

By the Committee on Regulated Industries; and Senators Jones and Bennett

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1                   A bill to be entitled  
2           An act relating to the Department of Business and  
3           Professional Regulation; amending s. 718.111, F.S.;  
4           requiring that hazard insurance be based upon the  
5           replacement cost of the property to be insured as  
6           determined by an independent insurance appraisal or update  
7           of a prior appraisal; requiring that the full insurable  
8           value be determined at specified intervals; providing a  
9           means by which an association may provide adequate hazard  
10          insurance; authorizing an association to consider certain  
11          information when determining coverage amounts; providing  
12          for coverage by developer-controlled associations;  
13          providing that policies may include deductibles as  
14          determined by the association's board of directors;  
15          providing requirements and guidelines for the  
16          establishment of such deductibles; requiring that the  
17          amounts of deductibles be set at a meeting of the board;  
18          providing requirements for such meeting; requiring that an  
19          association controlled by unit owners operating as a  
20          residential condominium use its best efforts to obtain and  
21          maintain adequate insurance to protect the association and  
22          property under its supervision or control; providing that  
23          a declaration of condominium may provide that condominium  
24          property consisting of freestanding buildings comprised of  
25          no more than one building in or on such unit need not be  
26          insured by the association if the declaration requires the  
27          unit owner to obtain adequate insurance for the  
28          condominium property; authorizing an association to obtain  
29          and maintain liability insurance for directors and

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30 officers, insurance for the benefit of association  
31 employees, and flood insurance for common elements,  
32 association property, and units; requiring that every  
33 hazard insurance policy issued or renewed on or after a  
34 specified date for the purpose of protecting the  
35 condominium provide certain coverage; requiring that such  
36 policies contain certain provisions; providing that such  
37 policies issued to individual unit owners do not provide  
38 rights of subrogation against the condominium association;  
39 providing for the insurance of improvements or additions  
40 benefiting fewer than all unit owners; requiring that an  
41 association require each owner to provide evidence of a  
42 current policy of hazard and liability insurance upon  
43 request; limiting the frequency with which an association  
44 may make such a request; authorizing an association to  
45 purchase coverage on behalf of an owner under certain  
46 circumstances; providing for the collection of the costs  
47 of such a policy; providing responsibilities of the unit  
48 owner and association with regard to reconstruction work  
49 and associated costs after a casualty loss; authorizing a  
50 multicondominium association to operate such condominiums  
51 as a single condominium for certain purposes by majority  
52 vote of the members of all applicable condominiums;  
53 providing that such election constitutes an amendment to  
54 the declaration of all applicable condominiums; requiring  
55 that an association maintain insurance or fidelity bonding  
56 for all persons who control or disburse association funds;  
57 requiring that such insurance policy or fidelity bond  
58 cover the maximum funds in the custody of the association

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59 | or its management agent at any one time; defining the term  
60 | "persons who control or disburse funds of the  
61 | association"; authorizing an association to amend the  
62 | declaration of condominium without regard to any  
63 | requirement for approval by mortgagees of amendments  
64 | affecting insurance requirements for the purpose of  
65 | conforming the declaration of condominium to certain  
66 | coverage requirements; providing that any portion of the  
67 | condominium property required to be insured by the  
68 | association against casualty loss which is damaged be  
69 | reconstructed, repaired, or replaced as necessary by the  
70 | association as a common expense; providing that all hazard  
71 | insurance deductibles, uninsured losses, and other damages  
72 | in excess of hazard insurance coverage under the hazard  
73 | insurance policies maintained by the association are a  
74 | common expense of the condominium; providing exceptions;  
75 | allocating responsibility for certain costs of repair or  
76 | reconstruction; authorizing an association to opt out of  
77 | certain requirements related to such allocation of  
78 | responsibility by majority vote; providing a procedure by  
79 | which a multicondominium association that has not  
80 | consolidated its financial operations may opt out of such  
81 | allocation of responsibility; requiring that a decision to  
82 | opt out be recorded; providing that such decision takes  
83 | effect on the date on which it is recorded; authorizing  
84 | the reversal of such decision; providing a procedure for  
85 | reversal; providing that an association is not obligated  
86 | to pay for any reconstruction or repair expenses for  
87 | improvements made by an owner or the development if an

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88 improvement benefits only the unit for which it was  
89 installed; amending s. 718.115, F.S.; requiring that  
90 certain expenses be designated as common expenses;  
91 amending s. 718.116, F.S.; authorizing the designee of a  
92 unit owner or mortgagee to request a certificate of  
93 assessment; requiring that the fee for preparation of such  
94 certificate be stated on the certificate; providing for  
95 the establishment of such fees; providing for payment of  
96 the fee; requiring that the fee be refunded if a planned  
97 sale or mortgage does not occur; providing that any such  
98 refund is the obligation of the unit owner and is  
99 collectable in the same manner as an assessment; amending  
100 s. 718.117, F.S.; prohibiting the distribution of proceeds  
101 from the sale of a condominium unit to a lienholder from  
102 exceeding a unit owner's share of the proceeds; creating  
103 s. 720.30851, F.S.; requiring that the association provide  
104 a certificate signed by an officer or agent of the  
105 association stating all assessments and other moneys owed  
106 to the association by the parcel owner or mortgagee with  
107 respect to the parcel within a specified period after the  
108 association's receipt of a request for an estoppel  
109 certificate by an owner or mortgagee; providing that any  
110 person other than a parcel owner who relies upon a  
111 certificate receives the benefits and protection thereof;  
112 providing that a summary proceeding may be brought to  
113 compel the association to comply with the requirement to  
114 provide a certificate; providing that the prevailing party  
115 is entitled to recover reasonable attorney's fees;  
116 requiring that the fee for preparation of such certificate

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117 be stated on the certificate; providing for the  
118 establishment of such fees; providing for payment of the  
119 fee; requiring that the fee be refunded if a planned sale  
120 or mortgage does not occur; providing that any such refund  
121 is the obligation of the unit owner and is collectable in  
122 the same manner as an assessment; amending s. 20.165,  
123 F.S.; changing the name of the Division of Florida Land  
124 Sales, Condominiums, and Mobile Homes to the Division of  
125 Florida Condominiums, Timeshares, and Mobile Homes and the  
126 Division of Technology, Licensure, and Testing to the  
127 Division of Technology; amending s. 215.20, F.S.;  
128 conforming the name of the division's trust fund to  
129 correspond to the name change of the division; amending s.  
130 450.33, F.S.; removing the requirement for a farm labor  
131 contractor to file a set of fingerprints with the  
132 department; amending s. 455.203, F.S.; authorizing the  
133 department to close and terminate deficient license  
134 applications and to approve professional license  
135 applications meeting certain criteria; amending s.  
136 455.217, F.S.; conforming terminology to changes made by  
137 the act; amending s. 455.2273, F.S.; authorizing the  
138 section to apply to disciplinary guidelines adopted by all  
139 boards and divisions; amending s. 468.841, F.S.;  
140 clarifying exemption provisions for license provisions  
141 governing mold-related services; amending s. 475.17, F.S.;  
142 revising requirements for licensure as a real estate  
143 broker; amending s. 475.451, F.S.; deleting requirements  
144 relating to the submission of certain real estate course  
145 rosters to the department; amending s. 489.105, F.S.;

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146 clarifying that individuals and business entities that  
147 sell manufactured and factory-built buildings can legally  
148 enter into contracts for those sales; amending s. 489.511,  
149 F.S.; revising requirements for taking the electrical or  
150 alarm system contractor certification examination;  
151 providing requirements for certification; amending s.  
152 489.515, F.S.; revising requirements for certification as  
153 a certified contractor by the Electrical Contractors'  
154 Licensing Board to reflect changes made to s. 489.511,  
155 F.S., by this act; renumbering s. 498.009, F.S., relating  
156 to the location of the division's offices; amending and  
157 renumbering s. 498.011, F.S., relating to payment of per  
158 diem, mileage, and other expenses for division employees;  
159 providing for reimbursement of expenses for on-site  
160 review; deleting the expense reimbursement for inspection  
161 of subdivided lands; renumbering s. 498.013, F.S.,  
162 relating to the authentication of records; amending and  
163 renumbering s. 498.057, F.S., relating to service of  
164 process; deleting provision that service may be made by  
165 delivering a copy of the process to the division director;  
166 providing that the division can be the petitioner or the  
167 plaintiff; repealing ss. 498.001, 498.003, 498.005,  
168 498.007, 498.017, 498.019, 498.021, 498.022, 498.023,  
169 498.024, 498.025, 498.027, 498.028, 498.029, 498.031,  
170 498.033, 498.035, 498.037, 498.039, 498.041, 498.047,  
171 498.049, 498.051, 498.053, 498.059, 498.061, and 498.063,  
172 F.S., relating to regulation of land sales practices;  
173 amending s. 548.0065, F.S.; including amateur mixed  
174 martial arts in a provision relating to the authority of

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175 the Florida State Boxing Commission to suspend amateur  
176 matches for violation of certain health and safety  
177 standards; amending s. 548.008, F.S.; removing prohibition  
178 against holding amateur mixed martial arts matches in this  
179 state; amending s. 548.041, F.S.; providing additional  
180 licensure requirements for boxing participants; amending  
181 s. 718.501, F.S.; providing additional powers and duties  
182 of the division; providing for additional enforcement  
183 proceedings for carrying out the purposes of ch. 718,  
184 F.S.; deleting the payment of money by a developer to a  
185 condominium association as a permissible affirmative  
186 action; providing for actions of conservator or receiver;  
187 providing for application to circuit court for an order of  
188 restitution; providing for imposition of civil penalties  
189 and award of court costs, attorney's fees, and costs of  
190 investigation under certain circumstances; providing for  
191 contracting for investigative services; providing for  
192 acceptance of grants-in-aid; requiring the cooperation  
193 with similar agencies on establishment of certain  
194 procedures, standards, and forms; providing what  
195 constitutes completeness of notice; authorizing the  
196 division to issue a notice to show cause; providing  
197 conforming changes; amending s. 718.509, F.S.; revising to  
198 incorporate provisions of s. 498.019, F.S., relating to  
199 the Division of Florida Condominiums, Timeshares, and  
200 Mobile Homes Trust Fund; revising provisions to conform to  
201 the change in division name; providing for the deposit of  
202 moneys resulting from an administrative final order;  
203 amending s. 721.03, F.S.; clarifying that timeshare plan

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204 includes a nonspecific multisite timeshare plan; amending  
205 ss. 73.073, 190.009, 192.037, 213.053, 326.002, 326.006,  
206 380.05, 380.06, 380.0651, 381.0065, 455.116, 475.455,  
207 494.008, 509.512, 517.301, 559.935, 718.103, 718.105,  
208 718.1255, 718.5011, 718.502, 718.504, 718.508, 718.608,  
209 719.103, 719.1255, 719.501, 719.502, 719.504, 719.508,  
210 719.608, 720.301, 720.401, 721.05, 721.07, 721.08, 721.26,  
211 721.28, 721.301, 721.50, 723.003, 723.006, 723.009, and  
212 723.0611, F.S., to conform; providing effective dates.  
213

214 Be It Enacted by the Legislature of the State of Florida:  
215

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

218 718.111 The association.--

219 (11) INSURANCE.--In order to protect the safety, health,  
220 and welfare of the people of the State of Florida and to ensure  
221 consistency in the provision of insurance coverage to  
222 condominiums and their unit owners, this subsection applies  
223 ~~paragraphs (a), (b), and (c) are deemed to apply~~ to every  
224 residential condominium in the state, regardless of the date of  
225 its declaration of condominium. It is the intent of the  
226 Legislature to encourage lower or stable insurance premiums for  
227 associations described in this subsection ~~section~~.

228 (a) Adequate hazard insurance, regardless of any  
229 requirement in the declaration of condominium for coverage by the  
230 association for full insurable value, replacement cost, or  
231 similar coverage, shall be based upon the replacement cost of the  
232 property to be insured as determined by an independent insurance



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233 appraisal or update of a prior appraisal. The full insurable  
234 value shall be determined at least once every 36 months.

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

238 2. The association may also provide adequate hazard  
239 insurance coverage individually or for a group of no fewer than  
240 three communities created and operating under this chapter,  
241 chapter 719, chapter 720, or chapter 721 by obtaining and  
242 maintaining for such communities insurance coverage sufficient to  
243 cover an amount equal to the probable maximum loss for the  
244 communities for a 250-year windstorm event. Such probable maximum  
245 loss must be determined through the use of a competent model that  
246 has been accepted by the Florida Commission on Hurricane Loss  
247 Projection Methodology. No policy or program providing such  
248 coverage shall be issued or renewed after July 1, 2008, unless it  
249 has been reviewed and approved by the Office of Insurance  
250 Regulation. The review and approval shall include approval of  
251 the policy and related forms pursuant to ss. 627.410 and 627.411,  
252 approval of the rates pursuant to s. 627.062, a determination  
253 that the loss model approved by the Commission was accurately and  
254 appropriately applied to the insured structures to determine the  
255 250-year probable maximum loss, and a determination that complete  
256 and accurate disclosure of all material provisions is provided  
257 to condominium unit owners prior to execution of the agreement by  
258 a condominium association.

259 3. When determining the adequate amount of hazard insurance  
260 coverage, the association may consider deductibles as determined  
261 by this subsection.

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262        (b) If an association is a developer-controlled  
263 association, the association shall exercise its best efforts to  
264 obtain and maintain insurance as described in paragraph (a).  
265 Failure to obtain and maintain adequate hazard insurance during  
266 any period of developer control constitutes a breach of fiduciary  
267 responsibility by the developer-appointed members of the board of  
268 directors of the association, unless the members can show that  
269 despite such failure, they have made their best efforts to  
270 maintain the required coverage.

271        (c) Policies may include deductibles as determined by the  
272 board.

273        1. The deductibles shall be consistent with industry  
274 standards and prevailing practice for communities of similar size  
275 and age, and having similar construction and facilities in the  
276 locale where the condominium property is situated.

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

280        3. The board shall establish the amount of deductibles  
281 based upon the level of available funds and predetermined  
282 assessment authority at a meeting of the board. Such meeting  
283 shall be open to all unit owners in the manner set forth in s.  
284 718.112(2)(e). The notice of such meeting must state the proposed  
285 deductible and the available funds and the assessment authority  
286 relied upon by the board and estimate any potential assessment  
287 amount against each unit, if any. The meeting described in this  
288 paragraph may be held in conjunction with a meeting to consider  
289 the proposed budget or an amendment thereto.

290        (d) An association controlled by unit owners operating as a

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291 residential condominium shall use its best efforts to obtain and  
292 maintain adequate insurance to protect the association, the  
293 association property, the common elements, and the condominium  
294 property that is required to be insured by the association  
295 pursuant to this subsection.

296 (e) The declaration of condominium as originally recorded,  
297 or as amended pursuant to procedures provided therein, may  
298 provide that condominium property consisting of freestanding  
299 buildings comprised of no more than one building in or on such  
300 unit need not be insured by the association if the declaration  
301 requires the unit owner to obtain adequate insurance for the  
302 condominium property. An association may also obtain and maintain  
303 liability insurance for directors and officers, insurance for the  
304 benefit of association employees, and flood insurance for common  
305 elements, association property, and units.

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

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

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

314 3. The coverage shall exclude all personal property within  
315 the unit or limited common elements, and floor, wall, and ceiling  
316 coverings, electrical fixtures, appliances, water heaters, water  
317 filters, built-in cabinets and countertops, and window  
318 treatments, including curtains, drapes, blinds, hardware, and  
319 similar window treatment components, or replacements of any of

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320 the foregoing.

321 (g) Every hazard insurance policy issued or renewed on or  
322 after January 1, 2009, to an individual unit owner must contain a  
323 provision stating that the coverage afforded by such policy is  
324 excess coverage over the amount recoverable under any other  
325 policy covering the same property. Such policies must include  
326 special assessment coverage of no less than \$2,000 per  
327 occurrence. An insurance policy issued to an individual unit  
328 owner providing such coverage does not provide rights of  
329 subrogation against the condominium association operating the  
330 condominium in which such individual's unit is located.

331 1. All improvements or additions to the condominium  
332 property that benefit fewer than all unit owners shall be insured  
333 by the unit owner or owners having the use thereof, or may be  
334 insured by the association at the cost and expense of the unit  
335 owners having the use thereof.

336 2. The association shall require each owner to provide  
337 evidence of a currently effective policy of hazard and liability  
338 insurance upon request, but not more than once per year. Upon the  
339 failure of an owner to provide a certificate of insurance issued  
340 by an insurer approved to write such insurance in this state  
341 within 30 days after the date on which a written request is  
342 delivered, the association may purchase a policy of insurance on  
343 behalf of an owner. The cost of such a policy, together with  
344 reconstruction costs undertaken by the association but which are  
345 the responsibility of the unit owner, may be collected in the  
346 manner provided for the collection of assessments in s. 718.116.

347 3. All reconstruction work after a casualty loss shall be  
348 undertaken by the association except as otherwise authorized in

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349 this section. A unit owner may undertake reconstruction work on  
350 portions of the unit with the prior written consent of the board  
351 of administration. However, such work may be conditioned upon the  
352 approval of the repair methods, the qualifications of the  
353 proposed contractor, or the contract that is used for that  
354 purpose. A unit owner shall obtain all required governmental  
355 permits and approvals prior to commencing reconstruction.

356 4. Unit owners are responsible for the cost of  
357 reconstruction of any portions of the condominium property for  
358 which the unit owner is required to carry casualty insurance, and  
359 any such reconstruction work undertaken by the association shall  
360 be chargeable to the unit owner and enforceable as an assessment  
361 pursuant to s. 718.116. The association must be an additional  
362 named insured and loss payee on all casualty insurance policies  
363 issued to unit owners in the condominium operated by the  
364 association.

365 5. A multicondominium association may elect, by a majority  
366 vote of the collective members of the condominiums operated by  
367 the association, to operate such condominiums as a single  
368 condominium for purposes of insurance matters, including, but not  
369 limited to, the purchase of the hazard insurance required by this  
370 section and the apportionment of deductibles and damages in  
371 excess of coverage. The election to aggregate the treatment of  
372 insurance premiums, deductibles, and excess damages constitutes  
373 an amendment to the declaration of all condominiums operated by  
374 the association, and the costs of insurance shall be stated in  
375 the association budget. The amendments shall be recorded as  
376 required by s. 718.110.

