged
1441 solely in making arrangements for lodging, accommodations, or
1442 sightseeing tours within the state, or taking reservations for



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1443 the traveler with times, dates, locations, and accommodations
1444 certain at the time the reservations are made, provided that
1445 hotels and motels registered with the Department of Business and
1446 Professional Regulation pursuant to chapter 509 are excluded from
1447 the provisions of this chapter;

1448 (e) Persons involved solely in the rental, leasing, or sale
1449 of residential property;

1450 (f) Persons involved solely in the rental, leasing, or sale
1451 of transportation vehicles;

1452 (g) Persons who make travel arrangements for themselves;
1453 for their employees or agents; for distributors, franchisees, or
1454 dealers of the persons' products or services; for entities which
1455 are financially related to the persons; or for the employees or
1456 agents of the distributor, franchisee, or dealer or financially
1457 related entity;

1458 (h) A developer of a timeshare plan or an exchange company
1459 approved by the Division of Florida ~~Land Sales~~, Condominiums,
1460 Timeshares, and Mobile Homes pursuant to chapter 721, but only to
1461 the extent that the developer or exchange company engages in
1462 conduct regulated under chapter 721; or

1463 (i) Persons or entities engaged solely in offering diving
1464 services, including classes and sales or rentals of equipment,
1465 when engaged in making any prearranged travel-related or tourist-
1466 related services in conjunction with a primarily dive-related
1467 event.

1468 Section 42. Subsection (17) of section 718.103, Florida
1469 Statutes, is amended to read:

1470 718.103 Definitions.--As used in this chapter, the term:



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1471 (17) "Division" means the Division of Florida ~~Land Sales,~~
1472 Condominiums, Timeshares, and Mobile Homes of the Department of
1473 Business and Professional Regulation.

1474 Section 43. Paragraph (c) of subsection (4) of section
1475 718.105, Florida Statutes, is amended to read:

1476 718.105 Recording of declaration.--

1477 (4)

1478 (c) If the sum of money held by the clerk has not been paid
1479 to the developer or association as provided in paragraph (b)
1480 within ~~by~~ 3 years after the date the declaration was originally
1481 recorded, the clerk ~~in his or her discretion~~ may notify, in
1482 writing, the registered agent of the association that the sum is
1483 still available and the purpose for which it was deposited. If
1484 the association does not record the certificate within 90 days
1485 after the clerk has given the notice, the clerk may disburse the
1486 money to the developer. If the developer cannot be located, the
1487 clerk shall disburse the money to the Division of Florida ~~Land~~
1488 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes for deposit in
1489 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
1490 Mobile Homes Trust Fund.

1491 Section 44. Subsection (4) of section 718.1255, Florida
1492 Statutes, is amended to read:

1493 718.1255 Alternative dispute resolution; voluntary
1494 mediation; mandatory nonbinding arbitration; legislative
1495 findings.--

1496 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
1497 DISPUTES.--The Division of Florida ~~Land Sales,~~ Condominiums,
1498 Timeshares, and Mobile Homes of the Department of Business and
1499 Professional Regulation shall employ full-time attorneys to act
1500 as arbitrators to conduct the arbitration hearings provided by



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1501 this chapter. The division may also certify attorneys who are not
1502 employed by the division to act as arbitrators to conduct the
1503 arbitration hearings provided by this section. No person may be
1504 employed by the department as a full-time arbitrator unless he or
1505 she is a member in good standing of The Florida Bar. The
1506 department shall adopt ~~promulgate~~ rules of procedure to govern
1507 such arbitration hearings including mediation incident thereto.
1508 The decision of an arbitrator shall be final; however, ~~such~~ a
1509 decision shall not be deemed final agency action. Nothing in this
1510 provision shall be construed to foreclose parties from proceeding
1511 in a trial de novo unless the parties have agreed that the
1512 arbitration is binding. If ~~such~~ judicial proceedings are
1513 initiated, the final decision of the arbitrator shall be
1514 admissible in evidence in the trial de novo.

1515 (a) Prior to the institution of court litigation, a party
1516 to a dispute shall petition the division for nonbinding
1517 arbitration. The petition must be accompanied by a filing fee in
1518 the amount of \$50. Filing fees collected under this section must
1519 be used to defray the expenses of the alternative dispute
1520 resolution program.

1521 (b) The petition must recite, and have attached thereto,
1522 supporting proof that the petitioner gave the respondents:

1523 1. Advance written notice of the specific nature of the
1524 dispute;

1525 2. A demand for relief, and a reasonable opportunity to
1526 comply or to provide the relief; and

1527 3. Notice of the intention to file an arbitration petition
1528 or other legal action in the absence of a resolution of the
1529 dispute.

1530



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1531 Failure to include the allegations or proof of compliance with
1532 these prerequisites requires dismissal of the petition without
1533 prejudice.

1534 (c) Upon receipt, the petition shall be promptly reviewed
1535 by the division to determine the existence of a dispute and
1536 compliance with the requirements of paragraphs (a) and (b). If
1537 emergency relief is required and is not available through
1538 arbitration, a motion to stay the arbitration may be filed. The
1539 motion must be accompanied by a verified petition alleging facts
1540 that, if proven, would support entry of a temporary injunction,
1541 and if an appropriate motion and supporting papers are filed, the
1542 division may abate the arbitration pending a court hearing and
1543 disposition of a motion for temporary injunction.

1544 (d) Upon determination by the division that a dispute
1545 exists and that the petition substantially meets the requirements
1546 of paragraphs (a) and (b) and any other applicable rules, a copy
1547 of the petition shall ~~forthwith~~ be served by the division upon
1548 all respondents.

1549 (e) ~~Either~~ Before or after the filing of the respondents'
1550 answer to the petition, any party may request that the arbitrator
1551 refer the case to mediation under this section and any rules
1552 adopted by the division. Upon receipt of a request for mediation,
1553 the division shall promptly contact the parties to determine if
1554 there is agreement that mediation would be appropriate. If all
1555 parties agree, the dispute must be referred to mediation.
1556 Notwithstanding a lack of an agreement by all parties, the
1557 arbitrator may refer a dispute to mediation at any time.

1558 (f) Upon referral of a case to mediation, the parties must
1559 select a mutually acceptable mediator. To assist in the
1560 selection, the arbitrator shall provide the parties with a list



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1561 of both volunteer and paid mediators that have been certified by
1562 the division under s. 718.501. If the parties are unable to agree
1563 on a mediator within the time allowed by the arbitrator, the
1564 arbitrator shall appoint a mediator from the list of certified
1565 mediators. If a case is referred to mediation, the parties shall
1566 attend a mediation conference, as scheduled by the parties and
1567 the mediator. If any party fails to attend a duly noticed
1568 mediation conference, without the permission or approval of the
1569 arbitrator or mediator, the arbitrator must impose sanctions
1570 against the party, including the striking of any pleadings filed,
1571 the entry of an order of dismissal or default if appropriate, and
1572 the award of costs and attorneys' fees incurred by the other
1573 parties. Unless otherwise agreed to by the parties or as provided
1574 by order of the arbitrator, a party is deemed to have appeared at
1575 a mediation conference by the physical presence of the party or
1576 its representative having full authority to settle without
1577 further consultation, provided that an association may comply by
1578 having one or more representatives present with full authority to
1579 negotiate a settlement and recommend that the board of
1580 administration ratify and approve such a settlement within 5 days
1581 from the date of the mediation conference. The parties shall
1582 share equally the expense of mediation, unless they agree
1583 otherwise.

1584 (g) The purpose of mediation as provided for by this
1585 section is to present the parties with an opportunity to resolve
1586 the underlying dispute in good faith, and with a minimum
1587 expenditure of time and resources.

1588 (h) Mediation proceedings must generally be conducted in
1589 accordance with the Florida Rules of Civil Procedure, and these
1590 proceedings are privileged and confidential to the same extent as



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1591 court-ordered mediation. Persons who are not parties to the
1592 dispute are not allowed to attend the mediation conference
1593 without the consent of all parties, with the exception of counsel
1594 for the parties and corporate representatives designated to
1595 appear for a party. If the mediator declares an impasse after a
1596 mediation conference has been held, the arbitration proceeding
1597 terminates, unless all parties agree in writing to continue the
1598 arbitration proceeding, in which case the arbitrator's decision
1599 shall be ~~either~~ binding or nonbinding, as agreed upon by the
1600 parties; in the arbitration proceeding, the arbitrator shall not
1601 consider any evidence relating to the unsuccessful mediation
1602 except in a proceeding to impose sanctions for failure to appear
1603 at the mediation conference. If the parties do not agree to
1604 continue arbitration, the arbitrator shall enter an order of
1605 dismissal, and either party may institute a suit in a court of
1606 competent jurisdiction. The parties may seek to recover any costs
1607 and attorneys' fees incurred in connection with arbitration and
1608 mediation proceedings under this section as part of the costs and
1609 fees that may be recovered by the prevailing party in any
1610 subsequent litigation.

1611 (i) Arbitration shall be conducted according to rules
1612 adopted ~~promulgated~~ by the division. The filing of a petition for
1613 arbitration shall toll the applicable statute of limitations.

1614 (j) At the request of any party to the arbitration, the
1615 ~~such~~ arbitrator shall issue subpoenas for the attendance of
1616 witnesses and the production of books, records, documents, and
1617 other evidence and any party on whose behalf a subpoena is issued
1618 may apply to the court for orders compelling such attendance and
1619 production. Subpoenas shall be served and shall be enforceable in
1620 the manner provided by the Florida Rules of Civil Procedure.



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1621 Discovery may, in the discretion of the arbitrator, be permitted
1622 in the manner provided by the Florida Rules of Civil Procedure.
1623 Rules adopted by the division may authorize any reasonable
1624 sanctions except contempt for a violation of the arbitration
1625 procedural rules of the division or for the failure of a party to
1626 comply with a reasonable nonfinal order issued by an arbitrator
1627 which is not under judicial review.

1628 (k) The arbitration decision shall be presented to the
1629 parties in writing. An arbitration decision is final in those
1630 disputes in which the parties have agreed to be bound. An
1631 arbitration decision is also final if a complaint for a trial de
1632 novo is not filed in a court of competent jurisdiction in which
1633 the condominium is located within 30 days. The right to file for
1634 a trial de novo entitles the parties to file a complaint in the
1635 appropriate trial court for a judicial resolution of the dispute.
1636 The prevailing party in an arbitration proceeding shall be
1637 awarded the costs of the arbitration and reasonable attorney's
1638 fees in an amount determined by the arbitrator. Such an award
1639 shall include the costs and reasonable attorney's fees incurred
1640 in the arbitration proceeding as well as the costs and reasonable
1641 attorney's fees incurred in preparing for and attending any
1642 scheduled mediation.

1643 (l) The party who files a complaint for a trial de novo
1644 shall be assessed the other party's arbitration costs, court
1645 costs, and other reasonable costs, including attorney's fees,
1646 investigation expenses, and expenses for expert or other
1647 testimony or evidence incurred after the arbitration hearing if
1648 the judgment upon the trial de novo is not more favorable than
1649 the arbitration decision. If the judgment is more favorable, the

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1650 party who filed a complaint for trial de novo shall be awarded
1651 reasonable court costs and attorney's fees.

1652 (m) Any party to an arbitration proceeding may enforce an
1653 arbitration award by filing a petition in a court of competent
1654 jurisdiction in which the condominium is located. A petition may
1655 not be granted unless the time for appeal by the filing of a
1656 complaint for trial de novo has expired. If a complaint for a
1657 trial de novo has been filed, a petition may not be granted with
1658 respect to an arbitration award that has been stayed. If the
1659 petition for enforcement is granted, the petitioner shall recover
1660 reasonable attorney's fees and costs incurred in enforcing the
1661 arbitration award. A mediation settlement may also be enforced
1662 through the county or circuit court, as applicable, and any costs
1663 and fees incurred in the enforcement of a settlement agreement
1664 reached at mediation must be awarded to the prevailing party in
1665 any enforcement action.

1666 Section 45. Section 718.501, Florida Statutes, is amended
1667 to read:

1668 718.501 Powers and duties of Division of Florida ~~Land~~
1669 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

1670 (1) The Division of Florida ~~Land Sales~~, Condominiums,
1671 Timeshares, and Mobile Homes of the Department of Business and
1672 Professional Regulation, referred to as the "division" in this
1673 part, ~~in addition to other powers and duties prescribed by~~
1674 ~~chapter 498~~, has the power to enforce and ensure compliance with
1675 the provisions of this chapter and rules promulgated pursuant
1676 ~~hereto~~ relating to the development, construction, sale, lease,
1677 ownership, operation, and management of residential condominium
1678 units. In performing its duties, the division has the following
1679 powers and duties:



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1680 (a)1. The division may make necessary public or private
1681 investigations within or outside this state to determine whether
1682 any person has violated this chapter or any rule or order
1683 hereunder, to aid in the enforcement of this chapter, or to aid
1684 in the adoption of rules or forms hereunder.

1685 2. The division may submit any official written report,
1686 worksheet, or other related paper, or a duly certified copy
1687 thereof, compiled, prepared, drafted, or otherwise made by and
1688 duly authenticated by a financial examiner or analyst to be
1689 admitted as competent evidence in any hearing in which the
1690 financial examiner or analyst is available for cross-examination
1691 and attests under oath that such documents were prepared as a
1692 result of an examination or inspection conducted pursuant to this
1693 chapter.

1694 (b) The division may require or permit any person to file a
1695 statement in writing, under oath or otherwise, as the division
1696 determines, as to the facts and circumstances concerning a matter
1697 to be investigated.

1698 (c) For the purpose of any investigation under this
1699 chapter, the division director or any officer or employee
1700 designated by the division director may administer oaths or
1701 affirmations, subpoena witnesses and compel their attendance,
1702 take evidence, and require the production of any matter which is
1703 relevant to the investigation, including the existence,
1704 description, nature, custody, condition, and location of any
1705 books, documents, or other tangible things and the identity and
1706 location of persons having knowledge of relevant facts or any
1707 other matter reasonably calculated to lead to the discovery of
1708 material evidence. Upon the failure by a person to obey a
1709 subpoena or to answer questions propounded by the investigating



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1710 officer and upon reasonable notice to all persons affected
1711 thereby, the division may apply to the circuit court for an order
1712 compelling compliance.

1713 (d) Notwithstanding any remedies available to unit owners
1714 and associations, if the division has reasonable cause to believe
1715 that a violation of any provision of this chapter or related rule
1716 ~~promulgated pursuant hereto~~ has occurred, the division may
1717 institute enforcement proceedings in its own name against any
1718 developer, association, officer, or member of the board of
1719 administration, or its assignees or agents, as follows:

1720 1. The division may permit a person whose conduct or
1721 actions may be under investigation to waive formal proceedings
1722 and enter into a consent proceeding whereby orders, rules, or
1723 letters of censure or warning, whether formal or informal, may be
1724 entered against the person.

1725 2. The division may issue an order requiring the developer,
1726 association, officer, or member of the board of administration,
1727 or its assignees or agents, to cease and desist from the unlawful
1728 practice and take such affirmative action as in the judgment of
1729 the division will carry out the purposes of this chapter. ~~Such~~
1730 ~~affirmative action may include, but is not limited to, an order~~
1731 ~~requiring a developer to pay moneys determined to be owed to a~~
1732 ~~condominium association.~~ If the division finds that a developer,
1733 association, officer, or member of the board of administration,
1734 or its assignees or agents, is violating or is about to violate
1735 any provision of this chapter, any rule adopted or order issued
1736 by the division, or any written agreement entered into with the
1737 division, and presents an immediate danger to the public
1738 requiring an immediate final order, it may issue an emergency
1739 cease and desist order reciting with particularity the facts



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1740 underlying such findings. The emergency cease and desist order is
1741 effective for 90 days. If the division begins nonemergency cease
1742 and desist proceedings, the emergency cease and desist order
1743 remains effective until the conclusion of the proceedings under
1744 ss. 120.569 and 120.57.

1745 3. The division may bring an action in circuit court on
1746 behalf of a class of unit owners, lessees, or purchasers for
1747 declaratory relief, injunctive relief, or restitution.

1748 4. The division may petition the court for the appointment
1749 of a receiver or conservator. If appointed, the receiver or
1750 conservator may take action to implement the court order to
1751 ensure the performance of the order and to remedy any breach
1752 thereof. In addition to all other means provided by law for the
1753 enforcement of an injunction or temporary restraining order, the
1754 circuit court may impound or sequester the property of a party
1755 defendant, including books, papers, documents, and related
1756 records, and allow the examination and use of the property by the
1757 division and a court-appointed receiver or conservator.

1758 5. The division may apply to the circuit court for an order
1759 of restitution whereby the defendant in an action brought
1760 pursuant to subparagraph 4. shall be ordered to make restitution
1761 of those sums shown by the division to have been obtained by the
1762 defendant in violation of this chapter. Such restitution shall,
1763 at the option of the court, be payable to the conservator or
1764 receiver appointed pursuant to subparagraph 4. or directly to the
1765 persons whose funds or assets were obtained in violation of this
1766 chapter.

1767 6.4. The division may impose a civil penalty against a
1768 developer or association, or its assignee or agent, for any
1769 violation of this chapter or a rule adopted under this chapter



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1770 ~~promulgated pursuant hereto~~. The division may impose a civil
1771 penalty individually against any officer or board member who
1772 willfully and knowingly violates a provision of this chapter,
1773 adopted a rule ~~adopted pursuant hereto~~, or a final order of the
1774 division. The term "willfully and knowingly" means that the
1775 division informed the officer or board member that his or her
1776 action or intended action violates this chapter, a rule adopted
1777 under this chapter, or a final order of the division and that the
1778 officer or board member refused to comply with the requirements
1779 of this chapter, a rule adopted under this chapter, or a final
1780 order of the division. The division, prior to initiating formal
1781 agency action under chapter 120, shall afford the officer or
1782 board member an opportunity to voluntarily comply with this
1783 chapter, a rule adopted under this chapter, or a final order of
1784 the division. An officer or board member who complies within 10
1785 days is not subject to a civil penalty. A penalty may be imposed
1786 on the basis of each day of continuing violation, but in no event
1787 shall the penalty for any offense exceed \$5,000. By January 1,
1788 1998, the division shall adopt, by rule, penalty guidelines
1789 applicable to possible violations or to categories of violations
1790 of this chapter or rules adopted by the division. The guidelines
1791 must specify a meaningful range of civil penalties for each such
1792 violation of the statute and rules and must be based upon the
1793 harm caused by the violation, the repetition of the violation,
1794 and upon such other factors deemed relevant by the division. For
1795 example, the division may consider whether the violations were
1796 committed by a developer or owner-controlled association, the
1797 size of the association, and other factors. The guidelines must
1798 designate the possible mitigating or aggravating circumstances
1799 that justify a departure from the range of penalties provided by



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1800 the rules. It is the legislative intent that minor violations be
1801 distinguished from those which endanger the health, safety, or
1802 welfare of the condominium residents or other persons and that
1803 such guidelines provide reasonable and meaningful notice to the
1804 public of likely penalties that may be imposed for proscribed
1805 conduct. This subsection does not limit the ability of the
1806 division to informally dispose of administrative actions or
1807 complaints by stipulation, agreed settlement, or consent order.
1808 All amounts collected shall be deposited with the Chief Financial
1809 Officer to the credit of the Division of Florida ~~Land Sales,~~
1810 Condominiums, Timeshares, and Mobile Homes Trust Fund. If a
1811 developer fails to pay the civil penalty, the division shall
1812 ~~thereupon~~ issue an order directing that such developer cease and
1813 desist from further operation until such time as the civil
1814 penalty is paid or may pursue enforcement of the penalty in a
1815 court of competent jurisdiction. If an association fails to pay
1816 the civil penalty, the division shall ~~thereupon~~ pursue
1817 enforcement in a court of competent jurisdiction, and the order
1818 imposing the civil penalty or the cease and desist order will not
1819 become effective until 20 days after the date of such order. Any
1820 action commenced by the division shall be brought in the county
1821 in which the division has its executive offices or in the county
1822 where the violation occurred.

1823 7. In addition to subparagraph 6., the division may seek
1824 the imposition of a civil penalty through the circuit court for
1825 any violation for which the division may issue a notice to show
1826 cause under paragraph (q). The civil penalty shall be at least
1827 \$500 but no more than \$5,000 for each violation. The court may
1828 also award to the prevailing party court costs and reasonable



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1829 attorney's fees and, if the division prevails, may also award
1830 reasonable costs of investigation.

1831 (e) The division may ~~is authorized to~~ prepare and
1832 disseminate a prospectus and other information to assist
1833 prospective owners, purchasers, lessees, and developers of
1834 residential condominiums in assessing the rights, privileges, and
1835 duties pertaining thereto.

1836 (f) The division has authority to adopt rules pursuant to
1837 ss. 120.536(1) and 120.54 to implement and enforce the provisions
1838 of this chapter.

1839 (g) The division shall establish procedures for providing
1840 notice to an association when the division is considering the
1841 issuance of a declaratory statement with respect to the
1842 declaration of condominium or any related document governing in
1843 such condominium community.

1844 (h) The division shall furnish each association which pays
1845 the fees required by paragraph (2)(a) a copy of this act,
1846 subsequent changes to this act on an annual basis, an amended
1847 version of this act as it becomes available from the Secretary of
1848 State's office on a biennial basis, and the rules adopted
1849 ~~promulgated pursuant~~ thereto on an annual basis.

1850 (i) The division shall annually provide each association
1851 with a summary of declaratory statements and formal legal
1852 opinions relating to the operations of condominiums which were
1853 rendered by the division during the previous year.

1854 (j) The division shall provide training programs for
1855 condominium association board members and unit owners.

1856 (k) The division shall maintain a toll-free telephone
1857 number accessible to condominium unit owners.



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1858 (1) The division shall develop a program to certify both
1859 volunteer and paid mediators to provide mediation of condominium
1860 disputes. The division shall provide, upon request, a list of
1861 such mediators to any association, unit owner, or other
1862 participant in arbitration proceedings under s. 718.1255
1863 requesting a copy of the list. The division shall include on the
1864 list of volunteer mediators only the names of persons who have
1865 received at least 20 hours of training in mediation techniques or
1866 who have mediated at least 20 disputes. In order to become
1867 initially certified by the division, paid mediators must be
1868 certified by the Supreme Court to mediate court cases in ~~either~~
1869 county or circuit courts. However, the division may adopt, by
1870 rule, additional factors for the certification of paid mediators,
1871 which factors must be related to experience, education, or
1872 background. Any person initially certified as a paid mediator by
1873 the division must, in order to continue to be certified, comply
1874 with the factors or requirements imposed by rules adopted by the
1875 division.

1876 (m) When a complaint is made, the division shall conduct
1877 its inquiry with due regard to the interests of the affected
1878 parties. Within 30 days after receipt of a complaint, the
1879 division shall acknowledge the complaint in writing and notify
1880 the complainant whether the complaint is within the jurisdiction
1881 of the division and whether additional information is needed by
1882 the division from the complainant. The division shall conduct its
1883 investigation and shall, within 90 days after receipt of the
1884 original complaint or of timely requested additional information,
1885 take action upon the complaint. However, the failure to complete
1886 the investigation within 90 days does not prevent the division
1887 from continuing the investigation, accepting or considering



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1888 evidence obtained or received after 90 days, or taking
1889 administrative action if reasonable cause exists to believe that
1890 a violation of this chapter or a rule of the division has
1891 occurred. If an investigation is not completed within the time
1892 limits established in this paragraph, the division shall, on a
1893 monthly basis, notify the complainant in writing of the status of
1894 the investigation. When reporting its action to the complainant,
1895 the division shall inform the complainant of any right to a
1896 hearing pursuant to ss. 120.569 and 120.57.

1897 (n) The division may:

1898 1. Contract with agencies in this state or other
1899 jurisdictions to perform investigative functions; or

1900 2. Accept grants-in-aid from any source.

1901 (o) The division shall cooperate with similar agencies in
1902 other jurisdictions to establish uniform filing procedures and
1903 forms, public offering statements, advertising standards, and
1904 rules and common administrative practices.

1905 (p) The division shall consider notice to a developer to be
1906 complete when it is delivered to the developer's address
1907 currently on file with the division.

1908 (q) In addition to its enforcement authority, the division
1909 may issue a notice to show cause, which shall provide for a
1910 hearing, upon written request, in accordance with chapter 120.

1911 (2) (a) Effective January 1, 1992, Each condominium
1912 association which operates more than two units shall pay to the
1913 division an annual fee in the amount of \$4 for each residential
1914 unit in condominiums operated by the association. If the fee is
1915 not paid by March 1, ~~then~~ the association shall be assessed a
1916 penalty of 10 percent of the amount due, and the association will



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1917 | not have standing to maintain or defend any action in the courts
1918 | of this state until the amount due, plus any penalty, is paid.

1919 | (b) All fees shall be deposited in the Division of Florida
1920 | ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust Fund
1921 | as provided by law.

1922 | Section 46. Subsection (1) of section 718.5011, Florida
1923 | Statutes, is amended to read:

1924 | 718.5011 Ombudsman; appointment; administration.--

1925 | (1) There is created an Office of the Condominium
1926 | Ombudsman, to be located for administrative purposes within the
1927 | Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
1928 | Mobile Homes. The functions of the office shall be funded by the
1929 | Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
1930 | Mobile Homes Trust Fund. The ombudsman shall be a bureau chief of
1931 | the division, and the office shall be set within the division in
1932 | the same manner as any other bureau is staffed and funded.

1933 | Section 47. Paragraph (a) of subsection (2) of section
1934 | 718.502, Florida Statutes, is amended to read:

1935 | 718.502 Filing prior to sale or lease.--

1936 | (2)(a) Prior to filing as required by subsection (1), and
1937 | prior to acquiring an ownership, leasehold, or contractual
1938 | interest in the land upon which the condominium is to be
1939 | developed, a developer shall not offer a contract for purchase of
1940 | a unit or lease of a unit for more than 5 years. However, the
1941 | developer may accept deposits for reservations upon the approval
1942 | of a fully executed escrow agreement and reservation agreement
1943 | form properly filed with the Division of Florida ~~Land Sales,~~
1944 | Condominiums, Timeshares, and Mobile Homes. Each filing of a
1945 | proposed reservation program shall be accompanied by a filing fee
1946 | of \$250. Reservations shall not be taken on a proposed

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1947 condominium unless the developer has an ownership, leasehold, or
1948 contractual interest in the land upon which the condominium is to
1949 be developed. The division shall notify the developer within 20
1950 days of receipt of the reservation filing of any deficiencies
1951 contained therein. Such notification shall not preclude the
1952 determination of reservation filing deficiencies at a later date,
1953 nor shall it relieve the developer of any responsibility under
1954 the law. The escrow agreement and the reservation agreement form
1955 shall include a statement of the right of the prospective
1956 purchaser to an immediate unqualified refund of the reservation
1957 deposit moneys upon written request to the escrow agent by the
1958 prospective purchaser or the developer.

1959 Section 48. Section 718.504, Florida Statutes, is amended
1960 to read:

1961 718.504 Prospectus or offering circular.--Every developer
1962 of a residential condominium which contains more than 20
1963 residential units, or which is part of a group of residential
1964 condominiums which will be served by property to be used in
1965 common by unit owners of more than 20 residential units, shall
1966 prepare a prospectus or offering circular and file it with the
1967 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
1968 Mobile Homes prior to entering into an enforceable contract of
1969 purchase and sale of any unit or lease of a unit for more than 5
1970 years and shall furnish a copy of the prospectus or offering
1971 circular to each buyer. In addition to the prospectus or offering
1972 circular, each buyer shall be furnished a separate page entitled
1973 "Frequently Asked Questions and Answers," which shall be in
1974 accordance with a format approved by the division and a copy of
1975 the financial information required by s. 718.111. This page
1976 shall, in readable language, inform prospective purchasers



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1977 regarding their voting rights and unit use restrictions,
1978 including restrictions on the leasing of a unit; shall indicate
1979 whether and in what amount the unit owners or the association is
1980 obligated to pay rent or land use fees for recreational or other
1981 commonly used facilities; shall contain a statement identifying
1982 that amount of assessment which, pursuant to the budget, would be
1983 levied upon each unit type, exclusive of any special assessments,
1984 and which shall further identify the basis upon which assessments
1985 are levied, whether monthly, quarterly, or otherwise; shall state
1986 and identify any court cases in which the association is
1987 currently a party of record in which the association may face
1988 liability in excess of \$100,000; and which shall further state
1989 whether membership in a recreational facilities association is
1990 mandatory, and if so, shall identify the fees currently charged
1991 per unit type. The division shall by rule require such other
1992 disclosure as in its judgment will assist prospective purchasers.
1993 The prospectus or offering circular may include more than one
1994 condominium, although not all such units are being offered for
1995 sale as of the date of the prospectus or offering circular. The
1996 prospectus or offering circular must contain the following
1997 information:

- 1998 (1) The front cover or the first page must contain only:
1999 (a) The name of the condominium.
2000 (b) The following statements in conspicuous type:
2001 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
2002 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.
2003 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
2004 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
2005 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.



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2006 | 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
2007 | STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
2008 | PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
2009 | REPRESENTATIONS.

2010 | (2) Summary: The next page must contain all statements
2011 | required to be in conspicuous type in the prospectus or offering
2012 | circular.

2013 | (3) A separate index of the contents and exhibits of the
2014 | prospectus.

2015 | (4) Beginning on the first page of the text (not including
2016 | the summary and index), a description of the condominium,
2017 | including, but not limited to, the following information:

2018 | (a) Its name and location.

2019 | (b) A description of the condominium property, including,
2020 | without limitation:

2021 | 1. The number of buildings, the number of units in each
2022 | building, the number of bathrooms and bedrooms in each unit, and
2023 | the total number of units, if the condominium is not a phase
2024 | condominium, or the maximum number of buildings that may be
2025 | contained within the condominium, the minimum and maximum numbers
2026 | of units in each building, the minimum and maximum numbers of
2027 | bathrooms and bedrooms that may be contained in each unit, and
2028 | the maximum number of units that may be contained within the
2029 | condominium, if the condominium is a phase condominium.

2030 | 2. The page in the condominium documents where a copy of
2031 | the plot plan and survey of the condominium is located.

2032 | 3. The estimated latest date of completion of constructing,
2033 | finishing, and equipping. In lieu of a date, the description
2034 | shall include a statement that the estimated date of completion



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2035 of the condominium is in the purchase agreement and a reference
2036 to the article or paragraph containing that information.

2037 (c) The maximum number of units that will use facilities in
2038 common with the condominium. If the maximum number of units will
2039 vary, a description of the basis for variation and the minimum
2040 amount of dollars per unit to be spent for additional
2041 recreational facilities or enlargement of such facilities. If the
2042 addition or enlargement of facilities will result in a material
2043 increase of a unit owner's maintenance expense or rental expense,
2044 if any, the maximum increase and limitations thereon shall be
2045 stated.

2046 (5) (a) A statement in conspicuous type describing whether
2047 the condominium is created and being sold as fee simple interests
2048 or as leasehold interests. If the condominium is created or being
2049 sold on a leasehold, the location of the lease in the disclosure
2050 materials shall be stated.

2051 (b) If timeshare estates are or may be created with respect
2052 to any unit in the condominium, a statement in conspicuous type
2053 stating that timeshare estates are created and being sold in
2054 units in the condominium.

2055 (6) A description of the recreational and other commonly
2056 used facilities that will be used only by unit owners of the
2057 condominium, including, but not limited to, the following:

2058 (a) Each room and its intended purposes, location,
2059 approximate floor area, and capacity in numbers of people.

2060 (b) Each swimming pool, as to its general location,
2061 approximate size and depths, approximate deck size and capacity,
2062 and whether heated.