377 (h) The association shall maintain insurance or fidelity

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378 bonding of all persons who control or disburse funds of the  
379 association. The insurance policy or fidelity bond must cover the  
380 maximum funds that will be in the custody of the association or  
381 its management agent at any one time. As used in this paragraph,  
382 the term "persons who control or disburse funds of the  
383 association" includes, but is not limited to, those individuals  
384 authorized to sign checks on behalf of the association, and the  
385 president, secretary, and treasurer of the association. The  
386 association shall bear the cost of any such bonding.

387 (i) The association may amend the declaration of  
388 condominium without regard to any requirement for approval by  
389 mortgagees of amendments affecting insurance requirements for the  
390 purpose of conforming the declaration of condominium to the  
391 coverage requirements of this subsection.

392 (j) Any portion of the condominium property required to be  
393 insured by the association against casualty loss pursuant to  
394 paragraph (f) which is damaged by casualty shall be  
395 reconstructed, repaired, or replaced as necessary by the  
396 association as a common expense. All hazard insurance  
397 deductibles, uninsured losses, and other damages in excess of  
398 hazard insurance coverage under the hazard insurance policies  
399 maintained by the association are a common expense of the  
400 condominium, except that:

401 1. A unit owner is responsible for the costs of repair or  
402 replacement of any portion of the condominium property not paid  
403 by insurance proceeds, if such damage is caused by intentional  
404 conduct, negligence, or failure to comply with the terms of the  
405 declaration or the rules of the association by a unit owner, the  
406 members of his or her family, unit occupants, tenants, guests, or

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407 invitees, without compromise of the subrogation rights of any  
408 insurer as set forth in paragraph (g).

409 2. The provisions of subparagraph 1. regarding the  
410 financial responsibility of a unit owner for the costs of  
411 repairing or replacing other portions of the condominium property  
412 also applies to the costs of repair or replacement of personal  
413 property of other unit owners or the association, as well as  
414 other property, whether real or personal, which the unit owners  
415 are required to insure under paragraph (g).

416 3. To the extent the cost of repair or reconstruction for  
417 which the unit owner is responsible under this paragraph is  
418 reimbursed to the association by insurance proceeds, and, to the  
419 extent the association has collected the cost of such repair or  
420 reconstruction from the unit owner, the association shall  
421 reimburse the unit owner without the waiver of any rights of  
422 subrogation.

423 4. The association is not obligated to pay for repair or  
424 reconstruction or repairs of casualty losses as a common expense  
425 if the casualty losses were known or should have been known to a  
426 unit owner and were not reported to the association until after  
427 the insurance claim of the association for that casualty was  
428 settled or resolved with finality, or denied on the basis that it  
429 was untimely filed.

430 (k) An association may, upon the approval of a majority of  
431 the total voting interests in the association, opt out of the  
432 provisions of paragraph (j) for the allocation of repair or  
433 reconstruction expenses and allocate repair or reconstruction  
434 expenses in the manner provided in the declaration as originally  
435 recorded or as amended. Such vote may be approved by the voting

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436 interests of the association without regard to any mortgagee  
437 consent requirements.

438 (l) In a multicondominium association that has not  
439 consolidated its financial operations under s. 718.111(6), any  
440 condominium operated by the association may opt out of the  
441 provisions of paragraph (j) with the approval of a majority of  
442 the total voting interests in that condominium. Such vote may be  
443 approved by the voting interests without regard to any mortgagee  
444 consent requirements.

445 (m) Any association or condominium voting to opt out of the  
446 guidelines for repair or reconstruction expenses as described in  
447 paragraph (j) must record a notice setting forth the date of the  
448 opt-out vote and the page of the official records book on which  
449 the declaration is recorded. The decision to opt out is effective  
450 upon the date of recording of the notice in the public records by  
451 the association. An association that has voted to opt out of  
452 paragraph (j) may reverse that decision by the same vote required  
453 in paragraphs (k) and (l), and notice thereof shall be recorded  
454 in the official records.

455 (n) The association is not obligated to pay for any  
456 reconstruction or repair expenses due to casualty loss to any  
457 improvements installed by a current or former owner of the unit  
458 or by the developer if the improvement benefits only the unit for  
459 which it was installed and is not part of the standard  
460 improvements installed by the developer on all units as part of  
461 original construction, whether or not such improvement is located  
462 within the unit. This paragraph does not relieve any party of its  
463 obligations regarding recovery due under any insurance  
464 implemented specifically for any such improvements.



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465        (o) The provisions of this subsection shall not apply to  
466 timeshare condominium associations. Insurance for timeshare  
467 condominium associations shall be maintained pursuant to s.  
468 721.165.

469 ~~Therefore, the Legislature requires a report to be prepared by~~  
470 ~~the Office of Insurance Regulation of the Department of Financial~~  
471 ~~Services for publication 18 months from the effective date of~~  
472 ~~this act, evaluating premium increases or decreases for~~  
473 ~~associations, unit owner premium increases or decreases,~~  
474 ~~recommended changes to better define common areas, or any other~~  
475 ~~information the Office of Insurance Regulation deems appropriate.~~

476        ~~(a) A unit-owner controlled association operating a~~  
477 ~~residential condominium shall use its best efforts to obtain and~~  
478 ~~maintain adequate insurance to protect the association, the~~  
479 ~~association property, the common elements, and the condominium~~  
480 ~~property required to be insured by the association pursuant to~~  
481 ~~paragraph (b). If the association is developer controlled, the~~  
482 ~~association shall exercise due diligence to obtain and maintain~~  
483 ~~such insurance. Failure to obtain and maintain adequate insurance~~  
484 ~~during any period of developer control shall constitute a breach~~  
485 ~~of fiduciary responsibility by the developer-appointed members of~~  
486 ~~the board of directors of the association, unless said members~~  
487 ~~can show that despite such failure, they have exercised due~~  
488 ~~diligence. The declaration of condominium as originally recorded,~~  
489 ~~or amended pursuant to procedures provided therein, may require~~  
490 ~~that condominium property consisting of freestanding buildings~~  
491 ~~where there is no more than one building in or on such unit need~~  
492 ~~not be insured by the association if the declaration requires the~~  
493 ~~unit owner to obtain adequate insurance for the condominium~~

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494 ~~property. An association may also obtain and maintain liability~~  
495 ~~insurance for directors and officers, insurance for the benefit~~  
496 ~~of association employees, and flood insurance for common~~  
497 ~~elements, association property, and units. Adequate insurance,~~  
498 ~~regardless of any requirement in the declaration of condominium~~  
499 ~~for coverage by the association for "full insurable value,"~~  
500 ~~"replacement cost," or the like, may include reasonable~~  
501 ~~deductibles as determined by the board based upon available funds~~  
502 ~~or predetermined assessment authority at the time that the~~  
503 ~~insurance is obtained.~~

504 ~~1. Windstorm insurance coverage for a group of no fewer~~  
505 ~~than three communities created and operating under this chapter,~~  
506 ~~chapter 719, chapter 720, or chapter 721 may be obtained and~~  
507 ~~maintained for the communities if the insurance coverage is~~  
508 ~~sufficient to cover an amount equal to the probable maximum loss~~  
509 ~~for the communities for a 250-year windstorm event. Such probable~~  
510 ~~maximum loss must be determined through the use of a competent~~  
511 ~~model that has been accepted by the Florida Commission on~~  
512 ~~Hurricane Loss Projection Methodology. Such insurance coverage is~~  
513 ~~deemed adequate windstorm insurance for the purposes of this~~  
514 ~~section.~~

515 ~~2. An association or group of associations may self-insure~~  
516 ~~against claims against the association, the association property,~~  
517 ~~and the condominium property required to be insured by an~~  
518 ~~association, upon compliance with the applicable provisions of~~  
519 ~~ss. 624.460-624.488, which shall be considered adequate insurance~~  
520 ~~for the purposes of this section. A copy of each policy of~~  
521 ~~insurance in effect shall be made available for inspection by~~  
522 ~~unit owners at reasonable times.~~

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

526 ~~1. All portions of the condominium property located outside~~  
527 ~~the units;~~

528 ~~2. The condominium property located inside the units as~~  
529 ~~such property was initially installed, or replacements thereof of~~  
530 ~~like kind and quality and in accordance with the original plans~~  
531 ~~and specifications or, if the original plans and specifications~~  
532 ~~are not available, as they existed at the time the unit was~~  
533 ~~initially conveyed; and~~

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

536  
537 ~~Anything to the contrary notwithstanding, the terms "condominium~~  
538 ~~property," "building," "improvements," "insurable improvements,"~~  
539 ~~"common elements," "association property," or any other term~~  
540 ~~found in the declaration of condominium which defines the scope~~  
541 ~~of property or casualty insurance that a condominium association~~  
542 ~~must obtain shall exclude all floor, wall, and ceiling coverings,~~  
543 ~~electrical fixtures, appliances, air conditioner or heating~~  
544 ~~equipment, water heaters, water filters, built-in cabinets and~~  
545 ~~countertops, and window treatments, including curtains, drapes,~~  
546 ~~blinds, hardware, and similar window treatment components, or~~  
547 ~~replacements of any of the foregoing which are located within the~~  
548 ~~boundaries of a unit and serve only one unit and all air~~  
549 ~~conditioning compressors that service only an individual unit,~~  
550 ~~whether or not located within the unit boundaries. The foregoing~~  
551 ~~is intended to establish the property or casualty insuring~~

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552 ~~responsibilities of the association and those of the individual~~  
553 ~~unit owner and do not serve to broaden or extend the perils of~~  
554 ~~coverage afforded by any insurance contract provided to the~~  
555 ~~individual unit owner. Beginning January 1, 2004, the association~~  
556 ~~shall have the authority to amend the declaration of condominium,~~  
557 ~~without regard to any requirement for mortgagee approval of~~  
558 ~~amendments affecting insurance requirements, to conform the~~  
559 ~~declaration of condominium to the coverage requirements of this~~  
560 ~~section.~~

561 ~~(c) Every hazard insurance policy issued or renewed on or~~  
562 ~~after January 1, 2004, to an individual unit owner shall provide~~  
563 ~~that the coverage afforded by such policy is excess over the~~  
564 ~~amount recoverable under any other policy covering the same~~  
565 ~~property. Each insurance policy issued to an individual unit~~  
566 ~~owner providing such coverage shall be without rights of~~  
567 ~~subrogation against the condominium association that operates the~~  
568 ~~condominium in which such unit owner's unit is located. All real~~  
569 ~~or personal property located within the boundaries of the unit~~  
570 ~~owner's unit which is excluded from the coverage to be provided~~  
571 ~~by the association as set forth in paragraph (b) shall be insured~~  
572 ~~by the individual unit owner.~~

573 ~~(d) The association shall obtain and maintain adequate~~  
574 ~~insurance or fidelity bonding of all persons who control or~~  
575 ~~disburse funds of the association. The insurance policy or~~  
576 ~~fidelity bond must cover the maximum funds that will be in the~~  
577 ~~eustody of the association or its management agent at any one~~  
578 ~~time. As used in this paragraph, the term "persons who control or~~  
579 ~~disburse funds of the association" includes, but is not limited~~  
580 ~~to, those individuals authorized to sign checks and the~~

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581 | ~~president, secretary, and treasurer of the association. The~~  
582 | ~~association shall bear the cost of bonding.~~

583 |       Section 2. Paragraph (a) of subsection (1) of section  
584 | 718.115, Florida Statutes, is amended to read:

585 |       718.115 Common expenses and common surplus.--

586 |       (1) (a) Common expenses include the expenses of the  
587 | operation, maintenance, repair, replacement, or protection of the  
588 | common elements and association property, costs of carrying out  
589 | the powers and duties of the association, and any other expense,  
590 | whether or not included in the foregoing, designated as common  
591 | expense by this chapter, the declaration, the documents creating  
592 | the association, or the bylaws. Common expenses also include  
593 | reasonable transportation services, insurance for directors and  
594 | officers, road maintenance and operation expenses, in-house  
595 | communications, and security services, which are reasonably  
596 | related to the general benefit of the unit owners even if such  
597 | expenses do not attach to the common elements or property of the  
598 | condominium. However, such common expenses must either have been  
599 | services or items provided on or after the date control of the  
600 | association is transferred from the developer to the unit owners  
601 | or must be services or items provided for in the condominium  
602 | documents or bylaws. Unless the manner of payment or allocation  
603 | of expenses is otherwise addressed in the declaration of  
604 | condominium, the expenses of any items or services required by  
605 | any federal, state, or local governmental entity to be installed,  
606 | maintained, or supplied to the condominium property by the  
607 | association, including, but not limited to, fire safety equipment  
608 | or water and sewer service where a master meter serves the  
609 | condominium, shall be common expenses whether or not such items

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610 or services are specifically identified as common expenses in the  
611 declaration of condominium, articles of incorporation, or bylaws  
612 of the association.

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

615 718.116 Assessments; liability; lien and priority;  
616 interest; collection.--

617 (8) Within 15 days after receiving a written request  
618 therefor from a unit owner or his or her designee ~~purchaser~~, or  
619 a unit mortgagee or his or her designee, the association shall  
620 provide a certificate signed by an officer or agent of the  
621 association stating all assessments and other moneys owed to the  
622 association by the unit owner with respect to the condominium  
623 parcel.

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

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

630 (c) Notwithstanding any limitation on transfer fees  
631 contained in s. 718.112(2)(i), the association or its authorized  
632 agent may charge a reasonable fee for the preparation of the  
633 certificate. The amount of the fee must be included on the  
634 certificate.

635 (d) The authority to charge a fee under this section shall  
636 be established by written resolution adopted by the board or  
637 provided by written management, bookkeeping, or maintenance  
638 contract. The fee is payable upon the preparation of the

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639 certificate, and if the certificate is requested in conjunction  
640 with the sale or mortgage of a unit and the closing does not  
641 occur, the fee shall be refunded promptly upon written notice  
642 from the person requesting the certificate stating that the sale  
643 or mortgage did not occur. Any such refund is the obligation of  
644 the unit owner and is collectable in the same manner as an  
645 assessment as provided in this section.

646 Section 4. Paragraph (c) of subsection (17) of section  
647 718.117, Florida Statutes, is amended to read:

648 718.117 Termination of condominium.--

649 (17) DISTRIBUTION.--

650 (c) The proceeds from any sale of condominium property or  
651 association property and any remaining condominium property or  
652 association property, common surplus, and other assets shall be  
653 distributed in the following priority:

654 1. To pay the reasonable termination trustee's fees and  
655 costs and accounting fees and costs.

656 2. To lienholders of liens recorded prior to the recording  
657 of the declaration.

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

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

663 5. To creditors of the association, as their interests  
664 appear.

665 6. To unit owners, the proceeds of any sale of condominium  
666 property subject to satisfaction of liens on each unit in their  
667 order of priority, in shares specified in the plan of

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668 termination, unless objected to by a unit owner or lienor as  
669 provided in paragraph (b).

670 7. To unit owners, the remaining condominium property,  
671 subject to satisfaction of liens on each unit in their order of  
672 priority, in shares specified in the plan of termination, unless  
673 objected to by a unit owner or a lienor as provided in paragraph  
674 (b).

675 8. To unit owners, the proceeds of any sale of association  
676 property, the remaining association property, common surplus, and  
677 other assets of the association, subject to satisfaction of liens  
678 on each unit in their order of priority, in shares specified in  
679 the plan of termination, unless objected to by a unit owner or a  
680 lienor as provided in paragraph (b).

681 Section 5. Section 720.30851, Florida Statutes, is created  
682 to read:

683 720.30851 Estoppel certificates.--Within 15 days after the  
684 date on which a request for an estoppel certificate is received  
685 from a parcel owner or mortgagee, or his or her designee, the  
686 association shall provide a certificate signed by an officer or  
687 authorized agent of the association stating all assessments and  
688 other moneys owed to the association by the parcel owner or  
689 mortgagee with respect to the parcel. An association may charge a  
690 fee for the preparation of such certificate, and the amount of  
691 such fee must be stated on the certificate.

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

694 (2) A summary proceeding pursuant to s. 51.011 may be  
695 brought to compel compliance with this section, and the  
696 prevailing party is entitled to recover reasonable attorney's



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697 fees.

698 (3) The authority to charge a fee for a certificate  
699 required by this section shall be established by written  
700 resolution adopted by the board or provided by written  
701 management, bookkeeping, or maintenance contract. The fee is  
702 payable upon the preparation of the certificate, and, if the  
703 certificate is requested in conjunction with the sale or mortgage  
704 of a unit and the closing does not occur, the fee shall be  
705 refunded promptly upon written notice from the person requesting  
706 the certificate stating that the sale or mortgage did not occur.  
707 Any such refund is the obligation of the unit owner and is  
708 collectible in the same manner as an assessment as provided in  
709 this section.

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

712 20.165 Department of Business and Professional  
713 Regulation.--There is created a Department of Business and  
714 Professional Regulation.

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

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

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

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

722 73.073 Eminent domain procedure with respect to condominium  
723 common elements.--

724 (2) With respect to the exercise of eminent domain or a  
725 negotiated sale for the purchase or taking of a portion of the

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726 common elements of a condominium, the condemning authority shall  
727 have the responsibility of contacting the condominium association  
728 and acquiring the most recent rolls indicating the names of the  
729 unit owners or contacting the appropriate taxing authority to  
730 obtain the names of the owners of record on the tax rolls.

731 Notification shall ~~thereupon~~ be sent by certified mail, return  
732 receipt requested, to the unit owners of record of the  
733 condominium units by the condemning authority indicating the  
734 intent to purchase or take the required property and requesting a  
735 response from the unit owner. The condemning authority shall be  
736 responsible for the expense of sending notification pursuant to  
737 this section. Such notice shall, at a minimum, include:

- 738 (a) The name and address of the condemning authority.  
739 (b) A written or visual description of the property.  
740 (c) The public purpose for which the property is needed.  
741 (d) The appraisal value of the property.  
742 (e) A clear, concise statement relating to the unit owner's  
743 right to object to the taking or appraisal value and the  
744 procedures and effects of exercising that right.

745 (f) A clear, concise statement relating to the power of the  
746 association to convey the property on behalf of the unit owners  
747 if no objection to the taking or appraisal value is raised, and  
748 the effects of this alternative on the unit owner.  
749

750 The Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
751 Mobile Homes of the Department of Business and Professional  
752 Regulation may adopt, by rule, a standard form for such notice  
753 and may require the notice to include any additional relevant  
754 information.