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2063 (c) Additional facilities, as to the number of each
2064 facility, its approximate location, approximate size, and
2065 approximate capacity.

2066 (d) A general description of the items of personal property
2067 and the approximate number of each item of personal property that
2068 the developer is committing to furnish for each room or other
2069 facility or, in the alternative, a representation as to the
2070 minimum amount of expenditure that will be made to purchase the
2071 personal property for the facility.

2072 (e) The estimated date when each room or other facility
2073 will be available for use by the unit owners.

2074 (f)1. An identification of each room or other facility to
2075 be used by unit owners that will not be owned by the unit owners
2076 or the association;

2077 2. A reference to the location in the disclosure materials
2078 of the lease or other agreements providing for the use of those
2079 facilities; and

2080 3. A description of the terms of the lease or other
2081 agreements, including the length of the term; the rent payable,
2082 directly or indirectly, by each unit owner, and the total rent
2083 payable to the lessor, stated in monthly and annual amounts for
2084 the entire term of the lease; and a description of any option to
2085 purchase the property leased under any such lease, including the
2086 time the option may be exercised, the purchase price or how it is
2087 to be determined, the manner of payment, and whether the option
2088 may be exercised for a unit owner's share or only as to the
2089 entire leased property.

2090 (g) A statement as to whether the developer may provide
2091 additional facilities not described above; their general
2092 locations and types; improvements or changes that may be made;



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2093 the approximate dollar amount to be expended; and the maximum
2094 additional common expense or cost to the individual unit owners
2095 that may be charged during the first annual period of operation
2096 of the modified or added facilities.

2097
2098 Descriptions as to locations, areas, capacities, numbers,
2099 volumes, or sizes may be stated as approximations or minimums.

2100 (7) A description of the recreational and other facilities
2101 that will be used in common with other condominiums, community
2102 associations, or planned developments which require the payment
2103 of the maintenance and expenses of such facilities, ~~either~~
2104 directly or indirectly, by the unit owners. The description shall
2105 include, but not be limited to, the following:

2106 (a) Each building and facility committed to be built.

2107 (b) Facilities not committed to be built except under
2108 certain conditions, and a statement of those conditions or
2109 contingencies.

2110 (c) As to each facility committed to be built, or which
2111 will be committed to be built upon the happening of one of the
2112 conditions in paragraph (b), a statement of whether it will be
2113 owned by the unit owners having the use thereof or by an
2114 association or other entity which will be controlled by them, or
2115 others, and the location in the exhibits of the lease or other
2116 document providing for use of those facilities.

2117 (d) The year in which each facility will be available for
2118 use by the unit owners or, in the alternative, the maximum number
2119 of unit owners in the project at the time each of all of the
2120 facilities is committed to be completed.

2121 (e) A general description of the items of personal
2122 property, and the approximate number of each item of personal



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2123 property, that the developer is committing to furnish for each
2124 room or other facility or, in the alternative, a representation
2125 as to the minimum amount of expenditure that will be made to
2126 purchase the personal property for the facility.

2127 (f) If there are leases, a description thereof, including
2128 the length of the term, the rent payable, and a description of
2129 any option to purchase.

2130
2131 Descriptions shall include location, areas, capacities, numbers,
2132 volumes, or sizes and may be stated as approximations or
2133 minimums.

2134 (8) Recreation lease or associated club membership:

2135 (a) If any recreational facilities or other facilities
2136 offered by the developer and available to, or to be used by, unit
2137 owners are to be leased or have club membership associated, the
2138 following statement in conspicuous type shall be included: THERE
2139 IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
2140 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
2141 CONDOMINIUM. There shall be a reference to the location in the
2142 disclosure materials where the recreation lease or club
2143 membership is described in detail.

2144 (b) If it is mandatory that unit owners pay a fee, rent,
2145 dues, or other charges under a recreational facilities lease or
2146 club membership for the use of facilities, there shall be in
2147 conspicuous type the applicable statement:

2148 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
2149 MANDATORY FOR UNIT OWNERS; or

2150 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
2151 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or



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2152 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS
2153 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,
2154 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE
2155 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2156 4. A similar statement of the nature of the organization or
2157 the manner in which the use rights are created, and that unit
2158 owners are required to pay.

2159
2160 Immediately following the applicable statement, the location in
2161 the disclosure materials where the development is described in
2162 detail shall be stated.

2163 (c) If the developer, or any other person other than the
2164 unit owners and other persons having use rights in the
2165 facilities, reserves, or is entitled to receive, any rent, fee,
2166 or other payment for the use of the facilities, then there shall
2167 be the following statement in conspicuous type: THE UNIT OWNERS
2168 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
2169 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately
2170 following this statement, the location in the disclosure
2171 materials where the rent or land use fees are described in detail
2172 shall be stated.

2173 (d) If, in any recreation format, whether leasehold, club,
2174 or other, any person other than the association has the right to
2175 a lien on the units to secure the payment of assessments, rent,
2176 or other exactions, there shall appear a statement in conspicuous
2177 type in substantially the following form:

2178 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2179 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
2180 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS
2181 MAY RESULT IN FORECLOSURE OF THE LIEN; or



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2182 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2183 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
2184 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
2185 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE
2186 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2187
2188 Immediately following the applicable statement, the location in
2189 the disclosure materials where the lien or lien right is
2190 described in detail shall be stated.

2191 (9) If the developer or any other person has the right to
2192 increase or add to the recreational facilities at any time after
2193 the establishment of the condominium whose unit owners have use
2194 rights therein, without the consent of the unit owners or
2195 associations being required, there shall appear a statement in
2196 conspicuous type in substantially the following form:

2197 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
2198 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
2199 statement, the location in the disclosure materials where such
2200 reserved rights are described shall be stated.

2201 (10) A statement of whether the developer's plan includes a
2202 program of leasing units rather than selling them, or leasing
2203 units and selling them subject to such leases. If so, there shall
2204 be a description of the plan, including the number and
2205 identification of the units and the provisions and term of the
2206 proposed leases, and a statement in boldfaced type that: THE
2207 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2208 (11) The arrangements for management of the association and
2209 maintenance and operation of the condominium property and of
2210 other property that will serve the unit owners of the condominium
2211 property, and a description of the management contract and all



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2212 other contracts for these purposes having a term in excess of 1
2213 year, including the following:

2214 (a) The names of contracting parties.

2215 (b) The term of the contract.

2216 (c) The nature of the services included.

2217 (d) The compensation, stated on a monthly and annual basis,
2218 and provisions for increases in the compensation.

2219 (e) A reference to the volumes and pages of the condominium
2220 documents and of the exhibits containing copies of such
2221 contracts.

2222

2223 Copies of all described contracts shall be attached as exhibits.

2224 If there is a contract for the management of the condominium

2225 property, then a statement in conspicuous type in substantially

2226 the following form shall appear, identifying the proposed or

2227 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE

2228 MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE CONTRACT

2229 MANAGER). Immediately following this statement, the location in

2230 the disclosure materials of the contract for management of the

2231 condominium property shall be stated.

2232 (12) If the developer or any other person or persons other

2233 than the unit owners has the right to retain control of the board

2234 of administration of the association for a period of time which

2235 can exceed 1 year after the closing of the sale of a majority of

2236 the units in that condominium to persons other than successors or

2237 alternate developers, then a statement in conspicuous type in

2238 substantially the following form shall be included: THE DEVELOPER

2239 (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE

2240 ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.

2241 Immediately following this statement, the location in the



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2242 disclosure materials where this right to control is described in
2243 detail shall be stated.

2244 (13) If there are any restrictions upon the sale, transfer,
2245 conveyance, or leasing of a unit, then a statement in conspicuous
2246 type in substantially the following form shall be included: THE
2247 SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.
2248 Immediately following this statement, the location in the
2249 disclosure materials where the restriction, limitation, or
2250 control on the sale, lease, or transfer of units is described in
2251 detail shall be stated.

2252 (14) If the condominium is part of a phase project, the
2253 following information shall be stated:

2254 (a) A statement in conspicuous type in substantially the
2255 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
2256 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
2257 this statement, the location in the disclosure materials where
2258 the phasing is described shall be stated.

2259 (b) A summary of the provisions of the declaration which
2260 provide for the phasing.

2261 (c) A statement as to whether or not residential buildings
2262 and units which are added to the condominium may be substantially
2263 different from the residential buildings and units originally in
2264 the condominium. If the added residential buildings and units may
2265 be substantially different, there shall be a general description
2266 of the extent to which such added residential buildings and units
2267 may differ, and a statement in conspicuous type in substantially
2268 the following form shall be included: BUILDINGS AND UNITS WHICH
2269 ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM
2270 THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately
2271 following this statement, the location in the disclosure



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2272 materials where the extent to which added residential buildings
2273 and units may substantially differ is described shall be stated.

2274 (d) A statement of the maximum number of buildings
2275 containing units, the maximum and minimum numbers of units in
2276 each building, the maximum number of units, and the minimum and
2277 maximum square footage of the units that may be contained within
2278 each parcel of land which may be added to the condominium.

2279 (15) If a condominium created on or after July 1, 2000, is
2280 or may become part of a multicondominium, the following
2281 information must be provided:

2282 (a) A statement in conspicuous type in substantially the
2283 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
2284 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
2285 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
2286 this statement, the location in the prospectus or offering
2287 circular and its exhibits where the multicondominium aspects of
2288 the offering are described must be stated.

2289 (b) A summary of the provisions in the declaration,
2290 articles of incorporation, and bylaws which establish and provide
2291 for the operation of the multicondominium, including a statement
2292 as to whether unit owners in the condominium will have the right
2293 to use recreational or other facilities located or planned to be
2294 located in other condominiums operated by the same association,
2295 and the manner of sharing the common expenses related to such
2296 facilities.

2297 (c) A statement of the minimum and maximum number of
2298 condominiums, and the minimum and maximum number of units in each
2299 of those condominiums, which will or may be operated by the
2300 association, and the latest date by which the exact number will
2301 be finally determined.



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2302 (d) A statement as to whether any of the condominiums in
2303 the multicondominium may include units intended to be used for
2304 nonresidential purposes and the purpose or purposes permitted for
2305 such use.

2306 (e) A general description of the location and approximate
2307 acreage of any land on which any additional condominiums to be
2308 operated by the association may be located.

2309 (16) If the condominium is created by conversion of
2310 existing improvements, the following information shall be stated:

2311 (a) The information required by s. 718.616.

2312 (b) A caveat that there are no express warranties unless
2313 they are stated in writing by the developer.

2314 (17) A summary of the restrictions, if any, to be imposed
2315 on units concerning the use of any of the condominium property,
2316 including statements as to whether there are restrictions upon
2317 children and pets, and reference to the volumes and pages of the
2318 condominium documents where such restrictions are found, or if
2319 such restrictions are contained elsewhere, then a copy of the
2320 documents containing the restrictions shall be attached as an
2321 exhibit.

2322 (18) If there is any land that is offered by the developer
2323 for use by the unit owners and that is neither owned by them nor
2324 leased to them, the association, or any entity controlled by unit
2325 owners and other persons having the use rights to such land, a
2326 statement shall be made as to how such land will serve the
2327 condominium. If any part of such land will serve the condominium,
2328 the statement shall describe the land and the nature and term of
2329 service, and the declaration or other instrument creating such
2330 servitude shall be included as an exhibit.



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2331 (19) The manner in which utility and other services,
2332 including, but not limited to, sewage and waste disposal, water
2333 supply, and storm drainage, will be provided and the person or
2334 entity furnishing them.

2335 (20) An explanation of the manner in which the
2336 apportionment of common expenses and ownership of the common
2337 elements has been determined.

2338 (21) An estimated operating budget for the condominium and
2339 the association, and a schedule of the unit owner's expenses
2340 shall be attached as an exhibit and shall contain the following
2341 information:

2342 (a) The estimated monthly and annual expenses of the
2343 condominium and the association that are collected from unit
2344 owners by assessments.

2345 (b) The estimated monthly and annual expenses of each unit
2346 owner for a unit, other than common expenses paid by all unit
2347 owners, payable by the unit owner to persons or entities other
2348 than the association, as well as to the association, including
2349 fees assessed pursuant to s. 718.113(1) for maintenance of
2350 limited common elements where such costs are shared only by those
2351 entitled to use the limited common element, and the total
2352 estimated monthly and annual expense. There may be excluded from
2353 this estimate expenses which are not provided for or contemplated
2354 by the condominium documents, including, but not limited to, the
2355 costs of private telephone; maintenance of the interior of
2356 condominium units, which is not the obligation of the
2357 association; maid or janitorial services privately contracted for
2358 by the unit owners; utility bills billed directly to each unit
2359 owner for utility services to his or her unit; insurance premiums
2360 other than those incurred for policies obtained by the



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2361 condominium; and similar personal expenses of the unit owner. A
2362 unit owner's estimated payments for assessments shall also be
2363 stated in the estimated amounts for the times when they will be
2364 due.

2365 (c) The estimated items of expenses of the condominium and
2366 the association, except as excluded under paragraph (b),
2367 including, but not limited to, the following items, which shall
2368 be stated ~~either~~ as an association expense collectible by
2369 assessments or as unit owners' expenses payable to persons other
2370 than the association:

2371 1. Expenses for the association and condominium:

2372 a. Administration of the association.

2373 b. Management fees.

2374 c. Maintenance.

2375 d. Rent for recreational and other commonly used
2376 facilities.

2377 e. Taxes upon association property.

2378 f. Taxes upon leased areas.

2379 g. Insurance.

2380 h. Security provisions.

2381 i. Other expenses.

2382 j. Operating capital.

2383 k. Reserves.

2384 1. Fees payable to the division.

2385 2. Expenses for a unit owner:

2386 a. Rent for the unit, if subject to a lease.

2387 b. Rent payable by the unit owner directly to the lessor or
2388 agent under any recreational lease or lease for the use of
2389 commonly used facilities, which use and payment is a mandatory
2390 condition of ownership and is not included in the common expense



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2391 or assessments for common maintenance paid by the unit owners to
2392 the association.

2393 (d) The following statement in conspicuous type: THE BUDGET
2394 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
2395 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
2396 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
2397 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
2398 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
2399 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE
2400 OFFERING.

2401 (e) Each budget for an association prepared by a developer
2402 consistent with this subsection shall be prepared in good faith
2403 and shall reflect accurate estimated amounts for the required
2404 items in paragraph (c) at the time of the filing of the offering
2405 circular with the division, and subsequent increased amounts of
2406 any item included in the association's estimated budget that are
2407 beyond the control of the developer shall not be considered an
2408 amendment that would give rise to rescission rights set forth in
2409 s. 718.503(1)(a) or (b), nor shall such increases modify, void,
2410 or otherwise affect any guarantee of the developer contained in
2411 the offering circular or any purchase contract. It is the intent
2412 of this paragraph to clarify existing law.

2413 (f) The estimated amounts shall be stated for a period of
2414 at least 12 months and may distinguish between the period prior
2415 to the time unit owners other than the developer elect a majority
2416 of the board of administration and the period after that date.

2417 (22) A schedule of estimated closing expenses to be paid by
2418 a buyer or lessee of a unit and a statement of whether title
2419 opinion or title insurance policy is available to the buyer and,
2420 if so, at whose expense.



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2421 (23) The identity of the developer and the chief operating
2422 officer or principal directing the creation and sale of the
2423 condominium and a statement of its and his or her experience in
2424 this field.

2425 (24) Copies of the following, to the extent they are
2426 applicable, shall be included as exhibits:

2427 (a) The declaration of condominium, or the proposed
2428 declaration if the declaration has not been recorded.

2429 (b) The articles of incorporation creating the association.

2430 (c) The bylaws of the association.

2431 (d) The ground lease or other underlying lease of the
2432 condominium.

2433 (e) The management agreement and all maintenance and other
2434 contracts for management of the association and operation of the
2435 condominium and facilities used by the unit owners having a
2436 service term in excess of 1 year.

2437 (f) The estimated operating budget for the condominium and
2438 the required schedule of unit owners' expenses.