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

757 190.009 Disclosure of public financing.--

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

762 (2)~~(3)~~ The Department of Community Affairs shall keep a  
763 current list of districts and their disclosures pursuant to this  
764 act and shall make such studies and reports and take such actions  
765 as it deems necessary.

766 Section 9. Paragraph (e) of subsection (6) of section  
767 192.037, Florida Statutes, is amended to read:

768 192.037 Fee timeshare real property; taxes and assessments;  
769 escrow.--

770 (6)

771 (e) On or before May 1 of each year, a statement of  
772 receipts and disbursements of the escrow account must be filed  
773 with the Division of Florida ~~Land Sales,~~ Condominiums,  
774 Timeshares, and Mobile Homes of the Department of Business and  
775 Professional Regulation, which may enforce this paragraph  
776 pursuant to s. 721.26. This statement must appropriately show the  
777 amount of principal and interest in such account.

778 Section 10. Paragraph (i) of subsection (8) of section  
779 213.053, Florida Statutes, is amended to read:

780 213.053 Confidentiality and information sharing.--

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

783 (i) Information relative to chapters 212 and 326 to the

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784 | Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
785 | Mobile Homes of the Department of Business and Professional  
786 | Regulation in the conduct of its official duties.

787 |  
788 | Disclosure of information under this subsection shall be pursuant  
789 | to a written agreement between the executive director and the  
790 | agency. Such agencies, governmental or nongovernmental, shall be  
791 | bound by the same requirements of confidentiality as the  
792 | Department of Revenue. Breach of confidentiality is a misdemeanor  
793 | of the first degree, punishable as provided by s. 775.082 or s.  
794 | 775.083.

795 |       Section 11. Paragraph (d) of subsection (4) of section  
796 | 215.20, Florida Statutes, is amended to read:

797 |       215.20 Certain income and certain trust funds to contribute  
798 | to the General Revenue Fund.--

799 |       (4) The income of a revenue nature deposited in the  
800 | following described trust funds, by whatever name designated, is  
801 | that from which the appropriations authorized by subsection (3)  
802 | shall be made:

803 |       (d) Within the Department of Business and Professional  
804 | Regulation:

805 |       1. The Administrative Trust Fund.

806 |       2. The Alcoholic Beverage and Tobacco Trust Fund.

807 |       3. The Cigarette Tax Collection Trust Fund.

808 |       4. The Division of Florida ~~Land Sales,~~ Condominiums,  
809 | Timeshares, and Mobile Homes Trust Fund.

810 |       5. The Hotel and Restaurant Trust Fund, with the exception  
811 | of those fees collected for the purpose of funding of the  
812 | hospitality education program as stated in s. 509.302.

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813           6. The Professional Regulation Trust Fund.

814           7. The trust funds administered by the Division of Pari-  
815       mutuel Wagering.

816

817       The enumeration of the foregoing moneys or trust funds shall not  
818       prohibit the applicability ~~thereto~~ of s. 215.24 should the  
819       Governor determine that for the reasons mentioned in s. 215.24  
820       the money or trust funds should be exempt herefrom, as it is the  
821       purpose of this law to exempt income from its force and effect  
822       when, by the operation of this law, federal matching funds or  
823       contributions or private grants to any trust fund would be lost  
824       to the state.

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

827           326.002 Definitions.--As used in ss. 326.001-326.006, the  
828       term:

829           (2) "Division" means the Division of Florida ~~Land Sales,~~  
830       Condominiums, Timeshares, and Mobile Homes of the Department of  
831       Business and Professional Regulation.

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

834           326.006 Powers and duties of division.--

835           (2) The division has the power to enforce and ensure  
836       compliance with the provisions of this chapter and rules adopted  
837       under this chapter relating to the sale and ownership of yachts  
838       and ships. In performing its duties, the division has the  
839       following powers and duties:

840           (d) Notwithstanding any remedies available to a yacht or  
841       ship purchaser, if the division has reasonable cause to believe

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842 that a violation of any provision of this chapter or rule adopted  
843 under this chapter has occurred, the division may institute  
844 enforcement proceedings in its own name against any broker or  
845 salesperson or any of his or her assignees or agents, or against  
846 any unlicensed person or any of his or her assignees or agents,  
847 as follows:

848 1. The division may permit a person whose conduct or  
849 actions are under investigation to waive formal proceedings and  
850 enter into a consent proceeding whereby orders, rules, or letters  
851 of censure or warning, whether formal or informal, may be entered  
852 against the person.

853 2. The division may issue an order requiring the broker or  
854 salesperson or any of his or her assignees or agents, or  
855 requiring any unlicensed person or any of his or her assignees or  
856 agents, to cease and desist from the unlawful practice and take  
857 such affirmative action as in the judgment of the division will  
858 carry out the purposes of this chapter.

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

862 4. The division may impose a civil penalty against a broker  
863 or salesperson or any of his or her assignees or agents, or  
864 against an unlicensed person or any of his or her assignees or  
865 agents, for any violation of this chapter or a rule adopted under  
866 this chapter. A penalty may be imposed for each day of continuing  
867 violation, but in no event may the penalty for any offense exceed  
868 \$10,000. All amounts collected must be deposited with the Chief  
869 Financial Officer to the credit of the Division of Florida ~~Land~~  
870 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If

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871 a broker, salesperson, or unlicensed person working for a broker,  
872 fails to pay the civil penalty, the division shall ~~thereupon~~  
873 issue an order suspending the broker's license until such time as  
874 the civil penalty is paid or may pursue enforcement of the  
875 penalty in a court of competent jurisdiction. The order imposing  
876 the civil penalty or the order of suspension may not become  
877 effective until 20 days after the date of such order. Any action  
878 commenced by the division must be brought in the county in which  
879 the division has its executive offices or in the county where the  
880 violation occurred.

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

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

886 380.05 Areas of critical state concern.--

887 (18) Neither the designation of an area of critical state  
888 concern nor the adoption of any regulations for such an area  
889 shall in any way limit or modify the rights of any person to  
890 complete any development that was ~~has been~~ authorized by  
891 registration of a subdivision pursuant to former chapter 498 or  
892 former chapter 478, by recordation pursuant to local subdivision  
893 plat law, or by a building permit or other authorization to  
894 commence development on which there has been reliance and a  
895 change of position, and which registration or recordation was  
896 accomplished, or which permit or authorization was issued, prior  
897 to the approval under subsection (6), or the adoption under  
898 subsection (8), of land development regulations for the area of  
899 critical state concern. If a developer has by his or her actions

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900 | in reliance on prior regulations obtained vested or other legal  
901 | rights that in law would have prevented a local government from  
902 | changing those regulations in a way adverse to the developer's  
903 | interests, nothing in this chapter authorizes any governmental  
904 | agency to abridge those rights.

905 |       Section 15. Subsection (20) of section 380.06, Florida  
906 | Statutes, is amended to read:

907 |       380.06 Developments of regional impact.--

908 |       (20) VESTED RIGHTS.--Nothing in this section shall limit or  
909 | modify the rights of any person to complete any development that  
910 | was ~~has been~~ authorized by registration of a subdivision pursuant  
911 | to former chapter 498, by recordation pursuant to local  
912 | subdivision plat law, or by a building permit or other  
913 | authorization to commence development on which there has been  
914 | reliance and a change of position and which registration or  
915 | recordation was accomplished, or which permit or authorization  
916 | was issued, prior to July 1, 1973. If a developer has, by his or  
917 | her actions in reliance on prior regulations, obtained vested or  
918 | other legal rights that in law would have prevented a local  
919 | government from changing those regulations in a way adverse to  
920 | the developer's interests, nothing in this chapter authorizes any  
921 | governmental agency to abridge those rights.

922 |       (a) For the purpose of determining the vesting of rights  
923 | under this subsection, approval pursuant to local subdivision  
924 | plat law, ordinances, or regulations of a subdivision plat by  
925 | formal vote of a county or municipal governmental body having  
926 | jurisdiction after August 1, 1967, and prior to July 1, 1973, is  
927 | sufficient to vest all property rights for the purposes of this  
928 | subsection; and no action in reliance on, or change of position



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929 concerning, such local governmental approval is required for  
930 vesting to take place. Anyone claiming vested rights under this  
931 paragraph must ~~se~~ notify the department in writing by January 1,  
932 1986. Such notification shall include information adequate to  
933 document the rights established by this subsection. When such  
934 notification requirements are met, in order for the vested rights  
935 authorized pursuant to this paragraph to remain valid after June  
936 30, 1990, development of the vested plan must be commenced prior  
937 to that date upon the property that the state land planning  
938 agency has determined to have acquired vested rights following  
939 the notification or in a binding letter of interpretation. When  
940 the notification requirements have not been met, the vested  
941 rights authorized by this paragraph shall expire June 30, 1986,  
942 unless development commenced prior to that date.

943 (b) For the purpose of this act, the conveyance of, or the  
944 agreement to convey, property to the county, state, or local  
945 government as a prerequisite to zoning change approval shall be  
946 construed as an act of reliance to vest rights as determined  
947 under this subsection, provided such zoning change is actually  
948 granted by such government.

949 Section 16. Paragraph (a) of subsection (4) of section  
950 380.0651, Florida Statutes, is amended to read:

951 380.0651 Statewide guidelines and standards.--

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

957 (a) The criteria of two of the following subparagraphs must

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958 | be met in order for the state land planning agency to determine  
959 | that there is a unified plan of development:

960 |       1.a. The same person has retained or shared control of the  
961 | developments;

962 |       b. The same person has ownership or a significant legal or  
963 | equitable interest in the developments; or

964 |       c. There is common management of the developments  
965 | controlling the form of physical development or disposition of  
966 | parcels of the development.

967 |       2. There is a reasonable closeness in time between the  
968 | completion of 80 percent or less of one development and the  
969 | submission to a governmental agency of a master plan or series of  
970 | plans or drawings for the other development which is indicative  
971 | of a common development effort.

972 |       3. A master plan or series of plans or drawings exists  
973 | covering the developments sought to be aggregated which have been  
974 | submitted to a local general-purpose government, water management  
975 | district, the Florida Department of Environmental Protection, or  
976 | the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
977 | Mobile Homes for authorization to commence development. The  
978 | existence or implementation of a utility's master utility plan  
979 | required by the Public Service Commission or general-purpose  
980 | local government or a master drainage plan shall not be the sole  
981 | determinant of the existence of a master plan.

982 |       4. The voluntary sharing of infrastructure that is  
983 | indicative of a common development effort or is designated  
984 | specifically to accommodate the developments sought to be  
985 | aggregated, except that which was implemented because it was  
986 | required by a local general-purpose government; water management

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987 | district; the Department of Environmental Protection; the  
988 | Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
989 | Mobile Homes; or the Public Service Commission.

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

992 |       Section 17. Paragraph (c) of subsection (4) of section  
993 | 381.0065, Florida Statutes, is amended to read:

994 |       381.0065 Onsite sewage treatment and disposal systems;  
995 | regulation.--

996 |       (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may  
997 | not construct, repair, modify, abandon, or operate an onsite  
998 | sewage treatment and disposal system without first obtaining a  
999 | permit approved by the department. The department may issue  
1000 | permits to carry out this section, but shall not make the  
1001 | issuance of such permits contingent upon prior approval by the  
1002 | Department of Environmental Protection, except that the issuance  
1003 | of a permit for work seaward of the coastal construction control  
1004 | line established under s. 161.053 shall be contingent upon  
1005 | receipt of any required coastal construction control line permit  
1006 | from the Department of Environmental Protection. A construction  
1007 | permit is valid for 18 months from the issuance date and may be  
1008 | extended by the department for one 90-day period under rules  
1009 | adopted by the department. A repair permit is valid for 90 days  
1010 | from the date of issuance. An operating permit must be obtained  
1011 | prior to the use of any aerobic treatment unit or if the  
1012 | establishment generates commercial waste. Buildings or  
1013 | establishments that use an aerobic treatment unit or generate  
1014 | commercial waste shall be inspected by the department at least  
1015 | annually to assure compliance with the terms of the operating

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1016 permit. The operating permit for a commercial wastewater system  
1017 is valid for 1 year from the date of issuance and must be renewed  
1018 annually. The operating permit for an aerobic treatment unit is  
1019 valid for 2 years from the date of issuance and must be renewed  
1020 every 2 years. If all information pertaining to the siting,  
1021 location, and installation conditions or repair of an onsite  
1022 sewage treatment and disposal system remains the same, a  
1023 construction or repair permit for the onsite sewage treatment and  
1024 disposal system may be transferred to another person, if the  
1025 transferee files, within 60 days after the transfer of ownership,  
1026 an amended application providing all corrected information and  
1027 proof of ownership of the property. There is no fee associated  
1028 with the processing of this supplemental information. A person  
1029 may not contract to construct, modify, alter, repair, service,  
1030 abandon, or maintain any portion of an onsite sewage treatment  
1031 and disposal system without being registered under part III of  
1032 chapter 489. A property owner who personally performs  
1033 construction, maintenance, or repairs to a system serving his or  
1034 her own owner-occupied single-family residence is exempt from  
1035 registration requirements for performing such construction,  
1036 maintenance, or repairs on that residence, but is subject to all  
1037 permitting requirements. A municipality or political subdivision  
1038 of the state may not issue a building or plumbing permit for any  
1039 building that requires the use of an onsite sewage treatment and  
1040 disposal system unless the owner or builder has received a  
1041 construction permit for such system from the department. A  
1042 building or structure may not be occupied and a municipality,  
1043 political subdivision, or any state or federal agency may not  
1044 authorize occupancy until the department approves the final

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1045 installation of the onsite sewage treatment and disposal system.  
1046 A municipality or political subdivision of the state may not  
1047 approve any change in occupancy or tenancy of a building that  
1048 uses an onsite sewage treatment and disposal system until the  
1049 department has reviewed the use of the system with the proposed  
1050 change, approved the change, and amended the operating permit.

1051 (c) Notwithstanding ~~the provisions of~~ paragraphs (a) and  
1052 (b), for subdivisions platted of record on or before October 1,  
1053 1991, when a developer or other appropriate entity has previously  
1054 made or makes provisions, including financial assurances or other  
1055 commitments, acceptable to the Department of Health, that a  
1056 central water system will be installed by a regulated public  
1057 utility based on a density formula, private potable wells may be  
1058 used with onsite sewage treatment and disposal systems until the  
1059 agreed-upon densities are reached. ~~The department may consider~~  
1060 ~~assurances filed with the Department of Business and Professional~~  
1061 ~~Regulation under chapter 498 in determining the adequacy of the~~  
1062 ~~financial assurance required by this paragraph.~~ In a subdivision  
1063 regulated by this paragraph, the average daily sewage flow may  
1064 not exceed 2,500 gallons per acre per day. This section does not  
1065 affect the validity of existing prior agreements. After October  
1066 1, 1991, the exception provided under this paragraph is not  
1067 available to a developer or other appropriate entity.

1068 Section 18. Subsections (8) through (12) of section 450.33,  
1069 Florida Statutes, are amended to read:

1070 450.33 Duties of farm labor contractor.--Every farm labor  
1071 contractor must:

1072 ~~(8) File, within such time as the department may prescribe,~~  
1073 ~~a set of his or her fingerprints.~~

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1074        (8)~~(9)~~ Produce evidence to the department that each vehicle  
1075 he or she uses for the transportation of employees complies with  
1076 the requirements and specifications established in chapter 316,  
1077 s. 316.622, or Pub. L. No. 93-518 as amended by Pub. L. No. 97-  
1078 470 meeting Department of Transportation requirements or, in lieu  
1079 thereof, bears a valid inspection sticker showing that the  
1080 vehicle has passed the inspection in the state in which the  
1081 vehicle is registered.

1082        (9)~~(10)~~ Comply with all applicable statutes, rules, and  
1083 regulations of the United States and of the State of Florida for  
1084 the protection or benefit of labor, including, but not limited  
1085 to, those providing for wages, hours, fair labor standards,  
1086 social security, workers' compensation, unemployment  
1087 compensation, child labor, and transportation.

1088        (10)~~(11)~~ Maintain accurate daily field records for each  
1089 employee actually paid by the farm labor contractor reflecting  
1090 the hours worked for the farm labor contractor and, if paid by  
1091 unit, the number of units harvested and the amount paid per unit.

1092        (11)~~(12)~~ Clearly display on each vehicle used to transport  
1093 migrant or seasonal farm workers a display sticker issued by the  
1094 department, which states that the vehicle is authorized by the  
1095 department to transport farm workers and the expiration date of  
1096 the authorization.

1097        Section 19. Subsection (10) is added to section 455.203,  
1098 Florida Statutes, to read:

1099        455.203 Department; powers and duties.--The department, for  
1100 the boards under its jurisdiction, shall:

1101        (10) Have authority to:

1102        (a) Close and terminate deficient license application files

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1103 2 years after the board or the department notifies the applicant  
1104 of the deficiency; and

1105 (b) Approve applications for professional licenses that  
1106 meet all statutory and rule requirements for licensure.

1107 Section 20. Subsection (5) of section 455.116, Florida  
1108 Statutes, is amended to read:

1109 455.116 Regulation trust funds.--The following trust funds  
1110 shall be placed in the department:

1111 (5) Division of Florida ~~Land Sales,~~ Condominiums,  
1112 Timeshares, and Mobile Homes Trust Fund.

1113 Section 21. Subsection (1) of section 455.217, Florida  
1114 Statutes, is amended to read:

1115 455.217 Examinations.--This section shall be read in  
1116 conjunction with the appropriate practice act associated with  
1117 each regulated profession under this chapter.

1118 (1) The Division of Technology, ~~Licensure, and Testing~~ of  
1119 the Department of Business and Professional Regulation shall  
1120 provide, contract, or approve services for the development,  
1121 preparation, administration, scoring, score reporting, and  
1122 evaluation of all examinations. The division shall seek the  
1123 advice of the appropriate board in providing such services.

1124 (a) The department, acting in conjunction with the Division  
1125 of Technology, ~~Licensure, and Testing~~ and the Division of Real  
1126 Estate, as appropriate, shall ensure that examinations adequately  
1127 and reliably measure an applicant's ability to practice the  
1128 profession regulated by the department. After an examination  
1129 developed or approved by the department has been administered,  
1130 the board or department may reject any question which does not  
1131 reliably measure the general areas of competency specified in the

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1132 | rules of the board or department, when there is no board. The  
1133 | department shall use professional testing services for the  
1134 | development, preparation, and evaluation of examinations, when  
1135 | such services are available and approved by the board.

1136 |       (b) For each examination developed by the department or  
1137 | contracted vendor, to the extent not otherwise specified by  
1138 | statute, the board or the department when there is no board,  
1139 | shall by rule specify the general areas of competency to be  
1140 | covered by the examination, the relative weight to be assigned in  
1141 | grading each area tested, the score necessary to achieve a  
1142 | passing grade, and the fees, where applicable, to cover the  
1143 | actual cost for any purchase, development, and administration of  
1144 | the required examination. However, statutory fee caps in each  
1145 | practice act shall apply. This subsection does not apply to  
1146 | national examinations approved and administered pursuant to  
1147 | paragraph (d).

1148 |       (c) If a practical examination is deemed to be necessary,  
1149 | rules shall specify the criteria by which examiners are to be  
1150 | selected, the grading criteria to be used by the examiner, the  
1151 | relative weight to be assigned in grading each criterion, and the  
1152 | score necessary to achieve a passing grade. When a mandatory  
1153 | standardization exercise for a practical examination is required  
1154 | by law, the board may conduct such exercise. Therefore, board  
1155 | members may serve as examiners at a practical examination with  
1156 | the consent of the board.

1157 |       (d) A board, or the department when there is no board, may  
1158 | approve by rule the use of any national examination which the  
1159 | department has certified as meeting requirements of national  
1160 | examinations and generally accepted testing standards pursuant to



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1161 department rules. Providers of examinations, which may be either  
1162 profit or nonprofit entities, seeking certification by the  
1163 department shall pay the actual costs incurred by the department  
1164 in making a determination regarding the certification. The  
1165 department shall use any national examination which is available,  
1166 certified by the department, and approved by the board. The name  
1167 and number of a candidate may be provided to a national  
1168 contractor for the limited purpose of preparing the grade tape  
1169 and information to be returned to the board or department or, to  
1170 the extent otherwise specified by rule, the candidate may apply  
1171 directly to the vendor of the national examination. The  
1172 department may delegate to the board the duty to provide and  
1173 administer the examination. Any national examination approved by  
1174 a board, or the department when there is no board, prior to  
1175 October 1, 1997, is deemed certified under this paragraph. Any  
1176 licensing or certification examination that is not developed or  
1177 administered by the department in-house or provided as a national  
1178 examination shall be competitively bid.

1179 (e) The department shall adopt rules regarding the security  
1180 and monitoring of examinations. In order to maintain the security  
1181 of examinations, the department may employ the procedures set  
1182 forth in s. 455.228 to seek fines and injunctive relief against  
1183 an examinee who violates the provisions of s. 455.2175 or the  
1184 rules adopted pursuant to this paragraph. The department, or any  
1185 agent thereof, may, for the purposes of investigation, confiscate  
1186 any written, photographic, or recording material or device in the  
1187 possession of the examinee at the examination site which the  
1188 department deems necessary to enforce such provisions or rules.

1189 (f) If the professional board with jurisdiction over an

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1190 examination concurs, the department may, for a fee, share with  
1191 any other state's licensing authority an examination developed by  
1192 or for the department unless prohibited by a contract entered  
1193 into by the department for development or purchase of the  
1194 examination. The department, with the concurrence of the  
1195 appropriate board, shall establish guidelines that ensure  
1196 security of a shared exam and shall require that any other  
1197 state's licensing authority comply with those guidelines. Those  
1198 guidelines shall be approved by the appropriate professional  
1199 board. All fees paid by the user shall be applied to the  
1200 department's examination and development program for professions  
1201 regulated by this chapter. All fees paid by the user for  
1202 professions not regulated by this chapter shall be applied to  
1203 offset the fees for the development and administration of that  
1204 profession's examination. If both a written and a practical  
1205 examination are given, an applicant shall be required to retake  
1206 only the portion of the examination for which he or she failed to  
1207 achieve a passing grade, if he or she successfully passes that  
1208 portion within a reasonable time of his or her passing the other  
1209 portion.

1210 Section 22. Subsection (6) is added to section 455.2273,  
1211 Florida Statutes, to read:

1212 455.2273 Disciplinary guidelines.--

1213 (6) Notwithstanding s. 455.017, this section applies to  
1214 disciplinary guidelines adopted by all boards or divisions within  
1215 the department.

1216 Section 23. Effective July 1, 2010, paragraph (d) of  
1217 subsection (1) and paragraph (d) of subsection (2) of section  
1218 468.841, Florida Statutes, are amended to read:

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1219 468.841 Exemptions.--

1220 (1) The following persons are not required to comply with  
1221 any provisions of this part relating to mold assessment:

1222 (d) Persons or business organizations acting within the  
1223 scope of the respective licenses required under chapter 471, part  
1224 I of chapter 481, chapter 482, ~~or~~ chapter 489, or part XV of this  
1225 chapter, are acting on behalf of an insurer under part VI of  
1226 chapter 626, or are persons in the manufactured housing industry  
1227 who are licensed under chapter 320, except when any such persons  
1228 or business organizations hold themselves out for hire to the  
1229 public as a "certified mold assessor ~~remediator~~," "registered  
1230 mold assessor ~~remediator~~," "licensed mold assessor ~~remediator~~,"  
1231 "mold assessor ~~remediator~~," "professional mold assessor  
1232 ~~remediator~~," or any combination thereof stating or implying  
1233 licensure under this part.

1234 (2) The following persons are not required to comply with  
1235 any provisions of this part relating to mold remediation:

1236 (d) Persons or business organizations that are acting  
1237 within the scope of the respective licenses required under  
1238 chapter 471, part I of chapter 481, chapter 482, ~~or~~ chapter 489,  
1239 or part XV of this chapter, are acting on behalf of an insurer  
1240 under part VI of chapter 626, or are persons in the manufactured  
1241 housing industry who are licensed under chapter 320, except when  
1242 any such persons or business organizations hold themselves out  
1243 for hire to the public as a "certified mold remediator ~~assessor~~,"  
1244 "registered mold remediator ~~assessor~~," "licensed mold remediator  
1245 ~~assessor~~," "mold remediator ~~assessor~~," "professional mold  
1246 remediator ~~assessor~~," or any combination thereof stating or  
1247 implying licensure under this part.

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1248 Section 24. Paragraph (b) of subsection (2) of section  
1249 475.17, Florida Statutes, is amended to read:

1250 475.17 Qualifications for practice.--

1251 (2)

1252 (b) A person may not be licensed as a real estate broker  
1253 unless, in addition to the other requirements of law, the person  
1254 has held:

1255 1. An active real estate sales associate's license for at  
1256 least 24 ~~12~~ months during the preceding 5 years in the office of  
1257 one or more real estate brokers licensed in this state or any  
1258 other state, territory, or jurisdiction of the United States or  
1259 in any foreign national jurisdiction;

1260 2. A current and valid real estate sales associate's  
1261 license for at least 24 ~~12~~ months during the preceding 5 years in  
1262 the employ of a governmental agency for a salary and performing  
1263 the duties authorized in this part for real estate licensees; or

1264 3. A current and valid real estate broker's license for at  
1265 least 24 ~~12~~ months during the preceding 5 years in any other  
1266 state, territory, or jurisdiction of the United States or in any  
1267 foreign national jurisdiction.

1268

1269 ~~This paragraph does not apply to a person employed as a real~~  
1270 ~~estate investigator by the Division of Real Estate, provided the~~  
1271 ~~person has been employed as a real estate investigator for at~~  
1272 ~~least 24 months. The person must be currently employed as a real~~  
1273 ~~estate investigator to sit for the real estate broker's~~  
1274 ~~examination and have held a valid and current sales associate's~~  
1275 ~~license for at least 12 months.~~

1276 Section 25. Subsection (9) of section 475.451, Florida

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1277 Statutes, is amended to read:

1278 475.451 Schools teaching real estate practice.--

1279 ~~(9)(a) Each school permitholder of a proprietary real~~  
1280 ~~estate school, each chief administrative person of such an~~  
1281 ~~institution, or each course sponsor shall deliver to the~~  
1282 ~~department, in a format acceptable to the department, a copy of~~  
1283 ~~the classroom course roster of courses that require satisfactory~~  
1284 ~~completion of an examination no later than 30 days beyond the end~~  
1285 ~~of the calendar month in which the course was completed.~~

1286 ~~(b) The course roster shall consist of the institution or~~  
1287 ~~school name and permit number, if applicable, the instructor's~~  
1288 ~~name and permit number, if applicable, course title, beginning~~  
1289 ~~and ending dates of the course, number of course hours, course~~  
1290 ~~location, if applicable, each student's full name and license~~  
1291 ~~number, if applicable, each student's mailing address, and the~~  
1292 ~~numerical grade each student achieved. The course roster shall~~  
1293 ~~also include the signature of the school permitholder, the chief~~  
1294 ~~administrative person, or the course sponsor.~~

1295 Section 26. Section 475.455, Florida Statutes, is amended  
1296 to read:

1297 475.455 Exchange of disciplinary information.--The  
1298 commission shall inform the Division of Florida ~~Land Sales,~~  
1299 Condominiums, Timeshares, and Mobile Homes of the Department of  
1300 Business and Professional Regulation of any disciplinary action  
1301 the commission has taken against any of its licensees. The  
1302 division shall inform the commission of any disciplinary action  
1303 the division has taken against any broker or sales associate  
1304 registered with the division.

1305 Section 27. Subsection (6) of section 489.105, Florida

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1306 Statutes, is amended to read:

1307 489.105 Definitions.--As used in this part:

1308 (6) "Contracting" means, except as exempted in this part,  
1309 engaging in business as a contractor and includes, but is not  
1310 limited to, performance of any of the acts as set forth in  
1311 subsection (3) which define types of contractors. The attempted  
1312 sale of contracting services and the negotiation or bid for a  
1313 contract on these services also constitutes contracting. If the  
1314 services offered require licensure or agent qualification, the  
1315 offering, negotiation for a bid, or attempted sale of these  
1316 services requires the corresponding licensure. However, the term  
1317 "contracting" shall not extend to an individual, partnership,  
1318 corporation, trust, or other legal entity that offers to sell or  
1319 sells completed residences on property on which the individual or  
1320 business entity has any legal or equitable interest, or to the  
1321 individual or business entity that offers to sell or sells  
1322 manufactured or factory-built buildings that will be completed on  
1323 site on property on which either party to a contract has any  
1324 legal or equitable interest, if the services of a qualified  
1325 contractor certified or registered pursuant to the requirements  
1326 of this chapter have been or will be retained for the purpose of  
1327 constructing or completing such residences.

1328 Section 28. Section 489.511, Florida Statutes, is amended  
1329 to read:

1330 489.511 Certification; application; examinations;  
1331 endorsement.--

1332 (1) (a) Any person who is at least 18 years of age may take  
1333 the certification examination.

1334 (b) Any person desiring to be certified as a contractor

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1335 shall apply to the department in writing and must meet the  
1336 following criteria: ~~to take the certification examination.~~

1337 ~~(2) (a) A person shall be entitled to take the certification~~  
1338 ~~examination for the purpose of determining whether he or she is~~  
1339 ~~qualified to engage in contracting throughout the state as a~~  
1340 ~~contractor if the person:~~

1341 ~~1. Is at least 18 years of age;~~

1342 ~~1.2. Be~~ Is of good moral character;

1343 2. Pass the certification examination, achieving a passing  
1344 grade as established by board rule; and

1345 3. Meet ~~Meets~~ eligibility requirements according to one of  
1346 the following criteria:

1347 a. Has, within the 6 years immediately preceding the filing  
1348 of the application, at least 3 years' proven management  
1349 experience in the trade or education equivalent thereto, or a  
1350 combination thereof, but not more than one-half of such  
1351 experience may be educational equivalent;

1352 b. Has, within the 8 years immediately preceding the filing  
1353 of the application, at least 4 years' experience as a supervisor  
1354 or contractor in the trade for which he or she is making  
1355 application;

1356 c. Has, within the 12 years immediately preceding the  
1357 filing of the application, at least 6 years of comprehensive  
1358 training, technical education, or supervisory experience  
1359 associated with an electrical or alarm system contracting  
1360 business, or at least 6 years of technical experience in  
1361 electrical or alarm system work with the Armed Forces or a  
1362 governmental entity;

1363 d. Has, within the 12 years immediately preceding the

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1364 filing of the application, been licensed for 3 years as a  
1365 professional engineer who is qualified by education, training, or  
1366 experience to practice electrical engineering; or

1367 e. Has any combination of qualifications under sub-  
1368 subparagraphs a.-c. totaling 6 years of experience.

1369 (c)~~(b)~~ For purposes of this subsection, "supervisor" means  
1370 a person having the experience gained while having the general  
1371 duty of overseeing the technical duties of the trade, provided  
1372 that such experience is gained by a person who is able to perform  
1373 the technical duties of the trade without supervision.

1374 (d)~~(e)~~ For purposes of this subsection, at least 40 percent  
1375 of the work experience for an alarm system contractor I must be  
1376 in the types of fire alarm systems typically used in a commercial  
1377 setting.

1378 (2)~~(3)~~ The board may determine by rule the number of times  
1379 per year the applicant may take the examination and after three  
1380 unsuccessful attempts may ~~On or after October 1, 1998, every~~  
1381 ~~applicant who is qualified shall be allowed to take the~~  
1382 ~~examination three times, notwithstanding the number of times the~~  
1383 ~~applicant has previously failed the examination. If an applicant~~  
1384 ~~fails the examination three times after October 1, 1998, the~~  
1385 ~~board shall~~ require the applicant to complete additional college-  
1386 level or technical education courses in the areas of deficiency,  
1387 as determined by the board, as a condition of future eligibility  
1388 to take the examination. ~~The applicant must also submit a new~~  
1389 ~~application that meets all certification requirements at the time~~  
1390 ~~of its submission and must pay all appropriate fees.~~

1391 (3)~~(4)~~(a) "Good moral character" means a personal history  
1392 of honesty, fairness, and respect for the rights of others and



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1393 | for laws of this state and nation.

1394 |       (b) The board may determine that an individual applying for  
1395 | certification is ineligible ~~to take the examination~~ for failure  
1396 | to satisfy the requirement of good moral character only if:

1397 |       1. There is a substantial connection between the lack of  
1398 | good moral character of the individual and the professional  
1399 | responsibilities of a certified contractor; and

1400 |       2. The finding by the board of lack of good moral character  
1401 | is supported by clear and convincing evidence.

1402 |       (c) When an individual is found to be unqualified for  
1403 | certification ~~examination~~ because of a lack of good moral  
1404 | character, the board shall furnish such individual a statement  
1405 | containing the findings of the board, a complete record of the  
1406 | evidence upon which the determination was based, and a notice of  
1407 | the rights of the individual to a rehearing and appeal.

1408 |       (4) ~~(5)~~ The board shall, by rule, designate those types of  
1409 | specialty electrical or alarm system contractors who may be  
1410 | certified under this part. The limit of the scope of work and  
1411 | responsibility of a certified specialty contractor shall be  
1412 | established by board rule. A certified specialty contractor  
1413 | category exists as an optional statewide licensing category.  
1414 | Qualification for certification in a specialty category created  
1415 | by rule shall be the same as set forth in paragraph (1)(b)  
1416 | ~~(2)(a)~~. The existence of a specialty category created by rule  
1417 | does not itself create any licensing requirement; however,  
1418 | neither does its optional nature remove any licensure requirement  
1419 | established elsewhere in this part.

1420 |       (5) ~~(6)~~ The board shall certify as qualified for  
1421 | certification by endorsement any individual applying for

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1422 certification who:

1423 (a) Meets the requirements for certification as set forth  
1424 in this section; has passed a national, regional, state, or  
1425 United States territorial licensing examination that is  
1426 substantially equivalent to the examination required by this  
1427 part; and has satisfied the requirements set forth in s. 489.521;  
1428 or

1429 (b) Holds a valid license to practice electrical or alarm  
1430 system contracting issued by another state or territory of the  
1431 United States, if the criteria for issuance of such license was  
1432 substantially equivalent to the certification criteria that  
1433 existed in this state at the time the certificate was issued.

1434 (6) ~~(7)~~ Upon the issuance of a certificate, any previously  
1435 issued registered licenses for the classification in which the  
1436 certification is issued are rendered void.

1437 Section 29. Paragraph (b) of subsection (1) of section  
1438 489.515, Florida Statutes, is amended to read:

1439 489.515 Issuance of certificates; registrations.--

1440 (1)

1441 (b) The board shall certify as qualified for certification  
1442 any person who satisfies the requirements of s. 489.511, ~~who~~  
1443 ~~successfully passes the certification examination administered by~~  
1444 ~~the department, achieving a passing grade as established by board~~  
1445 ~~rule,~~ and who submits satisfactory evidence that he or she has  
1446 obtained both workers' compensation insurance or an acceptable  
1447 exemption certificate issued by the department and public  
1448 liability and property damage insurance for the health, safety,  
1449 and welfare of the public in amounts determined by rule of the  
1450 board, and furnishes evidence of financial responsibility,

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1451 credit, and business reputation of either himself or herself or  
1452 the business organization he or she desires to qualify.

1453 Section 30. Section 494.008, Florida Statutes, is amended  
1454 to read:

1455 494.008 Mortgages offered by land developers ~~licensed~~  
1456 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~  
1457 requirements; prohibitions.--No mortgage loan which has a face  
1458 amount of \$35,000 or less and is secured by vacant land  
1459 ~~registered under the Florida Uniform Land Sales Practices Law,~~  
1460 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial  
1461 institution, by any person unless all of the following  
1462 requirements are met:

1463 (1) Each mortgage securing a note or other obligation sold  
1464 or offered for sale shall be eligible for a recordation as a  
1465 first mortgage.

1466 (2) Each mortgage negotiated pursuant to this section must  
1467 include a mortgagee's title insurance policy or an opinion of  
1468 title, from an attorney who is licensed to practice law in this  
1469 state, on each parcel of land which is described in the mortgage.  
1470 The policy or opinion shall reflect that there are no other  
1471 mortgages on the property. A notice stating the priority of the  
1472 mortgage shall be placed on the face of each mortgage in an  
1473 amount over \$35,000 issued pursuant to this section.

1474 (3) Contracts to purchase a mortgage loan shall contain,  
1475 immediately above the purchaser's signature line, the statement  
1476 in 10-point boldfaced type: "This mortgage is secured by vacant  
1477 land subject to development at a future time." This statement  
1478 shall also be typed or printed in 10-point type on the face of  
1479 the note and mortgage sold.