2439 (g) A copy of the floor plan of the unit and the plot plan
2440 showing the location of the residential buildings and the
2441 recreation and other common areas.

2442 (h) The lease of recreational and other facilities that
2443 will be used only by unit owners of the subject condominium.

2444 (i) The lease of facilities used by owners and others.

2445 (j) The form of unit lease, if the offer is of a leasehold.

2446 (k) A declaration of servitude of properties serving the
2447 condominium but not owned by unit owners or leased to them or the
2448 association.



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2449 (l) The statement of condition of the existing building or
2450 buildings, if the offering is of units in an operation being
2451 converted to condominium ownership.

2452 (m) The statement of inspection for termite damage and
2453 treatment of the existing improvements, if the condominium is a
2454 conversion.

2455 (n) The form of agreement for sale or lease of units.

2456 (o) A copy of the agreement for escrow of payments made to
2457 the developer prior to closing.

2458 (p) A copy of the documents containing any restrictions on
2459 use of the property required by subsection (17).

2460 (25) Any prospectus or offering circular complying, prior
2461 to the effective date of this act, with the provisions of former
2462 ss. 711.69 and 711.802 may continue to be used without amendment
2463 or may be amended to comply with ~~the provisions of~~ this chapter.

2464 (26) A brief narrative description of the location and
2465 effect of all existing and intended easements located or to be
2466 located on the condominium property other than those described in
2467 the declaration.

2468 (27) If the developer is required by state or local
2469 authorities to obtain acceptance or approval of any dock or
2470 marina facilities intended to serve the condominium, a copy of
2471 any such acceptance or approval acquired by the time of filing
2472 with the division under s. 718.502(1) or a statement that such
2473 acceptance or approval has not been acquired or received.

2474 (28) Evidence demonstrating that the developer has an
2475 ownership, leasehold, or contractual interest in the land upon
2476 which the condominium is to be developed.

2477 Section 49. Section 718.508, Florida Statutes, is amended
2478 to read:



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2479 718.508 Regulation by Division of Hotels and
2480 Restaurants.--In addition to the authority, regulation, or
2481 control exercised by the Division of Florida ~~Land Sales,~~
2482 Condominiums, Timeshares, and Mobile Homes pursuant to this act
2483 with respect to condominiums, buildings included in a condominium
2484 property are shall be subject to the authority, regulation, or
2485 control of the Division of Hotels and Restaurants of the
2486 Department of Business and Professional Regulation, to the extent
2487 provided ~~for~~ in chapter 399.

2488 Section 50. Section 718.509, Florida Statutes, is amended,
2489 to read:

2490 718.509 Division of Florida ~~Land Sales,~~ Condominiums,
2491 Timeshares, and Mobile Homes Trust Fund.--

2492 (1) There is created within the State Treasury the Division
2493 of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund
2494 to be used for the administration and operation of this chapter
2495 and chapters 718, 719, 721, and 723 by the division.

2496 (2) All moneys collected by the division from fees, fines,
2497 or penalties or from costs awarded to the division by a court or
2498 administrative final order shall be paid into the Division of
2499 Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.
2500 The Legislature shall appropriate funds from the trust fund
2501 sufficient to carry out the provisions of this chapter and the
2502 provisions of law with respect to each category of business
2503 covered by the trust fund. The division shall maintain separate
2504 revenue accounts in the trust fund for each business regulated by
2505 the division. The division shall provide for the proportionate
2506 allocation among the accounts of expenses incurred by the
2507 division in the performance of its duties with respect to each
2508 business. As part of its normal budgetary process, the division



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2509 shall prepare an annual report of revenues and allocated expenses
2510 related to the operation of each business which may be used to
2511 determine fees charged by the division. This subsection shall
2512 operate pursuant to s. 215.20. All funds collected by the
2513 division and any amount paid for a fee or penalty under this
2514 chapter shall be deposited in the State Treasury to the credit of
2515 the Division of Florida Land Sales, Condominiums, and Mobile
2516 Homes Trust Fund created by s. 498.019.

2517 Section 51. Paragraph (a) of subsection (2) of section
2518 718.608, Florida Statutes, is amended to read:

2519 718.608 Notice of intended conversion; time of delivery;
2520 content.--

2521 (2) (a) Each notice of intended conversion shall be dated
2522 and in writing. The notice shall contain the following statement,
2523 with the phrases of the following statement which appear in upper
2524 case printed in conspicuous type:

2525
2526 These apartments are being converted to condominium by
2527 (name of developer) , the developer.

2528 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
2529 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
2530 AGREEMENT AS FOLLOWS:

2531 a. If you have continuously been a resident of these
2532 apartments during the last 180 days and your rental agreement
2533 expires during the next 270 days, you may extend your rental
2534 agreement for up to 270 days after the date of this notice.

2535 b. If you have not been a continuous resident of these
2536 apartments for the last 180 days and your rental agreement
2537 expires during the next 180 days, you may extend your rental
2538 agreement for up to 180 days after the date of this notice.



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2539 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
2540 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
2541 DATE OF THIS NOTICE.

2542 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
2543 you may extend your rental agreement for up to 45 days after the
2544 date of this notice while you decide whether to extend your
2545 rental agreement as explained above. To do so, you must notify
2546 the developer in writing. You will then have the full 45 days to
2547 decide whether to extend your rental agreement as explained
2548 above.

2549 3. During the extension of your rental agreement you will
2550 be charged the same rent that you are now paying.

2551 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
2552 OF THE RENTAL AGREEMENT AS FOLLOWS:

2553 a. If your rental agreement began or was extended or
2554 renewed after May 1, 1980, and your rental agreement, including
2555 extensions and renewals, has an unexpired term of 180 days or
2556 less, you may cancel your rental agreement upon 30 days' written
2557 notice and move. Also, upon 30 days' written notice, you may
2558 cancel any extension of the rental agreement.

2559 b. If your rental agreement was not begun or was not
2560 extended or renewed after May 1, 1980, you may not cancel the
2561 rental agreement without the consent of the developer. If your
2562 rental agreement, including extensions and renewals, has an
2563 unexpired term of 180 days or less, you may, however, upon 30
2564 days' written notice cancel any extension of the rental
2565 agreement.

2566 5. All notices must be given in writing and sent by mail,
2567 return receipt requested, or delivered in person to the developer
2568 at this address: (name and address of developer) .



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2569 | 6. If you have continuously been a resident of these
2570 | apartments during the last 180 days:

2571 | a. You have the right to purchase your apartment and will
2572 | have 45 days to decide whether to purchase. If you do not buy the
2573 | unit at that price and the unit is later offered at a lower
2574 | price, you will have the opportunity to buy the unit at the lower
2575 | price. However, in all events your right to purchase the unit
2576 | ends when the rental agreement or any extension of the rental
2577 | agreement ends or when you waive this right in writing.

2578 | b. Within 90 days you will be provided purchase information
2579 | relating to your apartment, including the price of your unit and
2580 | the condition of the building. If you do not receive this
2581 | information within 90 days, your rental agreement and any
2582 | extension will be extended 1 day for each day over 90 days until
2583 | you are given the purchase information. If you do not want this
2584 | rental agreement extension, you must notify the developer in
2585 | writing.

2586 | 7. If you have any questions regarding this conversion or
2587 | the Condominium Act, you may contact the developer or the state
2588 | agency which regulates condominiums: The Division of Florida ~~Land~~
2589 | ~~Sales~~, Condominiums, Timeshares, and Mobile Homes, (Tallahassee
2590 | address and telephone number of division) .

2591 | Section 52. Subsection (17) of section 719.103, Florida
2592 | Statutes, is amended to read:

2593 | 719.103 Definitions.--As used in this chapter:

2594 | (17) "Division" means the Division of Florida ~~Land Sales~~,
2595 | Condominiums, Timeshares, and Mobile Homes of the Department of
2596 | Business and Professional Regulation.

2597 | Section 53. Section 719.1255, Florida Statutes, is amended
2598 | to read:



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2599 | 719.1255 Alternative resolution of disputes.--The Division
2600 | of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes
2601 | of the Department of Business and Professional Regulation shall
2602 | provide for alternative dispute resolution in accordance with s.
2603 | 718.1255.

2604 | Section 54. Section 719.501, Florida Statutes, is amended
2605 | to read:

2606 | 719.501 Powers and duties of Division of Florida ~~Land~~
2607 | ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

2608 | (1) The Division of Florida ~~Land Sales~~, Condominiums,
2609 | Timeshares, and Mobile Homes of the Department of Business and
2610 | Professional Regulation, referred to as the "division" in this
2611 | part, in addition to other powers and duties prescribed by
2612 | chapter 718 ~~498~~, has the power to enforce and ensure compliance
2613 | with ~~the provisions of~~ this chapter and adopted rules ~~promulgated~~
2614 | ~~pursuant hereto~~ relating to the development, construction, sale,
2615 | lease, ownership, operation, and management of residential
2616 | cooperative units. In performing its duties, the division shall
2617 | have the following powers and duties:

2618 | (a) The division may make necessary public or private
2619 | investigations within or outside this state to determine whether
2620 | any person has violated this chapter or any rule or order
2621 | hereunder, to aid in the enforcement of this chapter, or to aid
2622 | in the adoption of rules or forms hereunder.

2623 | (b) The division may require or permit any person to file a
2624 | statement in writing, under oath or otherwise, as the division
2625 | determines, as to the facts and circumstances concerning a matter
2626 | to be investigated.

2627 | (c) For the purpose of any investigation under this
2628 | chapter, the division director or any officer or employee



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2629 designated by the division director may administer oaths or
2630 affirmations, subpoena witnesses and compel their attendance,
2631 take evidence, and require the production of any matter which is
2632 relevant to the investigation, including the existence,
2633 description, nature, custody, condition, and location of any
2634 books, documents, or other tangible things and the identity and
2635 location of persons having knowledge of relevant facts or any
2636 other matter reasonably calculated to lead to the discovery of
2637 material evidence. Upon failure by a person to obey a subpoena or
2638 to answer questions propounded by the investigating officer and
2639 upon reasonable notice to all persons affected thereby, the
2640 division may apply to the circuit court for an order compelling
2641 compliance.

2642 (d) Notwithstanding any remedies available to unit owners
2643 and associations, if the division has reasonable cause to believe
2644 that a violation of any provision of this chapter or related rule
2645 ~~promulgated pursuant hereto~~ has occurred, the division may
2646 institute enforcement proceedings in its own name against a
2647 developer, association, officer, or member of the board, or its
2648 assignees or agents, as follows:

2649 1. The division may permit a person whose conduct or
2650 actions may be under investigation to waive formal proceedings
2651 and enter into a consent proceeding whereby orders, rules, or
2652 letters of censure or warning, whether formal or informal, may be
2653 entered against the person.

2654 2. The division may issue an order requiring the developer,
2655 association, officer, or member of the board, or its assignees or
2656 agents, to cease and desist from the unlawful practice and take
2657 such affirmative action as in the judgment of the division will
2658 carry out the purposes of this chapter. Such affirmative action



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2659 | may include, but is not limited to, an order requiring a
2660 | developer to pay moneys determined to be owed to a condominium
2661 | association.

2662 | 3. The division may bring an action in circuit court on
2663 | behalf of a class of unit owners, lessees, or purchasers for
2664 | declaratory relief, injunctive relief, or restitution.

2665 | 4. The division may impose a civil penalty against a
2666 | developer or association, or its assignees or agents, for any
2667 | violation of this chapter or related a rule ~~promulgated pursuant~~
2668 | ~~hereto~~. The division may impose a civil penalty individually
2669 | against any officer or board member who willfully and knowingly
2670 | violates a provision of this chapter, a rule adopted pursuant to
2671 | this chapter, or a final order of the division. The term
2672 | "willfully and knowingly" means that the division informed the
2673 | officer or board member that his or her action or intended action
2674 | violates this chapter, a rule adopted under this chapter, or a
2675 | final order of the division, and that the officer or board member
2676 | refused to comply with the requirements of this chapter, a rule
2677 | adopted under this chapter, or a final order of the division. The
2678 | division, prior to initiating formal agency action under chapter
2679 | 120, shall afford the officer or board member an opportunity to
2680 | voluntarily comply with this chapter, a rule adopted under this
2681 | chapter, or a final order of the division. An officer or board
2682 | member who complies within 10 days is not subject to a civil
2683 | penalty. A penalty may be imposed on the basis of each day of
2684 | continuing violation, but in no event shall the penalty for any
2685 | offense exceed \$5,000. By January 1, 1998, the division shall
2686 | adopt, by rule, penalty guidelines applicable to possible
2687 | violations or to categories of violations of this chapter or
2688 | rules adopted by the division. The guidelines must specify a



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2689 meaningful range of civil penalties for each such violation of
2690 the statute and rules and must be based upon the harm caused by
2691 the violation, the repetition of the violation, and upon such
2692 other factors deemed relevant by the division. For example, the
2693 division may consider whether the violations were committed by a
2694 developer or owner-controlled association, the size of the
2695 association, and other factors. The guidelines must designate the
2696 possible mitigating or aggravating circumstances that justify a
2697 departure from the range of penalties provided by the rules. It
2698 is the legislative intent that minor violations be distinguished
2699 from those which endanger the health, safety, or welfare of the
2700 cooperative residents or other persons and that such guidelines
2701 provide reasonable and meaningful notice to the public of likely
2702 penalties that may be imposed for proscribed conduct. This
2703 subsection does not limit the ability of the division to
2704 informally dispose of administrative actions or complaints by
2705 stipulation, agreed settlement, or consent order. All amounts
2706 collected shall be deposited with the Chief Financial Officer to
2707 the credit of the Division of Florida ~~Land Sales,~~ Condominiums,
2708 Timeshares, and Mobile Homes Trust Fund. If a developer fails to
2709 pay the civil penalty, the division shall thereupon issue an
2710 order directing that such developer cease and desist from further
2711 operation until such time as the civil penalty is paid or may
2712 pursue enforcement of the penalty in a court of competent
2713 jurisdiction. If an association fails to pay the civil penalty,
2714 the division shall thereupon pursue enforcement in a court of
2715 competent jurisdiction, and the order imposing the civil penalty
2716 or the cease and desist order shall not become effective until 20
2717 days after the date of such order. Any action commenced by the
2718 division shall be brought in the county in which the division has



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2719 | its executive offices or in the county where the violation
2720 | occurred.

2721 | (e) The division may ~~is authorized to~~ prepare and
2722 | disseminate a prospectus and other information to assist
2723 | prospective owners, purchasers, lessees, and developers of
2724 | residential cooperatives in assessing the rights, privileges, and
2725 | duties pertaining thereto.

2726 | (f) The division has authority to adopt rules pursuant to
2727 | ss. 120.536(1) and 120.54 to implement and enforce the provisions
2728 | of this chapter.

2729 | (g) The division shall establish procedures for providing
2730 | notice to an association when the division is considering the
2731 | issuance of a declaratory statement with respect to the
2732 | cooperative documents governing such cooperative community.

2733 | (h) The division shall furnish each association which pays
2734 | the fees required by paragraph (2) (a) a copy of this act,
2735 | subsequent changes to this act on an annual basis, an amended
2736 | version of this act as it becomes available from the Secretary of
2737 | State's office on a biennial basis, and the rules adopted
2738 | ~~promulgated pursuant~~ thereto on an annual basis.

2739 | (i) The division shall annually provide each association
2740 | with a summary of declaratory statements and formal legal
2741 | opinions relating to the operations of cooperatives which were
2742 | rendered by the division during the previous year.

2743 | (j) The division shall adopt uniform accounting principles,
2744 | policies, and standards to be used by all associations in the
2745 | preparation and presentation of all financial statements required
2746 | by this chapter. The principles, policies, and standards shall
2747 | take into consideration the size of the association and the total
2748 | revenue collected by the association.



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2749 (k) The division shall provide training programs for
2750 cooperative association board members and unit owners.

2751 (l) The division shall maintain a toll-free telephone
2752 number accessible to cooperative unit owners.