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1480 (4) The most recent assessment for tax purposes made by the  
1481 county property appraiser of each parcel of land described in the  
1482 mortgage shall be furnished to each mortgagee.

1483 (5) The mortgage broker shall record or cause to be  
1484 recorded all mortgages or other similar documents prior to  
1485 delivery of the note and mortgage to the mortgagee.

1486 (6) All funds received by the mortgage broker pursuant to  
1487 this section shall promptly be deposited in the broker's trust  
1488 account where they shall remain until the note and mortgage are  
1489 fully executed and recorded.

1490 (7) Willful failure to comply with any of the above  
1491 provisions shall subject the person to the penalties of s.  
1492 494.05.

1493 Section 31. Section 498.009, Florida Statutes, is  
1494 renumbered as section 718.50152, Florida Statutes.

1495 Section 32. Section 498.011, Florida Statutes, is  
1496 renumbered as section 718.50153, Florida Statutes, and amended to  
1497 read:

1498 718.50153 ~~498.011~~ Payment of per diem, mileage, and other  
1499 expenses to division employees.--The amount of per diem and  
1500 mileage and expense money paid to employees shall be as provided  
1501 in s. 112.061, except that the division shall establish by rule  
1502 the standards for reimbursement of actual verified expenses  
1503 incurred in connection with an on-site review ~~inspection~~ or  
1504 investigation ~~of subdivided lands~~.

1505 Section 33. Section 498.013, Florida Statutes, is  
1506 renumbered as section 718.50154, Florida Statutes.

1507 Section 34. Section 498.057, Florida Statutes, is  
1508 renumbered as section 718.50155, Florida Statutes, and amended,

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1509 to read:

1510 718.50155 ~~498.057~~ Service of process.--

1511 (1) In addition to the methods of service provided for in  
1512 the Florida Rules of Civil Procedure and the Florida Statutes,  
1513 service may be made and ~~by delivering a copy of the process to~~  
1514 ~~the director of the division, which~~ shall be binding upon the  
1515 defendant or respondent if:

1516 (a) The division plaintiff, which is acting as the  
1517 petitioner or plaintiff ~~may be the division~~, immediately sends a  
1518 copy of the process and of the pleading by certified mail to the  
1519 defendant or respondent at his or her last known address;r and

1520 (b) The division plaintiff files an affidavit of compliance  
1521 with this section on or before the return date of the process or  
1522 within the time set by the court.

1523 (2) If any person, including any nonresident of this state,  
1524 allegedly engages in conduct prohibited by this chapter, or any  
1525 rule or order of the division, and has not filed a consent to  
1526 service of process, and personal jurisdiction over him or her  
1527 cannot otherwise be obtained in this state, the director shall be  
1528 authorized to receive service of process in any noncriminal  
1529 proceeding against that person or his or her successor which  
1530 grows out of the conduct and which is brought by the division  
1531 under this chapter or any rule or order of the division. The  
1532 process shall have the same force and validity as if personally  
1533 served. Notice shall be given as provided in subsection (1).

1534 Section 35. Sections 498.001, 498.003, 498.005, 498.007,  
1535 498.017, 498.019, 498.021, 498.022, 498.023, 498.024, 498.025,  
1536 498.027, 498.028, 498.029, 498.031, 498.033, 498.035, 498.037,  
1537 498.039, 498.041, 498.047, 498.049, 498.051, 498.053, 498.059,

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1538 498.061, and 498.063, Florida Statutes, are repealed.

1539 Section 36. Section 509.512, Florida Statutes, is amended  
1540 to read:

1541 509.512 Timeshare plan developer and exchange company  
1542 exemption.--Sections 509.501-509.511 do not apply to a developer  
1543 of a timeshare plan or an exchange company approved by the  
1544 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
1545 Mobile Homes pursuant to chapter 721, but only to the extent that  
1546 the developer or exchange company engages in conduct regulated  
1547 under chapter 721.

1548 Section 37. Subsection (2) of section 517.301, Florida  
1549 Statutes, is amended to read:

1550 517.301 Fraudulent transactions; falsification or  
1551 concealment of facts.--

1552 (2) For purposes of ss. 517.311 and 517.312 and this  
1553 section, the term "investment" means any commitment of money or  
1554 property principally induced by a representation that an economic  
1555 benefit may be derived from such commitment, except that the term  
1556 ~~"investment"~~ does not include a commitment of money or property  
1557 for:

1558 (a) The purchase of a business opportunity, business  
1559 enterprise, or real property through a person licensed under  
1560 chapter 475 or registered under former chapter 498; or

1561 (b) The purchase of tangible personal property through a  
1562 person not engaged in telephone solicitation, where said property  
1563 is offered and sold in accordance with the following conditions:

1564 1. There are no specific representations or guarantees made  
1565 by the offeror or seller as to the economic benefit to be derived  
1566 from the purchase;

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1567           2. The tangible property is delivered to the purchaser  
1568 within 30 days after sale, except that such 30-day period may be  
1569 extended by the office if market conditions so warrant; and

1570           3. The seller has offered the purchaser a full refund  
1571 policy in writing, exercisable by the purchaser within 10 days of  
1572 the date of delivery of such tangible personal property, except  
1573 that the amount of such refund may not ~~in no event shall~~ exceed  
1574 the bid price in effect at the time the property is returned to  
1575 the seller. If the applicable sellers' market is closed at the  
1576 time the property is returned to the seller for a refund, the  
1577 amount of such refund shall be based on the bid price for such  
1578 property at the next opening of such market.

1579           Section 38. Subsection (4) of section 548.0065, Florida  
1580 Statutes, is amended to read:

1581           548.0065 Amateur matches; sanctioning and supervision;  
1582 health and safety standards; compliance checks; continuation,  
1583 suspension, and revocation of sanctioning approval.--

1584           (4) Any member of the commission or the executive director  
1585 of the commission may suspend the approval of an amateur  
1586 sanctioning organization for failure to supervise amateur matches  
1587 or to enforce the approved health and safety standards required  
1588 under this chapter, provided that the suspension complies with  
1589 the procedures for summary suspensions in s. 120.60(6). At any  
1590 amateur boxing, ~~or~~ kickboxing, or mixed martial arts contest, any  
1591 member of the commission or a representative of the commission  
1592 may immediately suspend one or more matches in an event whenever  
1593 it appears that the match or matches violate the health and  
1594 safety standards established by rule as required by this chapter.  
1595 A law enforcement officer may assist any member of the commission

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1596 or a representative of the commission to enforce an order to stop  
1597 a contest if called upon to do so by a member of the commission  
1598 or a representative of the commission.

1599 Section 39. Subsections (2), (3), and (4) of section  
1600 548.008, Florida Statutes, are amended to read:

1601 548.008 Prohibited competitions.--

1602 ~~(2) No amateur mixed martial arts match may be held in this~~  
1603 ~~state.~~

1604 (2)~~(3)~~ No professional match may be held in this state  
1605 unless it meets the requirements for holding the match as  
1606 provided in this chapter and the rules adopted by the commission.

1607 (3)~~(4)~~(a) Any person participating in a match prohibited  
1608 under this section, knowing the match to be prohibited, commits a  
1609 misdemeanor of the second degree, punishable as provided in s.  
1610 775.082 or s. 775.083.

1611 (b) Any person holding, promoting, or sponsoring a match  
1612 prohibited under this section commits a felony of the third  
1613 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1614 775.084.

1615 Section 40. Subsection (1) of section 548.041, Florida  
1616 Statutes, is amended to read:

1617 548.041 Age, condition, and suspension of participants.--

1618 (1) A person may ~~shall~~ not be licensed as a participant,  
1619 and the license of a ~~any~~ participant shall be suspended or  
1620 revoked, if such person:

1621 (a) Is under the age of 18;

1622 (b) Has participated in a match in this state which was not  
1623 sanctioned by the commission or by a Native American commission  
1624 properly constituted under federal law; ~~or~~



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1625 (c) Does not meet certain health and medical examination  
1626 conditions as required by rule of the commission;~~;~~

1627 (d) Has not competed in a minimum number of amateur boxing  
1628 events as determined by commission rule prior to licensure; or

1629 (e) Has not participated in a minimum number of amateur  
1630 mixed martial arts events as determined by commission rule prior  
1631 to licensure.

1632 Section 41. Subsection (1) of section 559.935, Florida  
1633 Statutes, is amended to read:

1634 559.935 Exemptions.--

1635 (1) This part does not apply to:

1636 (a) A bona fide employee of a seller of travel who is  
1637 engaged solely in the business of her or his employer;

1638 (b) Any direct common carrier of passengers or property  
1639 regulated by an agency of the Federal Government or employees of  
1640 such carrier when engaged solely in the transportation business  
1641 of the carrier as identified in the carrier's certificate;

1642 (c) An intrastate common carrier of passengers or property  
1643 selling only transportation as defined in the applicable state or  
1644 local registration or certification, or employees of such carrier  
1645 when engaged solely in the transportation business of the  
1646 carrier;

1647 (d) Hotels, motels, or other places of public accommodation  
1648 selling public accommodations, or employees of such hotels,  
1649 motels, or other places of public accommodation, when engaged  
1650 solely in making arrangements for lodging, accommodations, or  
1651 sightseeing tours within the state, or taking reservations for  
1652 the traveler with times, dates, locations, and accommodations  
1653 certain at the time the reservations are made, provided that

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1654 hotels and motels registered with the Department of Business and  
1655 Professional Regulation pursuant to chapter 509 are excluded from  
1656 the provisions of this chapter;

1657 (e) Persons involved solely in the rental, leasing, or sale  
1658 of residential property;

1659 (f) Persons involved solely in the rental, leasing, or sale  
1660 of transportation vehicles;

1661 (g) Persons who make travel arrangements for themselves;  
1662 for their employees or agents; for distributors, franchisees, or  
1663 dealers of the persons' products or services; for entities which  
1664 are financially related to the persons; or for the employees or  
1665 agents of the distributor, franchisee, or dealer or financially  
1666 related entity;

1667 (h) A developer of a timeshare plan or an exchange company  
1668 approved by the Division of Florida ~~Land Sales~~, Condominiums,  
1669 Timeshares, and Mobile Homes pursuant to chapter 721, but only to  
1670 the extent that the developer or exchange company engages in  
1671 conduct regulated under chapter 721; or

1672 (i) Persons or entities engaged solely in offering diving  
1673 services, including classes and sales or rentals of equipment,  
1674 when engaged in making any prearranged travel-related or tourist-  
1675 related services in conjunction with a primarily dive-related  
1676 event.

1677 Section 42. Subsection (17) of section 718.103, Florida  
1678 Statutes, is amended to read:

1679 718.103 Definitions.--As used in this chapter, the term:

1680 (17) "Division" means the Division of Florida ~~Land Sales~~,  
1681 Condominiums, Timeshares, and Mobile Homes of the Department of  
1682 Business and Professional Regulation.

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1683 Section 43. Paragraph (c) of subsection (4) of section  
1684 718.105, Florida Statutes, is amended to read:

1685 718.105 Recording of declaration.--

1686 (4)

1687 (c) If the sum of money held by the clerk has not been paid  
1688 to the developer or association as provided in paragraph (b)  
1689 within ~~by~~ 3 years after the date the declaration was originally  
1690 recorded, the clerk ~~in his or her discretion~~ may notify, in  
1691 writing, the registered agent of the association that the sum is  
1692 still available and the purpose for which it was deposited. If  
1693 the association does not record the certificate within 90 days  
1694 after the clerk has given the notice, the clerk may disburse the  
1695 money to the developer. If the developer cannot be located, the  
1696 clerk shall disburse the money to the Division of Florida ~~Land~~  
1697 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes for deposit in  
1698 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
1699 Mobile Homes Trust Fund.

1700 Section 44. Subsection (4) of section 718.1255, Florida  
1701 Statutes, is amended to read:

1702 718.1255 Alternative dispute resolution; voluntary  
1703 mediation; mandatory nonbinding arbitration; legislative  
1704 findings.--

1705 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
1706 DISPUTES.--The Division of Florida ~~Land Sales,~~ Condominiums,  
1707 Timeshares, and Mobile Homes of the Department of Business and  
1708 Professional Regulation shall employ full-time attorneys to act  
1709 as arbitrators to conduct the arbitration hearings provided by  
1710 this chapter. The division may also certify attorneys who are not  
1711 employed by the division to act as arbitrators to conduct the

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1712 arbitration hearings provided by this section. No person may be  
1713 employed by the department as a full-time arbitrator unless he or  
1714 she is a member in good standing of The Florida Bar. The  
1715 department shall adopt ~~promulgate~~ rules of procedure to govern  
1716 such arbitration hearings including mediation incident thereto.  
1717 The decision of an arbitrator shall be final; however, ~~such~~ a  
1718 decision shall not be deemed final agency action. Nothing in this  
1719 provision shall be construed to foreclose parties from proceeding  
1720 in a trial de novo unless the parties have agreed that the  
1721 arbitration is binding. If ~~such~~ judicial proceedings are  
1722 initiated, the final decision of the arbitrator shall be  
1723 admissible in evidence in the trial de novo.

1724 (a) Prior to the institution of court litigation, a party  
1725 to a dispute shall petition the division for nonbinding  
1726 arbitration. The petition must be accompanied by a filing fee in  
1727 the amount of \$50. Filing fees collected under this section must  
1728 be used to defray the expenses of the alternative dispute  
1729 resolution program.

1730 (b) The petition must recite, and have attached thereto,  
1731 supporting proof that the petitioner gave the respondents:

1732 1. Advance written notice of the specific nature of the  
1733 dispute;

1734 2. A demand for relief, and a reasonable opportunity to  
1735 comply or to provide the relief; and

1736 3. Notice of the intention to file an arbitration petition  
1737 or other legal action in the absence of a resolution of the  
1738 dispute.

1739  
1740 Failure to include the allegations or proof of compliance with

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1741 | these prerequisites requires dismissal of the petition without  
1742 | prejudice.

1743 |       (c) Upon receipt, the petition shall be promptly reviewed  
1744 | by the division to determine the existence of a dispute and  
1745 | compliance with the requirements of paragraphs (a) and (b). If  
1746 | emergency relief is required and is not available through  
1747 | arbitration, a motion to stay the arbitration may be filed. The  
1748 | motion must be accompanied by a verified petition alleging facts  
1749 | that, if proven, would support entry of a temporary injunction,  
1750 | and if an appropriate motion and supporting papers are filed, the  
1751 | division may abate the arbitration pending a court hearing and  
1752 | disposition of a motion for temporary injunction.

1753 |       (d) Upon determination by the division that a dispute  
1754 | exists and that the petition substantially meets the requirements  
1755 | of paragraphs (a) and (b) and any other applicable rules, a copy  
1756 | of the petition shall ~~forthwith~~ be served by the division upon  
1757 | all respondents.

1758 |       (e) ~~Either~~ Before or after the filing of the respondents'  
1759 | answer to the petition, any party may request that the arbitrator  
1760 | refer the case to mediation under this section and any rules  
1761 | adopted by the division. Upon receipt of a request for mediation,  
1762 | the division shall promptly contact the parties to determine if  
1763 | there is agreement that mediation would be appropriate. If all  
1764 | parties agree, the dispute must be referred to mediation.  
1765 | Notwithstanding a lack of an agreement by all parties, the  
1766 | arbitrator may refer a dispute to mediation at any time.

1767 |       (f) Upon referral of a case to mediation, the parties must  
1768 | select a mutually acceptable mediator. To assist in the  
1769 | selection, the arbitrator shall provide the parties with a list

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1770 of both volunteer and paid mediators that have been certified by  
1771 the division under s. 718.501. If the parties are unable to agree  
1772 on a mediator within the time allowed by the arbitrator, the  
1773 arbitrator shall appoint a mediator from the list of certified  
1774 mediators. If a case is referred to mediation, the parties shall  
1775 attend a mediation conference, as scheduled by the parties and  
1776 the mediator. If any party fails to attend a duly noticed  
1777 mediation conference, without the permission or approval of the  
1778 arbitrator or mediator, the arbitrator must impose sanctions  
1779 against the party, including the striking of any pleadings filed,  
1780 the entry of an order of dismissal or default if appropriate, and  
1781 the award of costs and attorneys' fees incurred by the other  
1782 parties. Unless otherwise agreed to by the parties or as provided  
1783 by order of the arbitrator, a party is deemed to have appeared at  
1784 a mediation conference by the physical presence of the party or  
1785 its representative having full authority to settle without  
1786 further consultation, provided that an association may comply by  
1787 having one or more representatives present with full authority to  
1788 negotiate a settlement and recommend that the board of  
1789 administration ratify and approve such a settlement within 5 days  
1790 from the date of the mediation conference. The parties shall  
1791 share equally the expense of mediation, unless they agree  
1792 otherwise.

1793 (g) The purpose of mediation as provided for by this  
1794 section is to present the parties with an opportunity to resolve  
1795 the underlying dispute in good faith, and with a minimum  
1796 expenditure of time and resources.

1797 (h) Mediation proceedings must generally be conducted in  
1798 accordance with the Florida Rules of Civil Procedure, and these

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1799 | proceedings are privileged and confidential to the same extent as  
1800 | court-ordered mediation. Persons who are not parties to the  
1801 | dispute are not allowed to attend the mediation conference  
1802 | without the consent of all parties, with the exception of counsel  
1803 | for the parties and corporate representatives designated to  
1804 | appear for a party. If the mediator declares an impasse after a  
1805 | mediation conference has been held, the arbitration proceeding  
1806 | terminates, unless all parties agree in writing to continue the  
1807 | arbitration proceeding, in which case the arbitrator's decision  
1808 | shall be ~~either~~ binding or nonbinding, as agreed upon by the  
1809 | parties; in the arbitration proceeding, the arbitrator shall not  
1810 | consider any evidence relating to the unsuccessful mediation  
1811 | except in a proceeding to impose sanctions for failure to appear  
1812 | at the mediation conference. If the parties do not agree to  
1813 | continue arbitration, the arbitrator shall enter an order of  
1814 | dismissal, and either party may institute a suit in a court of  
1815 | competent jurisdiction. The parties may seek to recover any costs  
1816 | and attorneys' fees incurred in connection with arbitration and  
1817 | mediation proceedings under this section as part of the costs and  
1818 | fees that may be recovered by the prevailing party in any  
1819 | subsequent litigation.

1820 |       (i) Arbitration shall be conducted according to rules  
1821 | adopted ~~promulgated~~ by the division. The filing of a petition for  
1822 | arbitration shall toll the applicable statute of limitations.

1823 |       (j) At the request of any party to the arbitration, the  
1824 | ~~such~~ arbitrator shall issue subpoenas for the attendance of  
1825 | witnesses and the production of books, records, documents, and  
1826 | other evidence and any party on whose behalf a subpoena is issued  
1827 | may apply to the court for orders compelling such attendance and

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1828 production. Subpoenas shall be served and shall be enforceable in  
1829 the manner provided by the Florida Rules of Civil Procedure.  
1830 Discovery may, in the discretion of the arbitrator, be permitted  
1831 in the manner provided by the Florida Rules of Civil Procedure.  
1832 Rules adopted by the division may authorize any reasonable  
1833 sanctions except contempt for a violation of the arbitration  
1834 procedural rules of the division or for the failure of a party to  
1835 comply with a reasonable nonfinal order issued by an arbitrator  
1836 which is not under judicial review.

1837 (k) The arbitration decision shall be presented to the  
1838 parties in writing. An arbitration decision is final in those  
1839 disputes in which the parties have agreed to be bound. An  
1840 arbitration decision is also final if a complaint for a trial de  
1841 novo is not filed in a court of competent jurisdiction in which  
1842 the condominium is located within 30 days. The right to file for  
1843 a trial de novo entitles the parties to file a complaint in the  
1844 appropriate trial court for a judicial resolution of the dispute.  
1845 The prevailing party in an arbitration proceeding shall be  
1846 awarded the costs of the arbitration and reasonable attorney's  
1847 fees in an amount determined by the arbitrator. Such an award  
1848 shall include the costs and reasonable attorney's fees incurred  
1849 in the arbitration proceeding as well as the costs and reasonable  
1850 attorney's fees incurred in preparing for and attending any  
1851 scheduled mediation.

1852 (l) The party who files a complaint for a trial de novo  
1853 shall be assessed the other party's arbitration costs, court  
1854 costs, and other reasonable costs, including attorney's fees,  
1855 investigation expenses, and expenses for expert or other  
1856 testimony or evidence incurred after the arbitration hearing if



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1857 | the judgment upon the trial de novo is not more favorable than  
1858 | the arbitration decision. If the judgment is more favorable, the  
1859 | party who filed a complaint for trial de novo shall be awarded  
1860 | reasonable court costs and attorney's fees.

1861 |         (m) Any party to an arbitration proceeding may enforce an  
1862 | arbitration award by filing a petition in a court of competent  
1863 | jurisdiction in which the condominium is located. A petition may  
1864 | not be granted unless the time for appeal by the filing of a  
1865 | complaint for trial de novo has expired. If a complaint for a  
1866 | trial de novo has been filed, a petition may not be granted with  
1867 | respect to an arbitration award that has been stayed. If the  
1868 | petition for enforcement is granted, the petitioner shall recover  
1869 | reasonable attorney's fees and costs incurred in enforcing the  
1870 | arbitration award. A mediation settlement may also be enforced  
1871 | through the county or circuit court, as applicable, and any costs  
1872 | and fees incurred in the enforcement of a settlement agreement  
1873 | reached at mediation must be awarded to the prevailing party in  
1874 | any enforcement action.

1875 |         Section 45. Section 718.501, Florida Statutes, is amended  
1876 | to read:

1877 |         718.501 Powers and duties of Division of Florida ~~Land~~  
1878 | ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

1879 |         (1) The Division of Florida ~~Land Sales~~, Condominiums,  
1880 | Timeshares, and Mobile Homes of the Department of Business and  
1881 | Professional Regulation, referred to as the "division" in this  
1882 | part, ~~in addition to other powers and duties prescribed by~~  
1883 | ~~chapter 498~~, has the power to enforce and ensure compliance with  
1884 | the provisions of this chapter and rules ~~promulgated pursuant~~  
1885 | ~~hereto~~ relating to the development, construction, sale, lease,

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1886 ownership, operation, and management of residential condominium  
1887 units. In performing its duties, the division has the following  
1888 powers and duties:

1889 (a)1. The division may make necessary public or private  
1890 investigations within or outside this state to determine whether  
1891 any person has violated this chapter or any rule or order  
1892 hereunder, to aid in the enforcement of this chapter, or to aid  
1893 in the adoption of rules or forms hereunder.

1894 2. The division may submit any official written report,  
1895 worksheet, or other related paper, or a duly certified copy  
1896 thereof, compiled, prepared, drafted, or otherwise made by and  
1897 duly authenticated by a financial examiner or analyst to be  
1898 admitted as competent evidence in any hearing in which the  
1899 financial examiner or analyst is available for cross-examination  
1900 and attests under oath that such documents were prepared as a  
1901 result of an examination or inspection conducted pursuant to this  
1902 chapter.

1903 (b) The division may require or permit any person to file a  
1904 statement in writing, under oath or otherwise, as the division  
1905 determines, as to the facts and circumstances concerning a matter  
1906 to be investigated.

1907 (c) For the purpose of any investigation under this  
1908 chapter, the division director or any officer or employee  
1909 designated by the division director may administer oaths or  
1910 affirmations, subpoena witnesses and compel their attendance,  
1911 take evidence, and require the production of any matter which is  
1912 relevant to the investigation, including the existence,  
1913 description, nature, custody, condition, and location of any  
1914 books, documents, or other tangible things and the identity and

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1915 location of persons having knowledge of relevant facts or any  
1916 other matter reasonably calculated to lead to the discovery of  
1917 material evidence. Upon the failure by a person to obey a  
1918 subpoena or to answer questions propounded by the investigating  
1919 officer and upon reasonable notice to all persons affected  
1920 thereby, the division may apply to the circuit court for an order  
1921 compelling compliance.

1922 (d) Notwithstanding any remedies available to unit owners  
1923 and associations, if the division has reasonable cause to believe  
1924 that a violation of any provision of this chapter or related rule  
1925 ~~promulgated pursuant hereto~~ has occurred, the division may  
1926 institute enforcement proceedings in its own name against any  
1927 developer, association, officer, or member of the board of  
1928 administration, or its assignees or agents, as follows:

1929 1. The division may permit a person whose conduct or  
1930 actions may be under investigation to waive formal proceedings  
1931 and enter into a consent proceeding whereby orders, rules, or  
1932 letters of censure or warning, whether formal or informal, may be  
1933 entered against the person.

1934 2. The division may issue an order requiring the developer,  
1935 association, officer, or member of the board of administration,  
1936 or its assignees or agents, to cease and desist from the unlawful  
1937 practice and take such affirmative action as in the judgment of  
1938 the division will carry out the purposes of this chapter. ~~Such~~  
1939 ~~affirmative action may include, but is not limited to, an order~~  
1940 ~~requiring a developer to pay moneys determined to be owed to a~~  
1941 condominium association. If the division finds that a developer,  
1942 association, officer, or member of the board of administration,  
1943 or its assignees or agents, is violating or is about to violate

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1944 any provision of this chapter, any rule adopted or order issued  
1945 by the division, or any written agreement entered into with the  
1946 division, and presents an immediate danger to the public  
1947 requiring an immediate final order, it may issue an emergency  
1948 cease and desist order reciting with particularity the facts  
1949 underlying such findings. The emergency cease and desist order is  
1950 effective for 90 days. If the division begins nonemergency cease  
1951 and desist proceedings, the emergency cease and desist order  
1952 remains effective until the conclusion of the proceedings under  
1953 ss. 120.569 and 120.57.

1954 3. The division may bring an action in circuit court on  
1955 behalf of a class of unit owners, lessees, or purchasers for  
1956 declaratory relief, injunctive relief, or restitution.

1957 4. The division may petition the court for the appointment  
1958 of a receiver or conservator. If appointed, the receiver or  
1959 conservator may take action to implement the court order to  
1960 ensure the performance of the order and to remedy any breach  
1961 thereof. In addition to all other means provided by law for the  
1962 enforcement of an injunction or temporary restraining order, the  
1963 circuit court may impound or sequester the property of a party  
1964 defendant, including books, papers, documents, and related  
1965 records, and allow the examination and use of the property by the  
1966 division and a court-appointed receiver or conservator.

1967 5. The division may apply to the circuit court for an order  
1968 of restitution whereby the defendant in an action brought  
1969 pursuant to subparagraph 4. shall be ordered to make restitution  
1970 of those sums shown by the division to have been obtained by the  
1971 defendant in violation of this chapter. Such restitution shall,  
1972 at the option of the court, be payable to the conservator or

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1973 receiver appointed pursuant to subparagraph 4. or directly to the  
1974 persons whose funds or assets were obtained in violation of this  
1975 chapter.

1976 6.4. The division may impose a civil penalty against a  
1977 developer or association, or its assignee or agent, for any  
1978 violation of this chapter or a rule adopted under this chapter  
1979 ~~promulgated pursuant hereto~~. The division may impose a civil  
1980 penalty individually against any officer or board member who  
1981 willfully and knowingly violates a provision of this chapter,  
1982 adopted a rule ~~adopted pursuant hereto~~, or a final order of the  
1983 division. The term "willfully and knowingly" means that the  
1984 division informed the officer or board member that his or her  
1985 action or intended action violates this chapter, a rule adopted  
1986 under this chapter, or a final order of the division and that the  
1987 officer or board member refused to comply with the requirements  
1988 of this chapter, a rule adopted under this chapter, or a final  
1989 order of the division. The division, prior to initiating formal  
1990 agency action under chapter 120, shall afford the officer or  
1991 board member an opportunity to voluntarily comply with this  
1992 chapter, a rule adopted under this chapter, or a final order of  
1993 the division. An officer or board member who complies within 10  
1994 days is not subject to a civil penalty. A penalty may be imposed  
1995 on the basis of each day of continuing violation, but in no event  
1996 shall the penalty for any offense exceed \$5,000. By January 1,  
1997 1998, the division shall adopt, by rule, penalty guidelines  
1998 applicable to possible violations or to categories of violations  
1999 of this chapter or rules adopted by the division. The guidelines  
2000 must specify a meaningful range of civil penalties for each such  
2001 violation of the statute and rules and must be based upon the

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2002 | harm caused by the violation, the repetition of the violation,  
2003 | and upon such other factors deemed relevant by the division. For  
2004 | example, the division may consider whether the violations were  
2005 | committed by a developer or owner-controlled association, the  
2006 | size of the association, and other factors. The guidelines must  
2007 | designate the possible mitigating or aggravating circumstances  
2008 | that justify a departure from the range of penalties provided by  
2009 | the rules. It is the legislative intent that minor violations be  
2010 | distinguished from those which endanger the health, safety, or  
2011 | welfare of the condominium residents or other persons and that  
2012 | such guidelines provide reasonable and meaningful notice to the  
2013 | public of likely penalties that may be imposed for proscribed  
2014 | conduct. This subsection does not limit the ability of the  
2015 | division to informally dispose of administrative actions or  
2016 | complaints by stipulation, agreed settlement, or consent order.  
2017 | All amounts collected shall be deposited with the Chief Financial  
2018 | Officer to the credit of the Division of Florida ~~Land Sales,~~  
2019 | Condominiums, Timeshares, and Mobile Homes Trust Fund. If a  
2020 | developer fails to pay the civil penalty, the division shall  
2021 | ~~thereupon~~ issue an order directing that such developer cease and  
2022 | desist from further operation until such time as the civil  
2023 | penalty is paid or may pursue enforcement of the penalty in a  
2024 | court of competent jurisdiction. If an association fails to pay  
2025 | the civil penalty, the division shall ~~thereupon~~ pursue  
2026 | enforcement in a court of competent jurisdiction, and the order  
2027 | imposing the civil penalty or the cease and desist order will not  
2028 | become effective until 20 days after the date of such order. Any  
2029 | action commenced by the division shall be brought in the county  
2030 | in which the division has its executive offices or in the county

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2031 | where the violation occurred.

2032 |       7. In addition to subparagraph 6., the division may seek  
2033 | the imposition of a civil penalty through the circuit court for  
2034 | any violation for which the division may issue a notice to show  
2035 | cause under paragraph (q). The civil penalty shall be at least  
2036 | \$500 but no more than \$5,000 for each violation. The court may  
2037 | also award to the prevailing party court costs and reasonable  
2038 | attorney's fees and, if the division prevails, may also award  
2039 | reasonable costs of investigation.

2040 |       (e) The division may ~~is authorized to~~ prepare and  
2041 | disseminate a prospectus and other information to assist  
2042 | prospective owners, purchasers, lessees, and developers of  
2043 | residential condominiums in assessing the rights, privileges, and  
2044 | duties pertaining thereto.

2045 |       (f) The division has authority to adopt rules pursuant to  
2046 | ss. 120.536(1) and 120.54 to implement and enforce the provisions  
2047 | of this chapter.

2048 |       (g) The division shall establish procedures for providing  
2049 | notice to an association when the division is considering the  
2050 | issuance of a declaratory statement with respect to the  
2051 | declaration of condominium or any related document governing in  
2052 | such condominium community.

2053 |       (h) The division shall furnish each association which pays  
2054 | the fees required by paragraph (2)(a) a copy of this act,  
2055 | subsequent changes to this act on an annual basis, an amended  
2056 | version of this act as it becomes available from the Secretary of  
2057 | State's office on a biennial basis, and the rules adopted  
2058 | ~~promulgated pursuant~~ thereto on an annual basis.

2059 |       (i) The division shall annually provide each association

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2060 with a summary of declaratory statements and formal legal  
2061 opinions relating to the operations of condominiums which were  
2062 rendered by the division during the previous year.

2063 (j) The division shall provide training programs for  
2064 condominium association board members and unit owners.

2065 (k) The division shall maintain a toll-free telephone  
2066 number accessible to condominium unit owners.

2067 (l) The division shall develop a program to certify both  
2068 volunteer and paid mediators to provide mediation of condominium  
2069 disputes. The division shall provide, upon request, a list of  
2070 such mediators to any association, unit owner, or other  
2071 participant in arbitration proceedings under s. 718.1255  
2072 requesting a copy of the list. The division shall include on the  
2073 list of volunteer mediators only the names of persons who have  
2074 received at least 20 hours of training in mediation techniques or  
2075 who have mediated at least 20 disputes. In order to become  
2076 initially certified by the division, paid mediators must be  
2077 certified by the Supreme Court to mediate court cases in ~~either~~  
2078 county or circuit courts. However, the division may adopt, by  
2079 rule, additional factors for the certification of paid mediators,  
2080 which factors must be related to experience, education, or  
2081 background. Any person initially certified as a paid mediator by  
2082 the division must, in order to continue to be certified, comply  
2083 with the factors or requirements imposed by rules adopted by the  
2084 division.

2085 (m) When a complaint is made, the division shall conduct  
2086 its inquiry with due regard to the interests of the affected  
2087 parties. Within 30 days after receipt of a complaint, the  
2088 division shall acknowledge the complaint in writing and notify



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2089 | the complainant whether the complaint is within the jurisdiction  
2090 | of the division and whether additional information is needed by  
2091 | the division from the complainant. The division shall conduct its  
2092 | investigation and shall, within 90 days after receipt of the  
2093 | original complaint or of timely requested additional information,  
2094 | take action upon the complaint. However, the failure to complete  
2095 | the investigation within 90 days does not prevent the division  
2096 | from continuing the investigation, accepting or considering  
2097 | evidence obtained or received after 90 days, or taking  
2098 | administrative action if reasonable cause exists to believe that  
2099 | a violation of this chapter or a rule of the division has  
2100 | occurred. If an investigation is not completed within the time  
2101 | limits established in this paragraph, the division shall, on a  
2102 | monthly basis, notify the complainant in writing of the status of  
2103 | the investigation. When reporting its action to the complainant,  
2104 | the division shall inform the complainant of any right to a  
2105 | hearing pursuant to ss. 120.569 and 120.57.

2106 |       (n) The division may:

2107 |       1. Contract with agencies in this state or other  
2108 | jurisdictions to perform investigative functions; or

2109 |       2. Accept grants-in-aid from any source.

2110 |       (o) The division shall cooperate with similar agencies in  
2111 | other jurisdictions to establish uniform filing procedures and  
2112 | forms, public offering statements, advertising standards, and  
2113 | rules and common administrative practices.

2114 |       (p) The division shall consider notice to a developer to be  
2115 | complete when it is delivered to the developer's address  
2116 | currently on file with the division.

2117 |       (q) In addition to its enforcement authority, the division

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2118 may issue a notice to show cause, which shall provide for a  
2119 hearing, upon written request, in accordance with chapter 120.

2120 (2) (a) Effective January 1, 1992, Each condominium  
2121 association which operates more than two units shall pay to the  
2122 division an annual fee in the amount of \$4 for each residential  
2123 unit in condominiums operated by the association. If the fee is  
2124 not paid by March 1, ~~then~~ the association shall be assessed a  
2125 penalty of 10 percent of the amount due, and the association will  
2126 not have standing to maintain or defend any action in the courts  
2127 of this state until the amount due, plus any penalty, is paid.

2128 (b) All fees shall be deposited in the Division of Florida  
2129 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust Fund  
2130 as provided by law.

2131 Section 46. Subsection (1) of section 718.5011, Florida  
2132 Statutes, is amended to read:

2133 718.5011 Ombudsman; appointment; administration.--

2134 (1) There is created an Office of the Condominium  
2135 Ombudsman, to be located for administrative purposes within the  
2136 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
2137 Mobile Homes. The functions of the office shall be funded by the  
2138 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
2139 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief of  
2140 the division, and the office shall be set within the division in  
2141 the same manner as any other bureau is staffed and funded.

2142 Section 47. Paragraph (a) of subsection (2) of section  
2143 718.502, Florida Statutes, is amended to read:

2144 718.502 Filing prior to sale or lease.--

2145 (2) (a) Prior to filing as required by subsection (1), and  
2146 prior to acquiring an ownership, leasehold, or contractual

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2147 interest in the land upon which the condominium is to be  
2148 developed, a developer shall not offer a contract for purchase of  
2149 a unit or lease of a unit for more than 5 years. However, the  
2150 developer may accept deposits for reservations upon the approval  
2151 of a fully executed escrow agreement and reservation agreement  
2152 form properly filed with the Division of Florida ~~Land Sales,~~  
2153 Condominiums, Timeshares, and Mobile Homes. Each filing of a  
2154 proposed reservation program shall be accompanied by a filing fee  
2155 of \$250. Reservations shall not be taken on a proposed  
2156 condominium unless the developer has an ownership, leasehold, or  
2157 contractual interest in the land upon which the condominium is to  
2158 be developed. The division shall notify the developer within 20  
2159 days of receipt of the reservation filing of any deficiencies  
2160 contained therein. Such notification shall not preclude the  
2161 determination of reservation filing deficiencies at a later date,  
2162 nor shall it relieve the developer of any responsibility under  
2163 the law. The escrow agreement and the reservation agreement form  
2164 shall include a statement of the right of the prospective  
2165 purchaser to an immediate unqualified refund of the reservation  
2166 deposit moneys upon written request to the escrow agent by the  
2167 prospective purchaser or the developer.