2753 (m) When a complaint is made to the division, the division
2754 shall conduct its inquiry with reasonable dispatch and with due
2755 regard to the interests of the affected parties. Within 30 days
2756 after receipt of a complaint, the division shall acknowledge the
2757 complaint in writing and notify the complainant whether the
2758 complaint is within the jurisdiction of the division and whether
2759 additional information is needed by the division from the
2760 complainant. The division shall conduct its investigation and
2761 shall, within 90 days after receipt of the original complaint or
2762 timely requested additional information, take action upon the
2763 complaint. However, the failure to complete the investigation
2764 within 90 days does not prevent the division from continuing the
2765 investigation, accepting or considering evidence obtained or
2766 received after 90 days, or taking administrative action if
2767 reasonable cause exists to believe that a violation of this
2768 chapter or a rule of the division has occurred. If an
2769 investigation is not completed within the time limits established
2770 in this paragraph, the division shall, on a monthly basis, notify
2771 the complainant in writing of the status of the investigation.
2772 When reporting its action to the complainant, the division shall
2773 inform the complainant of any right to a hearing pursuant to ss.
2774 120.569 and 120.57.

2775 (n) The division shall develop a program to certify both
2776 volunteer and paid mediators to provide mediation of cooperative
2777 disputes. The division shall provide, upon request, a list of
2778 such mediators to any association, unit owner, or other



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2779 participant in arbitration proceedings under s. 718.1255
2780 requesting a copy of the list. The division shall include on the
2781 list of voluntary mediators only persons who have received at
2782 least 20 hours of training in mediation techniques or have
2783 mediated at least 20 disputes. In order to become initially
2784 certified by the division, paid mediators must be certified by
2785 the Supreme Court to mediate court cases in ~~either~~ county or
2786 circuit courts. However, the division may adopt, by rule,
2787 additional factors for the certification of paid mediators, which
2788 factors must be related to experience, education, or background.
2789 Any person initially certified as a paid mediator by the division
2790 must, in order to continue to be certified, comply with the
2791 factors or requirements imposed by rules adopted by the division.

2792 (2) (a) Each cooperative association shall pay to the
2793 division, on or before January 1 of each year, an annual fee in
2794 the amount of \$4 for each residential unit in cooperatives
2795 operated by the association. If the fee is not paid by March 1,
2796 then the association shall be assessed a penalty of 10 percent of
2797 the amount due, and the association shall not have the standing
2798 to maintain or defend any action in the courts of this state
2799 until the amount due is paid.

2800 (b) All fees shall be deposited in the Division of Florida
2801 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust Fund
2802 as provided by law.

2803 Section 55. Paragraph (a) of subsection (2) of section
2804 719.502, Florida Statutes, is amended to read:

2805 719.502 Filing prior to sale or lease.--

2806 (2) (a) Prior to filing as required by subsection (1), and
2807 prior to acquiring an ownership, leasehold, or contractual
2808 interest in the land upon which the cooperative is to be



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2809 developed, a developer shall not offer a contract for purchase or
2810 lease of a unit for more than 5 years. However, the developer may
2811 accept deposits for reservations upon the approval of a fully
2812 executed escrow agreement and reservation agreement form properly
2813 filed with the Division of Florida ~~Land Sales~~, Condominiums,
2814 Timeshares, and Mobile Homes. Each filing of a proposed
2815 reservation program shall be accompanied by a filing fee of \$250.
2816 Reservations shall not be taken on a proposed cooperative unless
2817 the developer has an ownership, leasehold, or contractual
2818 interest in the land upon which the cooperative is to be
2819 developed. The division shall notify the developer within 20 days
2820 of receipt of the reservation filing of any deficiencies
2821 contained therein. Such notification shall not preclude the
2822 determination of reservation filing deficiencies at a later date,
2823 nor shall it relieve the developer of any responsibility under
2824 the law. The escrow agreement and the reservation agreement form
2825 shall include a statement of the right of the prospective
2826 purchaser to an immediate unqualified refund of the reservation
2827 deposit moneys upon written request to the escrow agent by the
2828 prospective purchaser or the developer.

2829 Section 56. Section 719.504, Florida Statutes, is amended
2830 to read:

2831 719.504 Prospectus or offering circular.--Every developer
2832 of a residential cooperative which contains more than 20
2833 residential units, or which is part of a group of residential
2834 cooperatives which will be served by property to be used in
2835 common by unit owners of more than 20 residential units, shall
2836 prepare a prospectus or offering circular and file it with the
2837 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
2838 Mobile Homes prior to entering into an enforceable contract of



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2839 purchase and sale of any unit or lease of a unit for more than 5
2840 years and shall furnish a copy of the prospectus or offering
2841 circular to each buyer. In addition to the prospectus or offering
2842 circular, each buyer shall be furnished a separate page entitled
2843 "Frequently Asked Questions and Answers," which must be in
2844 accordance with a format approved by the division. This page
2845 must, in readable language: inform prospective purchasers
2846 regarding their voting rights and unit use restrictions,
2847 including restrictions on the leasing of a unit; indicate whether
2848 and in what amount the unit owners or the association is
2849 obligated to pay rent or land use fees for recreational or other
2850 commonly used facilities; contain a statement identifying that
2851 amount of assessment which, pursuant to the budget, would be
2852 levied upon each unit type, exclusive of any special assessments,
2853 and which identifies the basis upon which assessments are levied,
2854 whether monthly, quarterly, or otherwise; state and identify any
2855 court cases in which the association is currently a party of
2856 record in which the association may face liability in excess of
2857 \$100,000; and state whether membership in a recreational
2858 facilities association is mandatory and, if so, identify the fees
2859 currently charged per unit type. The division shall by rule
2860 require such other disclosure as in its judgment will assist
2861 prospective purchasers. The prospectus or offering circular may
2862 include more than one cooperative, although not all such units
2863 are being offered for sale as of the date of the prospectus or
2864 offering circular. The prospectus or offering circular must
2865 contain the following information:

2866 (1) The front cover or the first page must contain only:

2867 (a) The name of the cooperative.

2868 (b) The following statements in conspicuous type:



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2869 | 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
2870 | MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2871 | 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
2872 | NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
2873 | ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

2874 | 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
2875 | STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
2876 | PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
2877 | REPRESENTATIONS.

2878 | (2) Summary: The next page must contain all statements
2879 | required to be in conspicuous type in the prospectus or offering
2880 | circular.

2881 | (3) A separate index of the contents and exhibits of the
2882 | prospectus.

2883 | (4) Beginning on the first page of the text (not including
2884 | the summary and index), a description of the cooperative,
2885 | including, but not limited to, the following information:

2886 | (a) Its name and location.

2887 | (b) A description of the cooperative property, including,
2888 | without limitation:

2889 | 1. The number of buildings, the number of units in each
2890 | building, the number of bathrooms and bedrooms in each unit, and
2891 | the total number of units, if the cooperative is not a phase
2892 | cooperative; or, if the cooperative is a phase cooperative, the
2893 | maximum number of buildings that may be contained within the
2894 | cooperative, the minimum and maximum number of units in each
2895 | building, the minimum and maximum number of bathrooms and
2896 | bedrooms that may be contained in each unit, and the maximum
2897 | number of units that may be contained within the cooperative.



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2898 | 2. The page in the cooperative documents where a copy of
2899 | the survey and plot plan of the cooperative is located.

2900 | 3. The estimated latest date of completion of constructing,
2901 | finishing, and equipping. In lieu of a date, a statement that the
2902 | estimated date of completion of the cooperative is in the
2903 | purchase agreement and a reference to the article or paragraph
2904 | containing that information.

2905 | (c) The maximum number of units that will use facilities in
2906 | common with the cooperative. If the maximum number of units will
2907 | vary, a description of the basis for variation and the minimum
2908 | amount of dollars per unit to be spent for additional
2909 | recreational facilities or enlargement of such facilities. If the
2910 | addition or enlargement of facilities will result in a material
2911 | increase of a unit owner's maintenance expense or rental expense,
2912 | if any, the maximum increase and limitations thereon shall be
2913 | stated.

2914 | (5) (a) A statement in conspicuous type describing whether
2915 | the cooperative is created and being sold as fee simple interests
2916 | or as leasehold interests. If the cooperative is created or being
2917 | sold on a leasehold, the location of the lease in the disclosure
2918 | materials shall be stated.

2919 | (b) If timeshare estates are or may be created with respect
2920 | to any unit in the cooperative, a statement in conspicuous type
2921 | stating that timeshare estates are created and being sold in such
2922 | specified units in the cooperative.

2923 | (6) A description of the recreational and other common
2924 | areas that will be used only by unit owners of the cooperative,
2925 | including, but not limited to, the following:

2926 | (a) Each room and its intended purposes, location,
2927 | approximate floor area, and capacity in numbers of people.



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2928 (b) Each swimming pool, as to its general location,
2929 approximate size and depths, approximate deck size and capacity,
2930 and whether heated.

2931 (c) Additional facilities, as to the number of each
2932 facility, its approximate location, approximate size, and
2933 approximate capacity.

2934 (d) A general description of the items of personal property
2935 and the approximate number of each item of personal property that
2936 the developer is committing to furnish for each room or other
2937 facility or, in the alternative, a representation as to the
2938 minimum amount of expenditure that will be made to purchase the
2939 personal property for the facility.

2940 (e) The estimated date when each room or other facility
2941 will be available for use by the unit owners.

2942 (f)1. An identification of each room or other facility to
2943 be used by unit owners that will not be owned by the unit owners
2944 or the association;

2945 2. A reference to the location in the disclosure materials
2946 of the lease or other agreements providing for the use of those
2947 facilities; and

2948 3. A description of the terms of the lease or other
2949 agreements, including the length of the term; the rent payable,
2950 directly or indirectly, by each unit owner, and the total rent
2951 payable to the lessor, stated in monthly and annual amounts for
2952 the entire term of the lease; and a description of any option to
2953 purchase the property leased under any such lease, including the
2954 time the option may be exercised, the purchase price or how it is
2955 to be determined, the manner of payment, and whether the option
2956 may be exercised for a unit owner's share or only as to the
2957 entire leased property.



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2958 (g) A statement as to whether the developer may provide
2959 additional facilities not described above, their general
2960 locations and types, improvements or changes that may be made,
2961 the approximate dollar amount to be expended, and the maximum
2962 additional common expense or cost to the individual unit owners
2963 that may be charged during the first annual period of operation
2964 of the modified or added facilities.

2965
2966 Descriptions as to locations, areas, capacities, numbers,
2967 volumes, or sizes may be stated as approximations or minimums.

2968 (7) A description of the recreational and other facilities
2969 that will be used in common with other cooperatives, community
2970 associations, or planned developments which require the payment
2971 of the maintenance and expenses of such facilities, ~~either~~
2972 directly or indirectly, by the unit owners. The description shall
2973 include, but not be limited to, the following:

2974 (a) Each building and facility committed to be built.

2975 (b) Facilities not committed to be built except under
2976 certain conditions, and a statement of those conditions or
2977 contingencies.

2978 (c) As to each facility committed to be built, or which
2979 will be committed to be built upon the happening of one of the
2980 conditions in paragraph (b), a statement of whether it will be
2981 owned by the unit owners having the use thereof or by an
2982 association or other entity which will be controlled by them, or
2983 others, and the location in the exhibits of the lease or other
2984 document providing for use of those facilities.

2985 (d) The year in which each facility will be available for
2986 use by the unit owners or, in the alternative, the maximum number



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2987 of unit owners in the project at the time each of all of the
2988 facilities is committed to be completed.

2989 (e) A general description of the items of personal
2990 property, and the approximate number of each item of personal
2991 property, that the developer is committing to furnish for each
2992 room or other facility or, in the alternative, a representation
2993 as to the minimum amount of expenditure that will be made to
2994 purchase the personal property for the facility.

2995 (f) If there are leases, a description thereof, including
2996 the length of the term, the rent payable, and a description of
2997 any option to purchase.

2998
2999 Descriptions shall include location, areas, capacities, numbers,
3000 volumes, or sizes and may be stated as approximations or
3001 minimums.

3002 (8) Recreation lease or associated club membership:

3003 (a) If any recreational facilities or other common areas
3004 offered by the developer and available to, or to be used by, unit
3005 owners are to be leased or have club membership associated, the
3006 following statement in conspicuous type shall be included: THERE
3007 IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
3008 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
3009 COOPERATIVE. There shall be a reference to the location in the
3010 disclosure materials where the recreation lease or club
3011 membership is described in detail.

3012 (b) If it is mandatory that unit owners pay a fee, rent,
3013 dues, or other charges under a recreational facilities lease or
3014 club membership for the use of facilities, there shall be in
3015 conspicuous type the applicable statement:



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3016 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
3017 MANDATORY FOR UNIT OWNERS; or

3018 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
3019 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3020 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS
3021 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,
3022 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE
3023 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

3024 4. A similar statement of the nature of the organization or
3025 manner in which the use rights are created, and that unit owners
3026 are required to pay.

3027
3028 Immediately following the applicable statement, the location in
3029 the disclosure materials where the development is described in
3030 detail shall be stated.

3031 (c) If the developer, or any other person other than the
3032 unit owners and other persons having use rights in the
3033 facilities, reserves, or is entitled to receive, any rent, fee,
3034 or other payment for the use of the facilities, then there shall
3035 be the following statement in conspicuous type: THE UNIT OWNERS
3036 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
3037 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this
3038 statement, the location in the disclosure materials where the
3039 rent or land use fees are described in detail shall be stated.

3040 (d) If, in any recreation format, whether leasehold, club,
3041 or other, any person other than the association has the right to
3042 a lien on the units to secure the payment of assessments, rent,
3043 or other exactions, there shall appear a statement in conspicuous
3044 type in substantially the following form:



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3045 | 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
3046 | SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
3047 | RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS
3048 | MAY RESULT IN FORECLOSURE OF THE LIEN; or

3049 | 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
3050 | SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
3051 | FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
3052 | OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE
3053 | PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

3054 |
3055 | Immediately following the applicable statement, the location in
3056 | the disclosure materials where the lien or lien right is
3057 | described in detail shall be stated.

3058 | (9) If the developer or any other person has the right to
3059 | increase or add to the recreational facilities at any time after
3060 | the establishment of the cooperative whose unit owners have use
3061 | rights therein, without the consent of the unit owners or
3062 | associations being required, there shall appear a statement in
3063 | conspicuous type in substantially the following form:

3064 | RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
3065 | OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
3066 | statement, the location in the disclosure materials where such
3067 | reserved rights are described shall be stated.

3068 | (10) A statement of whether the developer's plan includes a
3069 | program of leasing units rather than selling them, or leasing
3070 | units and selling them subject to such leases. If so, there shall
3071 | be a description of the plan, including the number and
3072 | identification of the units and the provisions and term of the
3073 | proposed leases, and a statement in boldfaced type that: **THE**
3074 | **UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**



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3075 (11) The arrangements for management of the association and
3076 maintenance and operation of the cooperative property and of
3077 other property that will serve the unit owners of the cooperative
3078 property, and a description of the management contract and all
3079 other contracts for these purposes having a term in excess of 1
3080 year, including the following:

3081 (a) The names of contracting parties.

3082 (b) The term of the contract.

3083 (c) The nature of the services included.

3084 (d) The compensation, stated on a monthly and annual basis,
3085 and provisions for increases in the compensation.

3086 (e) A reference to the volumes and pages of the cooperative
3087 documents and of the exhibits containing copies of such
3088 contracts.

3089
3090 Copies of all described contracts shall be attached as exhibits.
3091 If there is a contract for the management of the cooperative
3092 property, then a statement in conspicuous type in substantially
3093 the following form shall appear, identifying the proposed or
3094 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE
3095 MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE CONTRACT
3096 MANAGER). Immediately following this statement, the location in
3097 the disclosure materials of the contract for management of the
3098 cooperative property shall be stated.

3099 (12) If the developer or any other person or persons other
3100 than the unit owners has the right to retain control of the board
3101 of administration of the association for a period of time which
3102 can exceed 1 year after the closing of the sale of a majority of
3103 the units in that cooperative to persons other than successors or
3104 alternate developers, then a statement in conspicuous type in



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3105 substantially the following form shall be included: THE DEVELOPER
3106 (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE
3107 ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.