2168 Section 48. Section 718.504, Florida Statutes, is amended  
2169 to read:

2170 718.504 Prospectus or offering circular.--Every developer  
2171 of a residential condominium which contains more than 20  
2172 residential units, or which is part of a group of residential  
2173 condominiums which will be served by property to be used in  
2174 common by unit owners of more than 20 residential units, shall  
2175 prepare a prospectus or offering circular and file it with the

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2176 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
2177 Mobile Homes prior to entering into an enforceable contract of  
2178 purchase and sale of any unit or lease of a unit for more than 5  
2179 years and shall furnish a copy of the prospectus or offering  
2180 circular to each buyer. In addition to the prospectus or offering  
2181 circular, each buyer shall be furnished a separate page entitled  
2182 "Frequently Asked Questions and Answers," which shall be in  
2183 accordance with a format approved by the division and a copy of  
2184 the financial information required by s. 718.111. This page  
2185 shall, in readable language, inform prospective purchasers  
2186 regarding their voting rights and unit use restrictions,  
2187 including restrictions on the leasing of a unit; shall indicate  
2188 whether and in what amount the unit owners or the association is  
2189 obligated to pay rent or land use fees for recreational or other  
2190 commonly used facilities; shall contain a statement identifying  
2191 that amount of assessment which, pursuant to the budget, would be  
2192 levied upon each unit type, exclusive of any special assessments,  
2193 and which shall further identify the basis upon which assessments  
2194 are levied, whether monthly, quarterly, or otherwise; shall state  
2195 and identify any court cases in which the association is  
2196 currently a party of record in which the association may face  
2197 liability in excess of \$100,000; and which shall further state  
2198 whether membership in a recreational facilities association is  
2199 mandatory, and if so, shall identify the fees currently charged  
2200 per unit type. The division shall by rule require such other  
2201 disclosure as in its judgment will assist prospective purchasers.  
2202 The prospectus or offering circular may include more than one  
2203 condominium, although not all such units are being offered for  
2204 sale as of the date of the prospectus or offering circular. The

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2205 prospectus or offering circular must contain the following  
2206 information:

2207 (1) The front cover or the first page must contain only:

2208 (a) The name of the condominium.

2209 (b) The following statements in conspicuous type:

2210 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
2211 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2212 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
2213 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
2214 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

2215 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
2216 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
2217 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
2218 REPRESENTATIONS.

2219 (2) Summary: The next page must contain all statements  
2220 required to be in conspicuous type in the prospectus or offering  
2221 circular.

2222 (3) A separate index of the contents and exhibits of the  
2223 prospectus.

2224 (4) Beginning on the first page of the text (not including  
2225 the summary and index), a description of the condominium,  
2226 including, but not limited to, the following information:

2227 (a) Its name and location.

2228 (b) A description of the condominium property, including,  
2229 without limitation:

2230 1. The number of buildings, the number of units in each  
2231 building, the number of bathrooms and bedrooms in each unit, and  
2232 the total number of units, if the condominium is not a phase  
2233 condominium, or the maximum number of buildings that may be

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2234 contained within the condominium, the minimum and maximum numbers  
2235 of units in each building, the minimum and maximum numbers of  
2236 bathrooms and bedrooms that may be contained in each unit, and  
2237 the maximum number of units that may be contained within the  
2238 condominium, if the condominium is a phase condominium.

2239 2. The page in the condominium documents where a copy of  
2240 the plot plan and survey of the condominium is located.

2241 3. The estimated latest date of completion of constructing,  
2242 finishing, and equipping. In lieu of a date, the description  
2243 shall include a statement that the estimated date of completion  
2244 of the condominium is in the purchase agreement and a reference  
2245 to the article or paragraph containing that information.

2246 (c) The maximum number of units that will use facilities in  
2247 common with the condominium. If the maximum number of units will  
2248 vary, a description of the basis for variation and the minimum  
2249 amount of dollars per unit to be spent for additional  
2250 recreational facilities or enlargement of such facilities. If the  
2251 addition or enlargement of facilities will result in a material  
2252 increase of a unit owner's maintenance expense or rental expense,  
2253 if any, the maximum increase and limitations thereon shall be  
2254 stated.

2255 (5) (a) A statement in conspicuous type describing whether  
2256 the condominium is created and being sold as fee simple interests  
2257 or as leasehold interests. If the condominium is created or being  
2258 sold on a leasehold, the location of the lease in the disclosure  
2259 materials shall be stated.

2260 (b) If timeshare estates are or may be created with respect  
2261 to any unit in the condominium, a statement in conspicuous type  
2262 stating that timeshare estates are created and being sold in

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2263 units in the condominium.

2264 (6) A description of the recreational and other commonly  
2265 used facilities that will be used only by unit owners of the  
2266 condominium, including, but not limited to, the following:

2267 (a) Each room and its intended purposes, location,  
2268 approximate floor area, and capacity in numbers of people.

2269 (b) Each swimming pool, as to its general location,  
2270 approximate size and depths, approximate deck size and capacity,  
2271 and whether heated.

2272 (c) Additional facilities, as to the number of each  
2273 facility, its approximate location, approximate size, and  
2274 approximate capacity.

2275 (d) A general description of the items of personal property  
2276 and the approximate number of each item of personal property that  
2277 the developer is committing to furnish for each room or other  
2278 facility or, in the alternative, a representation as to the  
2279 minimum amount of expenditure that will be made to purchase the  
2280 personal property for the facility.

2281 (e) The estimated date when each room or other facility  
2282 will be available for use by the unit owners.

2283 (f)1. An identification of each room or other facility to  
2284 be used by unit owners that will not be owned by the unit owners  
2285 or the association;

2286 2. A reference to the location in the disclosure materials  
2287 of the lease or other agreements providing for the use of those  
2288 facilities; and

2289 3. A description of the terms of the lease or other  
2290 agreements, including the length of the term; the rent payable,  
2291 directly or indirectly, by each unit owner, and the total rent

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2292 payable to the lessor, stated in monthly and annual amounts for  
2293 the entire term of the lease; and a description of any option to  
2294 purchase the property leased under any such lease, including the  
2295 time the option may be exercised, the purchase price or how it is  
2296 to be determined, the manner of payment, and whether the option  
2297 may be exercised for a unit owner's share or only as to the  
2298 entire leased property.

2299 (g) A statement as to whether the developer may provide  
2300 additional facilities not described above; their general  
2301 locations and types; improvements or changes that may be made;  
2302 the approximate dollar amount to be expended; and the maximum  
2303 additional common expense or cost to the individual unit owners  
2304 that may be charged during the first annual period of operation  
2305 of the modified or added facilities.

2306  
2307 Descriptions as to locations, areas, capacities, numbers,  
2308 volumes, or sizes may be stated as approximations or minimums.

2309 (7) A description of the recreational and other facilities  
2310 that will be used in common with other condominiums, community  
2311 associations, or planned developments which require the payment  
2312 of the maintenance and expenses of such facilities, ~~either~~  
2313 directly or indirectly, by the unit owners. The description shall  
2314 include, but not be limited to, the following:

2315 (a) Each building and facility committed to be built.

2316 (b) Facilities not committed to be built except under  
2317 certain conditions, and a statement of those conditions or  
2318 contingencies.

2319 (c) As to each facility committed to be built, or which  
2320 will be committed to be built upon the happening of one of the



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2321 conditions in paragraph (b), a statement of whether it will be  
2322 owned by the unit owners having the use thereof or by an  
2323 association or other entity which will be controlled by them, or  
2324 others, and the location in the exhibits of the lease or other  
2325 document providing for use of those facilities.

2326 (d) The year in which each facility will be available for  
2327 use by the unit owners or, in the alternative, the maximum number  
2328 of unit owners in the project at the time each of all of the  
2329 facilities is committed to be completed.

2330 (e) A general description of the items of personal  
2331 property, and the approximate number of each item of personal  
2332 property, that the developer is committing to furnish for each  
2333 room or other facility or, in the alternative, a representation  
2334 as to the minimum amount of expenditure that will be made to  
2335 purchase the personal property for the facility.

2336 (f) If there are leases, a description thereof, including  
2337 the length of the term, the rent payable, and a description of  
2338 any option to purchase.

2339

2340 Descriptions shall include location, areas, capacities, numbers,  
2341 volumes, or sizes and may be stated as approximations or  
2342 minimums.

2343 (8) Recreation lease or associated club membership:

2344 (a) If any recreational facilities or other facilities  
2345 offered by the developer and available to, or to be used by, unit  
2346 owners are to be leased or have club membership associated, the  
2347 following statement in conspicuous type shall be included: THERE  
2348 IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
2349 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS

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2350 CONDOMINIUM. There shall be a reference to the location in the  
2351 disclosure materials where the recreation lease or club  
2352 membership is described in detail.

2353 (b) If it is mandatory that unit owners pay a fee, rent,  
2354 dues, or other charges under a recreational facilities lease or  
2355 club membership for the use of facilities, there shall be in  
2356 conspicuous type the applicable statement:

2357 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
2358 MANDATORY FOR UNIT OWNERS; or

2359 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
2360 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2361 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS  
2362 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,  
2363 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE  
2364 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2365 4. A similar statement of the nature of the organization or  
2366 the manner in which the use rights are created, and that unit  
2367 owners are required to pay.

2368

2369 Immediately following the applicable statement, the location in  
2370 the disclosure materials where the development is described in  
2371 detail shall be stated.

2372 (c) If the developer, or any other person other than the  
2373 unit owners and other persons having use rights in the  
2374 facilities, reserves, or is entitled to receive, any rent, fee,  
2375 or other payment for the use of the facilities, then there shall  
2376 be the following statement in conspicuous type: THE UNIT OWNERS  
2377 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
2378 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately

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2379 following this statement, the location in the disclosure  
2380 materials where the rent or land use fees are described in detail  
2381 shall be stated.

2382 (d) If, in any recreation format, whether leasehold, club,  
2383 or other, any person other than the association has the right to  
2384 a lien on the units to secure the payment of assessments, rent,  
2385 or other exactions, there shall appear a statement in conspicuous  
2386 type in substantially the following form:

2387 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2388 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
2389 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS  
2390 MAY RESULT IN FORECLOSURE OF THE LIEN; or

2391 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
2392 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
2393 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
2394 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE  
2395 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2396  
2397 Immediately following the applicable statement, the location in  
2398 the disclosure materials where the lien or lien right is  
2399 described in detail shall be stated.

2400 (9) If the developer or any other person has the right to  
2401 increase or add to the recreational facilities at any time after  
2402 the establishment of the condominium whose unit owners have use  
2403 rights therein, without the consent of the unit owners or  
2404 associations being required, there shall appear a statement in  
2405 conspicuous type in substantially the following form:

2406 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
2407 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this

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2408 statement, the location in the disclosure materials where such  
2409 reserved rights are described shall be stated.

2410 (10) A statement of whether the developer's plan includes a  
2411 program of leasing units rather than selling them, or leasing  
2412 units and selling them subject to such leases. If so, there shall  
2413 be a description of the plan, including the number and  
2414 identification of the units and the provisions and term of the  
2415 proposed leases, and a statement in boldfaced type that: THE  
2416 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2417 (11) The arrangements for management of the association and  
2418 maintenance and operation of the condominium property and of  
2419 other property that will serve the unit owners of the condominium  
2420 property, and a description of the management contract and all  
2421 other contracts for these purposes having a term in excess of 1  
2422 year, including the following:

2423 (a) The names of contracting parties.

2424 (b) The term of the contract.

2425 (c) The nature of the services included.

2426 (d) The compensation, stated on a monthly and annual basis,  
2427 and provisions for increases in the compensation.

2428 (e) A reference to the volumes and pages of the condominium  
2429 documents and of the exhibits containing copies of such  
2430 contracts.

2431

2432 Copies of all described contracts shall be attached as exhibits.

2433 If there is a contract for the management of the condominium

2434 property, then a statement in conspicuous type in substantially

2435 the following form shall appear, identifying the proposed or

2436 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE

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2437 | MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE CONTRACT  
2438 | MANAGER). Immediately following this statement, the location in  
2439 | the disclosure materials of the contract for management of the  
2440 | condominium property shall be stated.

2441 |       (12) If the developer or any other person or persons other  
2442 | than the unit owners has the right to retain control of the board  
2443 | of administration of the association for a period of time which  
2444 | can exceed 1 year after the closing of the sale of a majority of  
2445 | the units in that condominium to persons other than successors or  
2446 | alternate developers, then a statement in conspicuous type in  
2447 | substantially the following form shall be included: THE DEVELOPER  
2448 | (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE  
2449 | ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.  
2450 | Immediately following this statement, the location in the  
2451 | disclosure materials where this right to control is described in  
2452 | detail shall be stated.

2453 |       (13) If there are any restrictions upon the sale, transfer,  
2454 | conveyance, or leasing of a unit, then a statement in conspicuous  
2455 | type in substantially the following form shall be included: THE  
2456 | SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.  
2457 | Immediately following this statement, the location in the  
2458 | disclosure materials where the restriction, limitation, or  
2459 | control on the sale, lease, or transfer of units is described in  
2460 | detail shall be stated.

2461 |       (14) If the condominium is part of a phase project, the  
2462 | following information shall be stated:

2463 |       (a) A statement in conspicuous type in substantially the  
2464 | following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
2465 | UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following

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2466 | this statement, the location in the disclosure materials where  
2467 | the phasing is described shall be stated.

2468 |         (b) A summary of the provisions of the declaration which  
2469 | provide for the phasing.

2470 |         (c) A statement as to whether or not residential buildings  
2471 | and units which are added to the condominium may be substantially  
2472 | different from the residential buildings and units originally in  
2473 | the condominium. If the added residential buildings and units may  
2474 | be substantially different, there shall be a general description  
2475 | of the extent to which such added residential buildings and units  
2476 | may differ, and a statement in conspicuous type in substantially  
2477 | the following form shall be included: BUILDINGS AND UNITS WHICH  
2478 | ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM  
2479 | THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately  
2480 | following this statement, the location in the disclosure  
2481 | materials where the extent to which added residential buildings  
2482 | and units may substantially differ is described shall be stated.

2483 |         (d) A statement of the maximum number of buildings  
2484 | containing units, the maximum and minimum numbers of units in  
2485 | each building, the maximum number of units, and the minimum and  
2486 | maximum square footage of the units that may be contained within  
2487 | each parcel of land which may be added to the condominium.

2488 |         (15) If a condominium created on or after July 1, 2000, is  
2489 | or may become part of a multicondominium, the following  
2490 | information must be provided:

2491 |         (a) A statement in conspicuous type in substantially the  
2492 | following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
2493 | MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
2494 | (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following

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2495 | this statement, the location in the prospectus or offering  
2496 | circular and its exhibits where the multicondominium aspects of  
2497 | the offering are described must be stated.

2498 |       (b) A summary of the provisions in the declaration,  
2499 | articles of incorporation, and bylaws which establish and provide  
2500 | for the operation of the multicondominium, including a statement  
2501 | as to whether unit owners in the condominium will have the right  
2502 | to use recreational or other facilities located or planned to be  
2503 | located in other condominiums operated by the same association,  
2504 | and the manner of sharing the common expenses related to such  
2505 | facilities.

2506 |       (c) A statement of the minimum and maximum number of  
2507 | condominiums, and the minimum and maximum number of units in each  
2508 | of those condominiums, which will or may be operated by the  
2509 | association, and the latest date by which the exact number will  
2510 | be finally determined.

2511 |       (d) A statement as to whether any of the condominiums in  
2512 | the multicondominium may include units intended to be used for  
2513 | nonresidential purposes and the purpose or purposes permitted for  
2514 | such use.

2515 |       (e) A general description of the location and approximate  
2516 | acreage of any land on which any additional condominiums to be  
2517 | operated by the association may be located.

2518 |       (16) If the condominium is created by conversion of  
2519 | existing improvements, the following information shall be stated:

2520 |           (a) The information required by s. 718.616.

2521 |           (b) A caveat that there are no express warranties unless  
2522 | they are stated in writing by the developer.

2523 |       (17) A summary of the restrictions, if any, to be imposed

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2524 on units concerning the use of any of the condominium property,  
2525 including statements as to whether there are restrictions upon  
2526 children and pets, and reference to the volumes and pages of the  
2527 condominium documents where such restrictions are found, or if  
2528 such restrictions are contained elsewhere, then a copy of the  
2529 documents containing the restrictions shall be attached as an  
2530 exhibit.

2531 (18) If there is any land that is offered by the developer  
2532 for use by the unit owners and that is neither owned by them nor  
2533 leased to them, the association, or any entity controlled by unit  
2534 owners and other persons having the use rights to such land, a  
2535 statement shall be made as to how such land will serve the  
2536 condominium. If any part of such land will serve the condominium,  
2537 the statement shall describe the land and the nature and term of  
2538 service, and the declaration or other instrument creating such  
2539 servitude shall be included as an exhibit.

2540 (19) The manner in which utility and other services,  
2541 including, but not limited to, sewage and waste disposal, water  
2542 supply, and storm drainage, will be provided and the person or  
2543 entity furnishing them.

2544 (20) An explanation of the manner in which the  
2545 apportionment of common expenses and ownership of the common  
2546 elements has been determined.

2547 (21) An estimated operating budget for the condominium and  
2548 the association, and a schedule of the unit owner's expenses  
2549 shall be attached as an exhibit and shall contain the following  
2550 information:

2551 (a) The estimated monthly and annual expenses of the  
2552 condominium and the association that are collected from unit



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2553 owners by assessments.