3108 Immediately following this statement, the location in the
3109 disclosure materials where this right to control is described in
3110 detail shall be stated.

3111 (13) If there are any restrictions upon the sale, transfer,
3112 conveyance, or leasing of a unit, then a statement in conspicuous
3113 type in substantially the following form shall be included: THE
3114 SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.

3115 Immediately following this statement, the location in the
3116 disclosure materials where the restriction, limitation, or
3117 control on the sale, lease, or transfer of units is described in
3118 detail shall be stated.

3119 (14) If the cooperative is part of a phase project, the
3120 following shall be stated:

3121 (a) A statement in conspicuous type in substantially the
3122 following form shall be included: THIS IS A PHASE COOPERATIVE.
3123 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.

3124 Immediately following this statement, the location in the
3125 disclosure materials where the phasing is described shall be
3126 stated.

3127 (b) A summary of the provisions of the declaration
3128 providing for the phasing.

3129 (c) A statement as to whether or not residential buildings
3130 and units which are added to the cooperative may be substantially
3131 different from the residential buildings and units originally in
3132 the cooperative, and, if the added residential buildings and
3133 units may be substantially different, there shall be a general
3134 description of the extent to which such added residential



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3135 buildings and units may differ, and a statement in conspicuous
3136 type in substantially the following form shall be included:
3137 BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE MAY BE
3138 SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE
3139 COOPERATIVE. Immediately following this statement, the location
3140 in the disclosure materials where the extent to which added
3141 residential buildings and units may substantially differ is
3142 described shall be stated.

3143 (d) A statement of the maximum number of buildings
3144 containing units, the maximum and minimum number of units in each
3145 building, the maximum number of units, and the minimum and
3146 maximum square footage of the units that may be contained within
3147 each parcel of land which may be added to the cooperative.

3148 (15) If the cooperative is created by conversion of
3149 existing improvements, the following information shall be stated:

3150 (a) The information required by s. 719.616.

3151 (b) A caveat that there are no express warranties unless
3152 they are stated in writing by the developer.

3153 (16) A summary of the restrictions, if any, to be imposed
3154 on units concerning the use of any of the cooperative property,
3155 including statements as to whether there are restrictions upon
3156 children and pets, and reference to the volumes and pages of the
3157 cooperative documents where such restrictions are found, or if
3158 such restrictions are contained elsewhere, then a copy of the
3159 documents containing the restrictions shall be attached as an
3160 exhibit.

3161 (17) If there is any land that is offered by the developer
3162 for use by the unit owners and that is neither owned by them nor
3163 leased to them, the association, or any entity controlled by unit
3164 owners and other persons having the use rights to such land, a



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3165 statement shall be made as to how such land will serve the
3166 cooperative. If any part of such land will serve the cooperative,
3167 the statement shall describe the land and the nature and term of
3168 service, and the cooperative documents or other instrument
3169 creating such servitude shall be included as an exhibit.

3170 (18) The manner in which utility and other services,
3171 including, but not limited to, sewage and waste disposal, water
3172 supply, and storm drainage, will be provided and the person or
3173 entity furnishing them.

3174 (19) An explanation of the manner in which the
3175 apportionment of common expenses and ownership of the common
3176 areas have been determined.

3177 (20) An estimated operating budget for the cooperative and
3178 the association, and a schedule of the unit owner's expenses
3179 shall be attached as an exhibit and shall contain the following
3180 information:

3181 (a) The estimated monthly and annual expenses of the
3182 cooperative and the association that are collected from unit
3183 owners by assessments.

3184 (b) The estimated monthly and annual expenses of each unit
3185 owner for a unit, other than assessments payable to the
3186 association, payable by the unit owner to persons or entities
3187 other than the association, and the total estimated monthly and
3188 annual expense. There may be excluded from this estimate expenses
3189 that are personal to unit owners, which are not uniformly
3190 incurred by all unit owners, or which are not provided for or
3191 contemplated by the cooperative documents, including, but not
3192 limited to, the costs of private telephone; maintenance of the
3193 interior of cooperative units, which is not the obligation of the
3194 association; maid or janitorial services privately contracted for



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3195 by the unit owners; utility bills billed directly to each unit
3196 owner for utility services to his or her unit; insurance premiums
3197 other than those incurred for policies obtained by the
3198 cooperative; and similar personal expenses of the unit owner. A
3199 unit owner's estimated payments for assessments shall also be
3200 stated in the estimated amounts for the times when they will be
3201 due.

3202 (c) The estimated items of expenses of the cooperative and
3203 the association, except as excluded under paragraph (b),
3204 including, but not limited to, the following items, which shall
3205 be stated ~~either~~ as an association expense collectible by
3206 assessments or as unit owners' expenses payable to persons other
3207 than the association:

3208 1. Expenses for the association and cooperative:

3209 a. Administration of the association.

3210 b. Management fees.

3211 c. Maintenance.

3212 d. Rent for recreational and other commonly used areas.

3213 e. Taxes upon association property.

3214 f. Taxes upon leased areas.

3215 g. Insurance.

3216 h. Security provisions.

3217 i. Other expenses.

3218 j. Operating capital.

3219 k. Reserves.

3220 1. Fee payable to the division.

3221 2. Expenses for a unit owner:

3222 a. Rent for the unit, if subject to a lease.

3223 b. Rent payable by the unit owner directly to the lessor or
3224 agent under any recreational lease or lease for the use of



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3225 commonly used areas, which use and payment are a mandatory
3226 condition of ownership and are not included in the common expense
3227 or assessments for common maintenance paid by the unit owners to
3228 the association.

3229 (d) The following statement in conspicuous type: THE BUDGET
3230 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
3231 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
3232 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
3233 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
3234 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
3235 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE
3236 OFFERING.

3237 (e) Each budget for an association prepared by a developer
3238 consistent with this subsection shall be prepared in good faith
3239 and shall reflect accurate estimated amounts for the required
3240 items in paragraph (c) at the time of the filing of the offering
3241 circular with the division, and subsequent increased amounts of
3242 any item included in the association's estimated budget that are
3243 beyond the control of the developer shall not be considered an
3244 amendment that would give rise to rescission rights set forth in
3245 s. 719.503(1)(a) or (b), nor shall such increases modify, void,
3246 or otherwise affect any guarantee of the developer contained in
3247 the offering circular or any purchase contract. It is the intent
3248 of this paragraph to clarify existing law.

3249 (f) The estimated amounts shall be stated for a period of
3250 at least 12 months and may distinguish between the period prior
3251 to the time unit owners other than the developer elect a majority
3252 of the board of administration and the period after that date.

3253 (21) A schedule of estimated closing expenses to be paid by
3254 a buyer or lessee of a unit and a statement of whether title



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3255 opinion or title insurance policy is available to the buyer and,
3256 if so, at whose expense.

3257 (22) The identity of the developer and the chief operating
3258 officer or principal directing the creation and sale of the
3259 cooperative and a statement of its and his or her experience in
3260 this field.

3261 (23) Copies of the following, to the extent they are
3262 applicable, shall be included as exhibits:

3263 (a) The cooperative documents, or the proposed cooperative
3264 documents if the documents have not been recorded.

3265 (b) The articles of incorporation creating the association.

3266 (c) The bylaws of the association.

3267 (d) The ground lease or other underlying lease of the
3268 cooperative.

3269 (e) The management agreement and all maintenance and other
3270 contracts for management of the association and operation of the
3271 cooperative and facilities used by the unit owners having a
3272 service term in excess of 1 year.

3273 (f) The estimated operating budget for the cooperative and
3274 the required schedule of unit owners' expenses.

3275 (g) A copy of the floor plan of the unit and the plot plan
3276 showing the location of the residential buildings and the
3277 recreation and other common areas.

3278 (h) The lease of recreational and other facilities that
3279 will be used only by unit owners of the subject cooperative.

3280 (i) The lease of facilities used by owners and others.

3281 (j) The form of unit lease, if the offer is of a leasehold.

3282 (k) A declaration of servitude of properties serving the
3283 cooperative but not owned by unit owners or leased to them or the
3284 association.



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3285 (l) The statement of condition of the existing building or
3286 buildings, if the offering is of units in an operation being
3287 converted to cooperative ownership.

3288 (m) The statement of inspection for termite damage and
3289 treatment of the existing improvements, if the cooperative is a
3290 conversion.

3291 (n) The form of agreement for sale or lease of units.

3292 (o) A copy of the agreement for escrow of payments made to
3293 the developer prior to closing.

3294 (p) A copy of the documents containing any restrictions on
3295 use of the property required by subsection (16).

3296 (24) Any prospectus or offering circular complying with the
3297 provisions of former ss. 711.69 and 711.802 may continue to be
3298 used without amendment, or may be amended to comply with ~~the~~
3299 ~~provisions of~~ this chapter.

3300 (25) A brief narrative description of the location and
3301 effect of all existing and intended easements located or to be
3302 located on the cooperative property other than those in the
3303 declaration.

3304 (26) If the developer is required by state or local
3305 authorities to obtain acceptance or approval of any dock or
3306 marina facility intended to serve the cooperative, a copy of such
3307 acceptance or approval acquired by the time of filing with the
3308 division pursuant to s. 719.502 or a statement that such
3309 acceptance has not been acquired or received.

3310 (27) Evidence demonstrating that the developer has an
3311 ownership, leasehold, or contractual interest in the land upon
3312 which the cooperative is to be developed.

3313 Section 57. Section 719.508, Florida Statutes, is amended
3314 to read:



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3315 719.508 Regulation by Division of Hotels and
3316 Restaurants.--In addition to the authority, regulation, or
3317 control exercised by the Division of Florida ~~Land Sales,~~
3318 Condominiums, Timeshares, and Mobile Homes pursuant to this act
3319 with respect to cooperatives, buildings included in a cooperative
3320 property shall be subject to the authority, regulation, or
3321 control of the Division of Hotels and Restaurants of the
3322 Department of Business and Professional Regulation, to the extent
3323 provided ~~for~~ in chapters 399 and 509.

3324 Section 58. Paragraph (a) of subsection (2) of section
3325 719.608, Florida Statutes, is amended to read:

3326 719.608 Notice of intended conversion; time of delivery;
3327 content.--

3328 (2) (a) Each notice of intended conversion shall be dated
3329 and in writing. The notice shall contain the following statement,
3330 with the phrases of the following statement which appear in upper
3331 case printed in conspicuous type:

3332 These apartments are being converted to cooperative by
3333 (name of developer) , the developer.

3334 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
3335 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
3336 AGREEMENT AS FOLLOWS:

3337 a. If you have continuously been a resident of these
3338 apartments during the last 180 days and your rental agreement
3339 expires during the next 270 days, you may extend your rental
3340 agreement for up to 270 days after the date of this notice.

3341 b. If you have not been a continuous resident of these
3342 apartments for the last 180 days and your rental agreement
3343



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3344 expires during the next 180 days, you may extend your rental
3345 agreement for up to 180 days after the date of this notice.

3346 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
3347 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
3348 DATE OF THIS NOTICE.

3349 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
3350 you may extend your rental agreement for up to 45 days after the
3351 date of this notice while you decide whether to extend your
3352 rental agreement as explained above. To do so, you must notify
3353 the developer in writing. You will then have the full 45 days to
3354 decide whether to extend your rental agreement as explained
3355 above.

3356 3. During the extension of your rental agreement you will
3357 be charged the same rent that you are now paying.

3358 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
3359 OF THE RENTAL AGREEMENT AS FOLLOWS:

3360 a. If your rental agreement began or was extended or
3361 renewed after May 1, 1980, and your rental agreement, including
3362 extensions and renewals, has an unexpired term of 180 days or
3363 less, you may cancel your rental agreement upon 30 days' written
3364 notice and move. Also, upon 30 days' written notice, you may
3365 cancel any extension of the rental agreement.

3366 b. If your rental agreement was not begun or was not
3367 extended or renewed after May 1, 1980, you may not cancel the
3368 rental agreement without the consent of the developer. If your
3369 rental agreement, including extensions and renewals, has an
3370 unexpired term of 180 days or less, you may, however, upon 30
3371 days' written notice cancel any extension of the rental
3372 agreement.



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3373 5. All notices must be given in writing and sent by mail,
3374 return receipt requested, or delivered in person to the developer
3375 at this address: (name and address of developer) .

3376 6. If you have continuously been a resident of these
3377 apartments during the last 180 days:

3378 a. You have the right to purchase your apartment and will
3379 have 45 days to decide whether to purchase. If you do not buy the
3380 unit at that price and the unit is later offered at a lower
3381 price, you will have the opportunity to buy the unit at the lower
3382 price. However, in all events your right to purchase the unit
3383 ends when the rental agreement or any extension of the rental
3384 agreement ends or when you waive this right in writing.

3385 b. Within 90 days you will be provided purchase information
3386 relating to your apartment, including the price of your unit and
3387 the condition of the building. If you do not receive this
3388 information within 90 days, your rental agreement and any
3389 extension will be extended 1 day for each day over 90 days until
3390 you are given the purchase information. If you do not want this
3391 rental agreement extension, you must notify the developer in
3392 writing.

3393 7. If you have any questions regarding this conversion or
3394 the Cooperative Act, you may contact the developer or the state
3395 agency which regulates cooperatives: The Division of Florida ~~Land~~
3396 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes, (Tallahassee
3397 address and telephone number of division) .

3398 Section 59. Subsection (7) of section 720.301, Florida
3399 Statutes, is amended to read:

3400 720.301 Definitions.--As used in this chapter, the term:

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3401 (7) "Division" means the Division of Florida ~~Land Sales,~~
3402 Condominiums, Timeshares, and Mobile Homes in the Department of
3403 Business and Professional Regulation.

3404 Section 60. Subsection (2) of section 720.401, Florida
3405 Statutes, is amended to read:

3406 720.401 Prospective purchasers subject to association
3407 membership requirement; disclosure required; covenants;
3408 assessments; contract cancellation.--

3409 (2) This section does not apply to any association
3410 regulated under chapter 718, chapter 719, chapter 721, or chapter
3411 ~~723 or to a subdivider registered under chapter 498~~; and also
3412 does not apply if disclosure regarding the association is
3413 otherwise made in connection with the requirements of chapter
3414 718, chapter 719, chapter 721, or chapter 723.

3415 Section 61. Paragraph (c) of subsection (1) of section
3416 721.03, Florida Statutes, is amended to read:

3417 721.03 Scope of chapter.--

3418 (1) This chapter applies to all timeshare plans consisting
3419 of more than seven timeshare periods over a period of at least 3
3420 years in which the accommodations and facilities, if any, are
3421 located within this state or offered within this state; provided
3422 that:

3423 (c) All timeshare accommodations or facilities which are
3424 located outside the state but offered for sale in this state
3425 shall be governed by the following:

3426 1. The offering for sale in this state of timeshare
3427 accommodations and facilities located outside the state is
3428 subject only to the provisions of ss. 721.01-721.12, 721.18,
3429 721.20, 721.21, 721.26, 721.28, and part II.



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3430 2. The division shall not require a developer of timeshare
3431 accommodations or facilities located outside of this state to
3432 make changes in any timeshare instrument to conform to the
3433 provisions of s. 721.07 or s. 721.55. The division shall have the
3434 power to require disclosure of those provisions of the timeshare
3435 instrument that do not conform to s. 721.07 or s. 721.55 as the
3436 director determines is necessary to fairly, meaningfully, and
3437 effectively disclose all aspects of the timeshare plan.

3438 3. Except as provided in this subparagraph, the division
3439 shall have no authority to determine whether any person has
3440 complied with another state's laws or to disapprove any filing
3441 out-of-state, timeshare instrument, or component site document,
3442 based solely upon the lack or degree of timeshare regulation in
3443 another state. The division may require a developer to obtain and
3444 provide to the division existing documentation relating to an
3445 out-of-state filing, timeshare instrument, or component site
3446 document and prove compliance of same with the laws of that
3447 state. In this regard, the division may accept any evidence of
3448 the approval or acceptance of any out-of-state filing, timeshare
3449 instrument, or component site document by another state in lieu
3450 of requiring a developer to file the out-of-state filing,
3451 timeshare instrument, or component site document with the
3452 division pursuant to this section, or the division may accept an
3453 opinion letter from an attorney or law firm opining as to the
3454 compliance of such out-of-state filing, timeshare instrument, or
3455 component site document with the laws of another state. The
3456 division may refuse to approve the inclusion of any out-of-state
3457 filing, timeshare instrument, or component site document as part
3458 of a public offering statement based upon the inability of the



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3459 developer to establish the compliance of same with the laws of
3460 another state.

3461 4. The division is authorized to enter into an agreement
3462 with another state for the purpose of facilitating the processing
3463 of out-of-state timeshare instruments or other component site
3464 documents pursuant to this chapter and for the purpose of
3465 facilitating the referral of consumer complaints to the
3466 appropriate state.

3467 5. Notwithstanding any other provision of this paragraph,
3468 the offer, in this state, of an additional interest to existing
3469 purchasers in the same timeshare plan or the same component site
3470 of a multisite timeshare plan, the same nonspecific multisite
3471 timeshare plan, with accommodations and facilities located
3472 outside of this state shall not be subject to the provisions of
3473 this chapter if the offer complies with the provisions of s.
3474 721.11(4).

3475 Section 62. Subsection (11) of section 721.05, Florida
3476 Statutes, is amended to read:

3477 721.05 Definitions.--As used in this chapter, the term:

3478 (11) "Division" means the Division of Florida ~~Land Sales,~~
3479 Condominiums, Timeshares, and Mobile Homes of the Department of
3480 Business and Professional Regulation.

3481 Section 63. Paragraph (d) of subsection (2) of section
3482 721.07, Florida Statutes, is amended to read:

3483 721.07 Public offering statement.--Prior to offering any
3484 timeshare plan, the developer must submit a filed public offering
3485 statement to the division for approval as prescribed by s.
3486 721.03, s. 721.55, or this section. Until the division approves
3487 such filing, any contract regarding the sale of that timeshare



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3488 plan is subject to cancellation by the purchaser pursuant to s.
3489 721.10.

3490 (2)

3491 (d) A developer shall have the authority to deliver to
3492 purchasers any purchaser public offering statement that is not
3493 yet approved by the division, provided that the following shall
3494 apply:

3495 1. At the time the developer delivers an unapproved
3496 purchaser public offering statement to a purchaser pursuant to
3497 this paragraph, the developer shall deliver a fully completed and
3498 executed copy of the purchase contract required by s. 721.06 that
3499 contains the following statement in conspicuous type in
3500 substantially the following form which shall replace the
3501 statements required by s. 721.06(1)(g):

3502

3503 The developer is delivering to you a public offering statement
3504 that has been filed with but not yet approved by the Division of
3505 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes.
3506 Any revisions to the unapproved public offering statement you
3507 have received must be delivered to you, but only if the revisions
3508 materially alter or modify the offering in a manner adverse to
3509 you. After the division approves the public offering statement,
3510 you will receive notice of the approval from the developer and
3511 the required revisions, if any.

3512

3513 Your statutory right to cancel this transaction without any
3514 penalty or obligation expires 10 calendar days after the date you
3515 signed your purchase contract or the date on which you receive
3516 the last of all documents required to be given to you pursuant to
3517 section 721.07(6), Florida Statutes, or 10 calendar days after



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3518 | you receive revisions required to be delivered to you, if any,
3519 | whichever is later. If you decide to cancel this contract, you
3520 | must notify the seller in writing of your intent to cancel. Your
3521 | notice of cancellation shall be effective upon the date sent and
3522 | shall be sent to (Name of Seller) at (Address of Seller) .
3523 | Any attempt to obtain a waiver of your cancellation right is void
3524 | and of no effect. While you may execute all closing documents in
3525 | advance, the closing, as evidenced by delivery of the deed or
3526 | other document, before expiration of your 10-day cancellation
3527 | period, is prohibited.
3528 |

3529 | 2. After receipt of approval from the division and prior to
3530 | closing, if any revisions made to the documents contained in the
3531 | purchaser public offering statement materially alter or modify
3532 | the offering in a manner adverse to a purchaser, the developer
3533 | shall send the purchaser such revisions together with a notice
3534 | containing a statement in conspicuous type in substantially the
3535 | following form:
3536 |

3537 | The unapproved public offering statement previously delivered to
3538 | you, together with the enclosed revisions, has been approved by
3539 | the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
3540 | Mobile Homes. Accordingly, your cancellation right expires 10
3541 | calendar days after you sign your purchase contract or 10
3542 | calendar days after you receive these revisions, whichever is
3543 | later. If you have any questions regarding your cancellation
3544 | rights, you may contact the division at [insert division's
3545 | current address].
3546 |



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3547 3. After receipt of approval from the division and prior to
3548 closing, if no revisions have been made to the documents
3549 contained in the unapproved purchaser public offering statement,
3550 or if such revisions do not materially alter or modify the
3551 offering in a manner adverse to a purchaser, the developer shall
3552 send the purchaser a notice containing a statement in conspicuous
3553 type in substantially the following form:

3554
3555 The unapproved public offering statement previously delivered to
3556 you has been approved by the Division of Florida ~~Land Sales,~~
3557 Condominiums, Timeshares, and Mobile Homes. Revisions made to the
3558 unapproved public offering statement, if any, are ~~either~~ not
3559 required to be delivered to you or are not deemed by the
3560 developer, in its opinion, to materially alter or modify the
3561 offering in a manner that is adverse to you. Accordingly, your
3562 cancellation right expired 10 days after you signed your purchase
3563 contract. A complete copy of the approved public offering
3564 statement is available through the managing entity for inspection
3565 as part of the books and records of the plan. If you have any
3566 questions regarding your cancellation rights, you may contact the
3567 division at [insert division's current address].

3568 Section 64. Subsection (8) of section 721.08, Florida
3569 Statutes, is amended to read:

3570 721.08 Escrow accounts; nondisturbance instruments;
3571 alternate security arrangements; transfer of legal title.--

3572 (8) An escrow agent holding escrowed funds pursuant to this
3573 chapter that have not been claimed for a period of 5 years after
3574 the date of deposit shall make at least one reasonable attempt to
3575 deliver such unclaimed funds to the purchaser who submitted such
3576 funds to escrow. In making such attempt, an escrow agent is



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3577 entitled to rely on a purchaser's last known address as set forth
3578 in the books and records of the escrow agent and is not required
3579 to conduct any further search for the purchaser. If an escrow
3580 agent's attempt to deliver unclaimed funds to any purchaser is
3581 unsuccessful, the escrow agent may deliver such unclaimed funds
3582 to the division and the division shall deposit such unclaimed
3583 funds in the Division of Florida ~~Land Sales,~~ Condominiums,
3584 Timeshares, and Mobile Homes Trust Fund, 30 days after giving
3585 notice in a publication of general circulation in the county in
3586 which the timeshare property containing the purchaser's timeshare
3587 interest is located. The purchaser may claim the same at any time
3588 prior to the delivery of such funds to the division. After
3589 delivery of such funds to the division, the purchaser shall have
3590 no more rights to the unclaimed funds. The escrow agent shall not
3591 be liable for any claims from any party arising out of the escrow
3592 agent's delivery of the unclaimed funds to the division pursuant
3593 to this section.

3594 Section 65. Section 721.26, Florida Statutes, is amended to
3595 read:

3596 721.26 Regulation by division.--The division has the power
3597 to enforce and ensure compliance with ~~the provisions of this~~
3598 chapter, except for parts III and IV, using the powers provided
3599 in this chapter, as well as the powers prescribed in chapters
3600 ~~498,~~ 718, and 719. In performing its duties, the division shall
3601 have the following powers and duties:

3602 (1) To aid in the enforcement of this chapter, or any
3603 division rule adopted or order ~~promulgated or~~ issued pursuant to
3604 this chapter, the division may make necessary public or private
3605 investigations within or outside this state to determine whether
3606 any person has violated or is about to violate this chapter, or



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3607 any division rule adopted or order ~~promulgated or~~ issued pursuant
3608 to this chapter.

3609 (2) The division may require or permit any person to file a
3610 written statement under oath or otherwise, as the division
3611 determines, as to the facts and circumstances concerning a matter
3612 under investigation.

3613 (3) For the purpose of any investigation under this
3614 chapter, the director of the division or any officer or employee
3615 designated by the director may administer oaths or affirmations,
3616 subpoena witnesses and compel their attendance, take evidence,
3617 and require the production of any matter which is relevant to the
3618 investigation, including the identity, existence, description,
3619 nature, custody, condition, and location of any books, documents,
3620 or other tangible things and the identity and location of persons
3621 having knowledge of relevant facts or any other matter reasonably
3622 calculated to lead to the discovery of material evidence. Failure
3623 to obey a subpoena or to answer questions propounded by the
3624 investigating officer and upon reasonable notice to all persons
3625 affected thereby shall be a violation of this chapter. In
3626 addition to the other enforcement powers authorized in this
3627 subsection, the division may, ~~at its discretion,~~ apply to the
3628 circuit court for an order compelling compliance.

3629 (4) The division may prepare and disseminate a prospectus
3630 and other information to assist prospective purchasers, sellers,
3631 and managing entities of timeshare plans in assessing the rights,
3632 privileges, and duties pertaining thereto.

3633 (5) Notwithstanding any remedies available to purchasers,
3634 if the division has reasonable cause to believe that a violation
3635 of this chapter, or of any division rule adopted or order
3636 ~~promulgated or~~ issued pursuant to this chapter, has occurred, the



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3637 | division may institute enforcement proceedings in its own name
3638 | against any regulated party, as such term is defined in this
3639 | subsection:

3640 | (a)1. "Regulated party," for purposes of this section,
3641 | means any developer, exchange company, seller, managing entity,
3642 | owners' association, owners' association director, owners'
3643 | association officer, manager, management firm, escrow agent,
3644 | trustee, any respective assignees or agents, or any other person
3645 | having duties or obligations pursuant to this chapter.

3646 | 2. Any person who materially participates in any offer or
3647 | disposition of any interest in, or the management or operation
3648 | of, a timeshare plan in violation of this chapter or relevant
3649 | rules involving fraud, deception, false pretenses,
3650 | misrepresentation, or false advertising or the disbursement,
3651 | concealment, or diversion of any funds or assets, which conduct
3652 | adversely affects the interests of a purchaser, and which person
3653 | directly or indirectly controls a regulated party or is a general
3654 | partner, officer, director, agent, or employee of such regulated
3655 | party, shall be jointly and severally liable under this
3656 | subsection with such regulated party, unless such person did not
3657 | know, and in the exercise of reasonable care could not have
3658 | known, of the existence of the facts giving rise to the violation
3659 | of this chapter. A right of contribution shall exist among
3660 | jointly and severally liable persons pursuant to this paragraph.

3661 | (b) The division may permit any person whose conduct or
3662 | actions may be under investigation to waive formal proceedings
3663 | and enter into a consent proceeding whereby an order, rule, or
3664 | letter of censure or warning, whether formal or informal, may be
3665 | entered against that person.



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3666 (c) The division may issue an order requiring a regulated
3667 party to cease and desist from an unlawful practice under this
3668 chapter and take such affirmative action as in the judgment of
3669 the division will carry out the purposes of this chapter.

3670 (d)1. The division may bring an action in circuit court for
3671 declaratory or injunctive relief or for other appropriate relief,
3672 including restitution.

3673 2. The division shall have broad authority and discretion
3674 to petition the circuit court to appoint a receiver with respect
3675 to any managing entity which fails to perform its duties and
3676 obligations under this chapter with respect to the operation of a
3677 timeshare plan. The circumstances giving rise to an appropriate
3678 petition for receivership under this subparagraph include, but
3679 are not limited to:

3680 a. Damage to or destruction of any of the accommodations or
3681 facilities of a timeshare plan, where the managing entity has
3682 failed to repair or reconstruct same.

3683 b. A breach of fiduciary duty by the managing entity,
3684 including, but not limited to, undisclosed self-dealing or
3685 failure to timely assess, collect, or disburse the common
3686 expenses of the timeshare plan.

3687 c. Failure of the managing entity to operate the timeshare
3688 plan in accordance with the timeshare instrument and this
3689 chapter.

3690
3691 If, under the circumstances, it appears that the events giving
3692 rise to the petition for receivership cannot be reasonably and
3693 timely corrected in a cost-effective manner consistent with the
3694 timeshare instrument, the receiver may petition the circuit court
3695 to implement such amendments or revisions to the timeshare



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3696 instrument as may be necessary to enable the managing entity to
3697 resume effective operation of the timeshare plan, or to enter an
3698 order terminating the timeshare plan, or to enter such further
3699 orders regarding the disposition of the timeshare property as the
3700 court deems appropriate, including the disposition and sale of
3701 the timeshare property held by the owners' association or the
3702 purchasers. In the event of a receiver's sale, all rights, title,
3703 and interest held by the owners' association or any purchaser
3704 shall be extinguished and title shall vest in the buyer. This
3705 provision applies to timeshare estates, personal property
3706 timeshare interests, and timeshare licenses. All reasonable costs
3707 and fees of the receiver relating to the receivership shall
3708 become common expenses of the timeshare plan upon order of the
3709 court.

3710 3. The division may revoke its approval of any filing for
3711 any timeshare plan for which a petition for receivership has been
3712 filed pursuant to this paragraph.

3713 (e)1. The division may impose a penalty against any
3714 regulated party for a violation of this chapter or any rule
3715 adopted thereunder. A penalty may be imposed on the basis of each
3716 day of continuing violation, but in no event may the penalty for
3717 any offense exceed \$10,000. All accounts collected shall be
3718 deposited with the Chief Financial Officer to the credit of the
3719 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
3720 Mobile Homes Trust Fund.

3721 2.a. If a regulated party fails to pay a penalty, the
3722 division shall thereupon issue an order directing that such
3723 regulated party cease and desist from further operation until
3724 such time as the penalty is paid; or the division may pursue
3725 enforcement of the penalty in a court of competent jurisdiction.



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3726 b. If an owners' association or managing entity fails to
3727 pay a civil penalty, the division may pursue enforcement in a
3728 court of competent jurisdiction.

3729 (f) In order to permit the regulated party an opportunity
3730 ~~either~~ to appeal such decision administratively or to seek relief
3731 in a court of competent jurisdiction, the order imposing the
3732 penalty or the cease and desist order shall not become effective
3733 until 20 days after the date of such order.

3734 (g) Any action commenced by the division shall be brought
3735 in the county in which the division has its executive offices or
3736 in the county where the violation occurred.

3737 (h) Notice to any regulated party shall be complete when
3738 delivered by United States mail, return receipt requested, to the
3739 party's address currently on file with the division or to such
3740 other address at which the division is able to locate the party.
3741 Every regulated party has an affirmative duty to notify the
3742 division of any change of address at least 5 business days prior
3743 to such change.

3744 (6) The division has authority to adopt rules pursuant to
3745 ss. 120.536(1) and 120.54 to implement and enforce the provisions
3746 of this chapter.

3747 (7) (a) The use of any unfair or deceptive act or practice
3748 by any person in connection with the sales or other operations of
3749 an exchange program or timeshare plan is a violation of this
3750 chapter.

3751 (b) Any violation of the Florida Deceptive and Unfair Trade
3752 Practices Act, ss. 501.201 et seq., relating to the creation,
3753 promotion, sale, operation, or management of any timeshare plan
3754 shall also be a violation of this chapter.



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3755 (c) The division may ~~is authorized to~~ institute proceedings
3756 against any such person and take any appropriate action
3757 authorized in this section in connection therewith,
3758 notwithstanding any remedies available to purchasers.

3759 (8) The failure of any person to comply with any order of
3760 the division is a violation of this chapter.

3761 Section 66. Section 721.28, Florida Statutes, is amended to
3762 read:

3763 721.28 Division of Florida ~~Land Sales,~~ Condominiums,
3764 Timeshares, and Mobile Homes Trust Fund.--All funds collected by
3765 the division and any amounts paid as fees or penalties under this
3766 chapter shall be deposited in the State Treasury to the credit of
3767 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
3768 Mobile Homes Trust Fund created by s. 718.509 ~~498.019~~.

3769 Section 67. Paragraph (c) of subsection (1) of section
3770 721.301, Florida Statutes, is amended to read:

3771 721.301 Florida Timesharing, Vacation Club, and Hospitality
3772 Program.--

3773 (1)

3774 (c) The director may designate funds from the Division of
3775 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes
3776 Trust Fund, not to exceed \$50,000 annually, to support the
3777 projects and proposals undertaken pursuant to paragraph (b). All
3778 state trust funds to be expended pursuant to this section must be
3779 matched equally with private moneys and shall comprise no more
3780 than half of the total moneys expended annually.

3781 Section 68. Section 721.50, Florida Statutes, is amended to
3782 read:

3783 721.50 Short title.--This part may be cited as the
3784 "McAllister Act" in recognition and appreciation for the years of



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3785 extraordinary and insightful contributions by Mr. Bryan C.
3786 McAllister, Examinations Supervisor of the former, Division of
3787 Florida Land Sales, Condominiums, and Mobile Homes.

3788 Section 69. Subsection (1) of section 723.003, Florida
3789 Statutes, is amended to read:

3790 723.003 Definitions.--As used in this chapter, the
3791 following words and terms have the following meanings unless
3792 clearly indicated otherwise:

3793 (1) The term "division" means the Division of Florida ~~Land~~
3794 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the
3795 Department of Business and Professional Regulation.

3796 Section 70. Paragraph (e) of subsection (5) of section
3797 723.006, Florida Statutes, is amended to read:

3798 723.006 Powers and duties of division.--In performing its
3799 duties, the division has the following powers and duties:

3800 (5) Notwithstanding any remedies available to mobile home
3801 owners, mobile home park owners, and homeowners' associations, if
3802 the division has reasonable cause to believe that a violation of
3803 any provision of this chapter or related ~~any rule promulgated~~
3804 ~~pursuant hereto~~ has occurred, the division may institute
3805 enforcement proceedings in its own name against a developer,
3806 mobile home park owner, or homeowners' association, or its
3807 assignee or agent, as follows:

3808 (e)1. The division may impose a civil penalty against a
3809 mobile home park owner or homeowners' association, or its
3810 assignee or agent, for any violation of this chapter, a properly
3811 adopted ~~promulgated~~ park rule or regulation, or a rule adopted ~~or~~
3812 ~~regulation promulgated~~ pursuant hereto. A penalty may be imposed
3813 on the basis of each separate violation and, if the violation is
3814 a continuing one, for each day of continuing violation, but in no

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3815 event may the penalty for each separate violation or for each day
3816 of continuing violation exceed \$5,000. All amounts collected
3817 shall be deposited with the Chief Financial Officer to the credit
3818 of the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares,
3819 and Mobile Homes Trust Fund.

3820 2. If a violator fails to pay the civil penalty, the
3821 division shall thereupon issue an order directing that such
3822 violator cease and desist from further violation until such time
3823 as the civil penalty is paid or may pursue enforcement of the
3824 penalty in a court of competent jurisdiction. If a homeowners'
3825 association fails to pay the civil penalty, the division shall
3826 thereupon pursue enforcement in a court of competent
3827 jurisdiction, and the order imposing the civil penalty or the
3828 cease and desist order shall not become effective until 20 days
3829 after the date of such order. Any action commenced by the
3830 division shall be brought in the county in which the division has
3831 its executive offices or in which the violation occurred.

3832 Section 71. Section 723.009, Florida Statutes, is amended
3833 to read:

3834 723.009 Division of Florida ~~Land Sales,~~ Condominiums,
3835 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the
3836 fees, penalties, and fines imposed pursuant to this chapter shall
3837 be deposited into the Division of Florida ~~Land Sales,~~
3838 Condominiums, Timeshares, and Mobile Homes Trust Fund created by
3839 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the
3840 Legislature pursuant to chapter 216, may be used to defray the
3841 expenses incurred by the division in administering the provisions
3842 of this chapter.

3843 Section 72. Paragraph (c) of subsection (2) of section
3844 723.0611, Florida Statutes, is amended to read:



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3845 723.0611 Florida Mobile Home Relocation Corporation.--

3846 (2)

3847 (c) The corporation shall, for purposes of s. 768.28, be
3848 considered an agency of the state. Agents or employees of the
3849 corporation, members of the board of directors of the
3850 corporation, or representatives of the Division of Florida ~~Land~~
3851 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be
3852 considered officers, employees, or agents of the state, and
3853 actions against them and the corporation shall be governed by s.
3854 768.28.

3855 Section 6. This act shall take effect July 1, 2008.

3856
3857 ===== T I T L E A M E N D M E N T =====

3858 And the title is amended as follows:

3859 Delete everything before the enacting clause
3860 and insert:

3861 A bill to be entitled
3862 An act relating to the Department of Business and
3863 Professional Regulation; amending s. 718.111, F.S.;
3864 requiring that hazard insurance be based upon the
3865 replacement cost of the property to be insured as
3866 determined by an independent insurance appraisal or update
3867 of a prior appraisal; requiring that the full insurable
3868 value be determined at specified intervals; providing a
3869 means by which an association may provide adequate hazard
3870 insurance; authorizing an association to consider certain
3871 information when determining coverage amounts; providing
3872 for coverage by developer-controlled associations;
3873 providing that policies may include deductibles as
3874 determined by the association's board of directors;



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3875 providing requirements and guidelines for the
3876 establishment of such deductibles; requiring that the
3877 amounts of deductibles be set at a meeting of the board;
3878 providing requirements for such meeting; requiring that an
3879 association controlled by unit owners operating as a
3880 residential condominium use its best efforts to obtain and
3881 maintain adequate insurance to protect the association and
3882 property under its supervision or control; providing that
3883 a declaration of condominium may provide that condominium
3884 property consisting of freestanding buildings comprised of
3885 no more than one building in or on such unit need not be
3886 insured by the association if the declaration requires the
3887 unit owner to obtain adequate insurance for the
3888 condominium property; authorizing an association to obtain
3889 and maintain liability insurance for directors and
3890 officers, insurance for the benefit of association
3891 employees, and flood insurance for common elements,
3892 association property, and units; requiring that every
3893 hazard insurance policy issued or renewed on or after a
3894 specified date for the purpose of protecting the
3895 condominium provide certain coverage; requiring that such
3896 policies contain certain provisions; providing that such
3897 policies issued to individual unit owners do not provide
3898 rights of subrogation against the condominium association;
3899 providing for the insurance of improvements or additions
3900 benefiting fewer than all unit owners; requiring that an
3901 association require each owner to provide evidence of a
3902 current policy of hazard and liability insurance upon
3903 request; limiting the frequency with which an association
3904 may make such a request; authorizing an association to



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3905 purchase coverage on behalf of an owner under certain
3906 circumstances; providing for the collection of the costs
3907 of such a policy; providing responsibilities of the unit
3908 owner and association with regard to reconstruction work
3909 and associated costs after a casualty loss; authorizing a
3910 multicondominium association to operate such condominiums
3911 as a single condominium for certain purposes by majority
3912 vote of the members of all applicable condominiums;
3913 providing that such election constitutes an amendment to
3914 the declaration of all applicable condominiums; requiring
3915 that an association maintain insurance or fidelity bonding
3916 for all persons who control or disburse association funds;
3917 requiring that such insurance policy or fidelity bond
3918 cover the maximum funds in the custody of the association
3919 or its management agent at any one time; defining the term
3920 "persons who control or disburse funds of the
3921 association"; authorizing an association to amend the
3922 declaration of condominium without regard to any
3923 requirement for approval by mortgagees of amendments
3924 affecting insurance requirements for the purpose of
3925 conforming the declaration of condominium to certain
3926 coverage requirements; providing that any portion of the
3927 condominium property required to be insured by the
3928 association against casualty loss which is damaged be
3929 reconstructed, repaired, or replaced as necessary by the
3930 association as a common expense; providing that all hazard
3931 insurance deductibles, uninsured losses, and other damages
3932 in excess of hazard insurance coverage under the hazard
3933 insurance policies maintained by the association are a
3934 common expense of the condominium; providing exceptions;



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3935 allocating responsibility for certain costs of repair or
3936 reconstruction; authorizing an association to opt out of
3937 certain requirements related to such allocation of
3938 responsibility by majority vote; providing a procedure by
3939 which a multicondominium association that has not
3940 consolidated its financial operations may opt out of such
3941 allocation of responsibility; requiring that a decision to
3942 opt out be recorded; providing that such decision takes
3943 effect on the date on which it is recorded; authorizing
3944 the reversal of such decision; providing a procedure for
3945 reversal; providing that an association is not obligated
3946 to pay for any reconstruction or repair expenses for
3947 improvements made by an owner or the development if an
3948 improvement benefits only the unit for which it was
3949 installed; amending s. 718.115, F.S.; requiring that
3950 certain expenses be designated as common expenses;
3951 amending s. 718.116, F.S.; authorizing the designee of a
3952 unit owner or mortgagee to request a certificate of
3953 assessment; requiring that the fee for preparation of such
3954 certificate be stated on the certificate; providing for
3955 the establishment of such fees; providing for payment of
3956 the fee; requiring that the fee be refunded if a planned
3957 sale or mortgage does not occur; providing that any such
3958 refund is the obligation of the unit owner and is
3959 collectable in the same manner as an assessment; amending
3960 s. 718.117, F.S.; prohibiting the distribution of proceeds
3961 from the sale of a condominium unit to a lienholder from
3962 exceeding a unit owner's share of the proceeds; creating
3963 s. 720.30851, F.S.; requiring that the association provide
3964 a certificate signed by an officer or agent of the



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3965 association stating all assessments and other moneys owed
3966 to the association by the parcel owner or mortgagee with
3967 respect to the parcel within a specified period after the
3968 association's receipt of a request for an estoppel
3969 certificate by an owner or mortgagee; providing that any
3970 person other than a parcel owner who relies upon a
3971 certificate receives the benefits and protection thereof;
3972 providing that a summary proceeding may be brought to
3973 compel the association to comply with the requirement to
3974 provide a certificate; providing that the prevailing party
3975 is entitled to recover reasonable attorney's fees;
3976 requiring that the fee for preparation of such certificate
3977 be stated on the certificate; providing for the
3978 establishment of such fees; providing for payment of the
3979 fee; requiring that the fee be refunded if a planned sale
3980 or mortgage does not occur; providing that any such refund
3981 is the obligation of the unit owner and is collectable in
3982 the same manner as an assessment; amending s. 20.165,
3983 F.S.; changing the name of the Division of Florida Land
3984 Sales, Condominiums, and Mobile Homes to the Division of
3985 Florida Condominiums, Timeshares, and Mobile Homes and the
3986 Division of Technology, Licensure, and Testing to the
3987 Division of Technology; amending s. 215.20, F.S.;
3988 conforming the name of the division's trust fund to
3989 correspond to the name change of the division; amending s.
3990 450.33, F.S.; removing the requirement for a farm labor
3991 contractor to file a set of fingerprints with the
3992 department; amending s. 455.203, F.S.; authorizing the
3993 department to close and terminate deficient license
3994 applications and to approve professional license

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3995 applications meeting certain criteria; amending s.
3996 455.217, F.S.; conforming terminology to changes made by
3997 the act; amending s. 455.2273, F.S.; authorizing the
3998 section to apply to disciplinary guidelines adopted by all
3999 boards and divisions; amending s. 468.841, F.S.;
4000 clarifying exemption provisions for license provisions
4001 governing mold-related services; amending s. 475.17, F.S.;
4002 revising requirements for licensure as a real estate
4003 broker; amending s. 475.451, F.S.; deleting requirements
4004 relating to the submission of certain real estate course
4005 rosters to the department; amending s. 489.105, F.S.;
4006 clarifying that individuals and business entities that
4007 sell manufactured and factory-built buildings can legally
4008 enter into contracts for those sales; amending s. 489.511,
4009 F.S.; revising requirements for taking the electrical or
4010 alarm system contractor certification examination;
4011 providing requirements for certification; amending s.
4012 489.515, F.S.; revising requirements for certification as
4013 a certified contractor by the Electrical Contractors'
4014 Licensing Board to reflect changes made to s. 489.511,
4015 F.S., by this act; renumbering s. 498.009, F.S., relating
4016 to the location of the division's offices; amending and
4017 renumbering s. 498.011, F.S., relating to payment of per
4018 diem, mileage, and other expenses for division employees;
4019 providing for reimbursement of expenses for on-site
4020 review; deleting the expense reimbursement for inspection
4021 of subdivided lands; renumbering s. 498.013, F.S.,
4022 relating to the authentication of records; amending and
4023 renumbering s. 498.057, F.S., relating to service of
4024 process; deleting provision that service may be made by

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4025 delivering a copy of the process to the division director;
4026 providing that the division can be the petitioner or the
4027 plaintiff; repealing ss. 498.001, 498.003, 498.005,
4028 498.007, 498.017, 498.019, 498.021, 498.022, 498.023,
4029 498.024, 498.025, 498.027, 498.028, 498.029, 498.031,
4030 498.033, 498.035, 498.037, 498.039, 498.041, 498.047,
4031 498.049, 498.051, 498.053, 498.059, 498.061, and 498.063,
4032 F.S., relating to regulation of land sales practices;
4033 amending s. 548.0065, F.S.; including amateur mixed
4034 martial arts in a provision relating to the authority of
4035 the Florida State Boxing Commission to suspend amateur
4036 matches for violation of certain health and safety
4037 standards; amending s. 548.008, F.S.; removing prohibition
4038 against holding amateur mixed martial arts matches in this
4039 state; amending s. 548.041, F.S.; providing additional
4040 licensure requirements for boxing participants; amending
4041 s. 718.501, F.S.; providing additional powers and duties
4042 of the division; providing for additional enforcement
4043 proceedings for carrying out the purposes of ch. 718,
4044 F.S.; deleting the payment of money by a developer to a
4045 condominium association as a permissible affirmative
4046 action; providing for actions of conservator or receiver;
4047 providing for application to circuit court for an order of
4048 restitution; providing for imposition of civil penalties
4049 and award of court costs, attorney's fees, and costs of
4050 investigation under certain circumstances; providing for
4051 contracting for investigative services; providing for
4052 acceptance of grants-in-aid; requiring the cooperation
4053 with similar agencies on establishment of certain
4054 procedures, standards, and forms; providing what



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4055 | constitutes completeness of notice; authorizing the
4056 | division to issue a notice to show cause; providing
4057 | conforming changes; amending s. 718.509, F.S.; revising to
4058 | incorporate provisions of s. 498.019, F.S., relating to
4059 | the Division of Florida Condominiums, Timeshares, and
4060 | Mobile Homes Trust Fund; revising provisions to conform to
4061 | the change in division name; providing for the deposit of
4062 | moneys resulting from an administrative final order;
4063 | amending s. 721.03, F.S.; clarifying that timeshare plan
4064 | includes a nonspecific multisite timeshare plan; amending
4065 | ss. 73.073, 190.009, 192.037, 213.053, 326.002, 326.006,
4066 | 380.05, 380.06, 380.0651, 381.0065, 455.116, 475.455,
4067 | 494.008, 509.512, 517.301, 559.935, 718.103, 718.105,
4068 | 718.1255, 718.5011, 718.502, 718.504, 718.508, 718.608,
4069 | 719.103, 719.1255, 719.501, 719.502, 719.504, 719.508,
4070 | 719.608, 720.301, 720.401, 721.05, 721.07, 721.08, 721.26,
4071 | 721.28, 721.301, 721.50, 723.003, 723.006, 723.009, and
4072 | 723.0611, F.S., to conform; providing an effective date.