2554 (b) The estimated monthly and annual expenses of each unit  
2555 owner for a unit, other than common expenses paid by all unit  
2556 owners, payable by the unit owner to persons or entities other  
2557 than the association, as well as to the association, including  
2558 fees assessed pursuant to s. 718.113(1) for maintenance of  
2559 limited common elements where such costs are shared only by those  
2560 entitled to use the limited common element, and the total  
2561 estimated monthly and annual expense. There may be excluded from  
2562 this estimate expenses which are not provided for or contemplated  
2563 by the condominium documents, including, but not limited to, the  
2564 costs of private telephone; maintenance of the interior of  
2565 condominium units, which is not the obligation of the  
2566 association; maid or janitorial services privately contracted for  
2567 by the unit owners; utility bills billed directly to each unit  
2568 owner for utility services to his or her unit; insurance premiums  
2569 other than those incurred for policies obtained by the  
2570 condominium; and similar personal expenses of the unit owner. A  
2571 unit owner's estimated payments for assessments shall also be  
2572 stated in the estimated amounts for the times when they will be  
2573 due.

2574 (c) The estimated items of expenses of the condominium and  
2575 the association, except as excluded under paragraph (b),  
2576 including, but not limited to, the following items, which shall  
2577 be stated ~~either~~ as an association expense collectible by  
2578 assessments or as unit owners' expenses payable to persons other  
2579 than the association:

2580 1. Expenses for the association and condominium:

2581 a. Administration of the association.

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- 2582           b. Management fees.
- 2583           c. Maintenance.
- 2584           d. Rent for recreational and other commonly used
- 2585 facilities.
- 2586           e. Taxes upon association property.
- 2587           f. Taxes upon leased areas.
- 2588           g. Insurance.
- 2589           h. Security provisions.
- 2590           i. Other expenses.
- 2591           j. Operating capital.
- 2592           k. Reserves.
- 2593           1. Fees payable to the division.
- 2594           2. Expenses for a unit owner:
- 2595           a. Rent for the unit, if subject to a lease.
- 2596           b. Rent payable by the unit owner directly to the lessor or
- 2597 agent under any recreational lease or lease for the use of
- 2598 commonly used facilities, which use and payment is a mandatory
- 2599 condition of ownership and is not included in the common expense
- 2600 or assessments for common maintenance paid by the unit owners to
- 2601 the association.
- 2602           (d) The following statement in conspicuous type: THE BUDGET
- 2603 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
- 2604 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
- 2605 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
- 2606 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
- 2607 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
- 2608 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE
- 2609 OFFERING.
- 2610           (e) Each budget for an association prepared by a developer

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2611 consistent with this subsection shall be prepared in good faith  
2612 and shall reflect accurate estimated amounts for the required  
2613 items in paragraph (c) at the time of the filing of the offering  
2614 circular with the division, and subsequent increased amounts of  
2615 any item included in the association's estimated budget that are  
2616 beyond the control of the developer shall not be considered an  
2617 amendment that would give rise to rescission rights set forth in  
2618 s. 718.503(1)(a) or (b), nor shall such increases modify, void,  
2619 or otherwise affect any guarantee of the developer contained in  
2620 the offering circular or any purchase contract. It is the intent  
2621 of this paragraph to clarify existing law.

2622 (f) The estimated amounts shall be stated for a period of  
2623 at least 12 months and may distinguish between the period prior  
2624 to the time unit owners other than the developer elect a majority  
2625 of the board of administration and the period after that date.

2626 (22) A schedule of estimated closing expenses to be paid by  
2627 a buyer or lessee of a unit and a statement of whether title  
2628 opinion or title insurance policy is available to the buyer and,  
2629 if so, at whose expense.

2630 (23) The identity of the developer and the chief operating  
2631 officer or principal directing the creation and sale of the  
2632 condominium and a statement of its and his or her experience in  
2633 this field.

2634 (24) Copies of the following, to the extent they are  
2635 applicable, shall be included as exhibits:

2636 (a) The declaration of condominium, or the proposed  
2637 declaration if the declaration has not been recorded.

2638 (b) The articles of incorporation creating the association.

2639 (c) The bylaws of the association.

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2640 (d) The ground lease or other underlying lease of the  
2641 condominium.

2642 (e) The management agreement and all maintenance and other  
2643 contracts for management of the association and operation of the  
2644 condominium and facilities used by the unit owners having a  
2645 service term in excess of 1 year.

2646 (f) The estimated operating budget for the condominium and  
2647 the required schedule of unit owners' expenses.

2648 (g) A copy of the floor plan of the unit and the plot plan  
2649 showing the location of the residential buildings and the  
2650 recreation and other common areas.

2651 (h) The lease of recreational and other facilities that  
2652 will be used only by unit owners of the subject condominium.

2653 (i) The lease of facilities used by owners and others.

2654 (j) The form of unit lease, if the offer is of a leasehold.

2655 (k) A declaration of servitude of properties serving the  
2656 condominium but not owned by unit owners or leased to them or the  
2657 association.

2658 (l) The statement of condition of the existing building or  
2659 buildings, if the offering is of units in an operation being  
2660 converted to condominium ownership.

2661 (m) The statement of inspection for termite damage and  
2662 treatment of the existing improvements, if the condominium is a  
2663 conversion.

2664 (n) The form of agreement for sale or lease of units.

2665 (o) A copy of the agreement for escrow of payments made to  
2666 the developer prior to closing.

2667 (p) A copy of the documents containing any restrictions on  
2668 use of the property required by subsection (17).

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2669 (25) Any prospectus or offering circular complying, prior  
2670 to the effective date of this act, with the provisions of former  
2671 ss. 711.69 and 711.802 may continue to be used without amendment  
2672 or may be amended to comply with ~~the provisions of~~ this chapter.

2673 (26) A brief narrative description of the location and  
2674 effect of all existing and intended easements located or to be  
2675 located on the condominium property other than those described in  
2676 the declaration.

2677 (27) If the developer is required by state or local  
2678 authorities to obtain acceptance or approval of any dock or  
2679 marina facilities intended to serve the condominium, a copy of  
2680 any such acceptance or approval acquired by the time of filing  
2681 with the division under s. 718.502(1) or a statement that such  
2682 acceptance or approval has not been acquired or received.

2683 (28) Evidence demonstrating that the developer has an  
2684 ownership, leasehold, or contractual interest in the land upon  
2685 which the condominium is to be developed.

2686 Section 49. Section 718.508, Florida Statutes, is amended  
2687 to read:

2688 718.508 Regulation by Division of Hotels and  
2689 Restaurants.--In addition to the authority, regulation, or  
2690 control exercised by the Division of Florida ~~Land Sales,~~  
2691 Condominiums, Timeshares, and Mobile Homes pursuant to this act  
2692 with respect to condominiums, buildings included in a condominium  
2693 property are ~~shall be~~ subject to the authority, regulation, or  
2694 control of the Division of Hotels and Restaurants of the  
2695 Department of Business and Professional Regulation, to the extent  
2696 provided ~~for~~ in chapter 399.

2697 Section 50. Section 718.509, Florida Statutes, is amended,

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2698 to read:

2699 718.509 Division of Florida ~~Land Sales,~~ Condominiums,  
2700 Timeshares, and Mobile Homes Trust Fund.--

2701 (1) There is created within the State Treasury the Division  
2702 of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund  
2703 to be used for the administration and operation of this chapter  
2704 and chapters 718, 719, 721, and 723 by the division.

2705 (2) All moneys collected by the division from fees, fines,  
2706 or penalties or from costs awarded to the division by a court or  
2707 administrative final order shall be paid into the Division of  
2708 Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.  
2709 The Legislature shall appropriate funds from the trust fund  
2710 sufficient to carry out the provisions of this chapter and the  
2711 provisions of law with respect to each category of business  
2712 covered by the trust fund. The division shall maintain separate  
2713 revenue accounts in the trust fund for each business regulated by  
2714 the division. The division shall provide for the proportionate  
2715 allocation among the accounts of expenses incurred by the  
2716 division in the performance of its duties with respect to each  
2717 business. As part of its normal budgetary process, the division  
2718 shall prepare an annual report of revenues and allocated expenses  
2719 related to the operation of each business which may be used to  
2720 determine fees charged by the division. This subsection shall  
2721 operate pursuant to s. 215.20. All funds collected by the  
2722 division and any amount paid for a fee or penalty under this  
2723 chapter shall be deposited in the State Treasury to the credit of  
2724 the Division of Florida Land Sales, Condominiums, and Mobile  
2725 Homes Trust Fund created by s. 498.019.

2726 Section 51. Paragraph (a) of subsection (2) of section

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2727 | 718.608, Florida Statutes, is amended to read:

2728 |       718.608 Notice of intended conversion; time of delivery;  
2729 | content.--

2730 |       (2) (a) Each notice of intended conversion shall be dated  
2731 | and in writing. The notice shall contain the following statement,  
2732 | with the phrases of the following statement which appear in upper  
2733 | case printed in conspicuous type:

2734 |

2735 |       These apartments are being converted to condominium by  
2736 | (name of developer) , the developer.

2737 |       1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
2738 | YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
2739 | AGREEMENT AS FOLLOWS:

2740 |       a. If you have continuously been a resident of these  
2741 | apartments during the last 180 days and your rental agreement  
2742 | expires during the next 270 days, you may extend your rental  
2743 | agreement for up to 270 days after the date of this notice.

2744 |       b. If you have not been a continuous resident of these  
2745 | apartments for the last 180 days and your rental agreement  
2746 | expires during the next 180 days, you may extend your rental  
2747 | agreement for up to 180 days after the date of this notice.

2748 |       c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
2749 | MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
2750 | DATE OF THIS NOTICE.

2751 |       2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
2752 | you may extend your rental agreement for up to 45 days after the  
2753 | date of this notice while you decide whether to extend your  
2754 | rental agreement as explained above. To do so, you must notify  
2755 | the developer in writing. You will then have the full 45 days to

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2756 | decide whether to extend your rental agreement as explained  
2757 | above.

2758 |         3. During the extension of your rental agreement you will  
2759 | be charged the same rent that you are now paying.

2760 |         4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION  
2761 | OF THE RENTAL AGREEMENT AS FOLLOWS:

2762 |             a. If your rental agreement began or was extended or  
2763 | renewed after May 1, 1980, and your rental agreement, including  
2764 | extensions and renewals, has an unexpired term of 180 days or  
2765 | less, you may cancel your rental agreement upon 30 days' written  
2766 | notice and move. Also, upon 30 days' written notice, you may  
2767 | cancel any extension of the rental agreement.

2768 |             b. If your rental agreement was not begun or was not  
2769 | extended or renewed after May 1, 1980, you may not cancel the  
2770 | rental agreement without the consent of the developer. If your  
2771 | rental agreement, including extensions and renewals, has an  
2772 | unexpired term of 180 days or less, you may, however, upon 30  
2773 | days' written notice cancel any extension of the rental  
2774 | agreement.

2775 |         5. All notices must be given in writing and sent by mail,  
2776 | return receipt requested, or delivered in person to the developer  
2777 | at this address: (name and address of developer) .

2778 |         6. If you have continuously been a resident of these  
2779 | apartments during the last 180 days:

2780 |             a. You have the right to purchase your apartment and will  
2781 | have 45 days to decide whether to purchase. If you do not buy the  
2782 | unit at that price and the unit is later offered at a lower  
2783 | price, you will have the opportunity to buy the unit at the lower  
2784 | price. However, in all events your right to purchase the unit



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2785 ends when the rental agreement or any extension of the rental  
2786 agreement ends or when you waive this right in writing.

2787 b. Within 90 days you will be provided purchase information  
2788 relating to your apartment, including the price of your unit and  
2789 the condition of the building. If you do not receive this  
2790 information within 90 days, your rental agreement and any  
2791 extension will be extended 1 day for each day over 90 days until  
2792 you are given the purchase information. If you do not want this  
2793 rental agreement extension, you must notify the developer in  
2794 writing.

2795 7. If you have any questions regarding this conversion or  
2796 the Condominium Act, you may contact the developer or the state  
2797 agency which regulates condominiums: The Division of Florida ~~Land~~  
2798 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes, (Tallahassee  
2799 address and telephone number of division) .

2800 Section 52. Subsection (17) of section 719.103, Florida  
2801 Statutes, is amended to read:

2802 719.103 Definitions.--As used in this chapter:

2803 (17) "Division" means the Division of Florida ~~Land Sales~~,  
2804 Condominiums, Timeshares, and Mobile Homes of the Department of  
2805 Business and Professional Regulation.

2806 Section 53. Section 719.1255, Florida Statutes, is amended  
2807 to read:

2808 719.1255 Alternative resolution of disputes.--The Division  
2809 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes  
2810 of the Department of Business and Professional Regulation shall  
2811 provide for alternative dispute resolution in accordance with s.  
2812 718.1255.

2813 Section 54. Section 719.501, Florida Statutes, is amended

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2814 to read:

2815 719.501 Powers and duties of Division of Florida ~~Land~~  
2816 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

2817 (1) The Division of Florida ~~Land Sales~~, Condominiums,  
2818 Timeshares, and Mobile Homes of the Department of Business and  
2819 Professional Regulation, referred to as the "division" in this  
2820 part, in addition to other powers and duties prescribed by  
2821 chapter 718 498, has the power to enforce and ensure compliance  
2822 with ~~the provisions of~~ this chapter and adopted rules ~~promulgated~~  
2823 ~~pursuant hereto~~ relating to the development, construction, sale,  
2824 lease, ownership, operation, and management of residential  
2825 cooperative units. In performing its duties, the division shall  
2826 have the following powers and duties:

2827 (a) The division may make necessary public or private  
2828 investigations within or outside this state to determine whether  
2829 any person has violated this chapter or any rule or order  
2830 hereunder, to aid in the enforcement of this chapter, or to aid  
2831 in the adoption of rules or forms hereunder.

2832 (b) The division may require or permit any person to file a  
2833 statement in writing, under oath or otherwise, as the division  
2834 determines, as to the facts and circumstances concerning a matter  
2835 to be investigated.

2836 (c) For the purpose of any investigation under this  
2837 chapter, the division director or any officer or employee  
2838 designated by the division director may administer oaths or  
2839 affirmations, subpoena witnesses and compel their attendance,  
2840 take evidence, and require the production of any matter which is  
2841 relevant to the investigation, including the existence,  
2842 description, nature, custody, condition, and location of any

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2843 books, documents, or other tangible things and the identity and  
2844 location of persons having knowledge of relevant facts or any  
2845 other matter reasonably calculated to lead to the discovery of  
2846 material evidence. Upon failure by a person to obey a subpoena or  
2847 to answer questions propounded by the investigating officer and  
2848 upon reasonable notice to all persons affected thereby, the  
2849 division may apply to the circuit court for an order compelling  
2850 compliance.

2851 (d) Notwithstanding any remedies available to unit owners  
2852 and associations, if the division has reasonable cause to believe  
2853 that a violation of any provision of this chapter or related rule  
2854 ~~promulgated pursuant hereto~~ has occurred, the division may  
2855 institute enforcement proceedings in its own name against a  
2856 developer, association, officer, or member of the board, or its  
2857 assignees or agents, as follows:

2858 1. The division may permit a person whose conduct or  
2859 actions may be under investigation to waive formal proceedings  
2860 and enter into a consent proceeding whereby orders, rules, or  
2861 letters of censure or warning, whether formal or informal, may be  
2862 entered against the person.

2863 2. The division may issue an order requiring the developer,  
2864 association, officer, or member of the board, or its assignees or  
2865 agents, to cease and desist from the unlawful practice and take  
2866 such affirmative action as in the judgment of the division will  
2867 carry out the purposes of this chapter. Such affirmative action  
2868 may include, but is not limited to, an order requiring a  
2869 developer to pay moneys determined to be owed to a condominium  
2870 association.

2871 3. The division may bring an action in circuit court on

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2872 | behalf of a class of unit owners, lessees, or purchasers for  
2873 | declaratory relief, injunctive relief, or restitution.

2874 |         4. The division may impose a civil penalty against a  
2875 | developer or association, or its assignees or agents, for any  
2876 | violation of this chapter or related a rule ~~promulgated pursuant~~  
2877 | ~~hereto~~. The division may impose a civil penalty individually  
2878 | against any officer or board member who willfully and knowingly  
2879 | violates a provision of this chapter, a rule adopted pursuant to  
2880 | this chapter, or a final order of the division. The term  
2881 | "willfully and knowingly" means that the division informed the  
2882 | officer or board member that his or her action or intended action  
2883 | violates this chapter, a rule adopted under this chapter, or a  
2884 | final order of the division, and that the officer or board member  
2885 | refused to comply with the requirements of this chapter, a rule  
2886 | adopted under this chapter, or a final order of the division. The  
2887 | division, prior to initiating formal agency action under chapter  
2888 | 120, shall afford the officer or board member an opportunity to  
2889 | voluntarily comply with this chapter, a rule adopted under this  
2890 | chapter, or a final order of the division. An officer or board  
2891 | member who complies within 10 days is not subject to a civil  
2892 | penalty. A penalty may be imposed on the basis of each day of  
2893 | continuing violation, but in no event shall the penalty for any  
2894 | offense exceed \$5,000. By January 1, 1998, the division shall  
2895 | adopt, by rule, penalty guidelines applicable to possible  
2896 | violations or to categories of violations of this chapter or  
2897 | rules adopted by the division. The guidelines must specify a  
2898 | meaningful range of civil penalties for each such violation of  
2899 | the statute and rules and must be based upon the harm caused by  
2900 | the violation, the repetition of the violation, and upon such

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2901 | other factors deemed relevant by the division. For example, the  
2902 | division may consider whether the violations were committed by a  
2903 | developer or owner-controlled association, the size of the  
2904 | association, and other factors. The guidelines must designate the  
2905 | possible mitigating or aggravating circumstances that justify a  
2906 | departure from the range of penalties provided by the rules. It  
2907 | is the legislative intent that minor violations be distinguished  
2908 | from those which endanger the health, safety, or welfare of the  
2909 | cooperative residents or other persons and that such guidelines  
2910 | provide reasonable and meaningful notice to the public of likely  
2911 | penalties that may be imposed for proscribed conduct. This  
2912 | subsection does not limit the ability of the division to  
2913 | informally dispose of administrative actions or complaints by  
2914 | stipulation, agreed settlement, or consent order. All amounts  
2915 | collected shall be deposited with the Chief Financial Officer to  
2916 | the credit of the Division of Florida ~~Land Sales,~~ Condominiums,  
2917 | Timeshares, and Mobile Homes Trust Fund. If a developer fails to  
2918 | pay the civil penalty, the division shall thereupon issue an  
2919 | order directing that such developer cease and desist from further  
2920 | operation until such time as the civil penalty is paid or may  
2921 | pursue enforcement of the penalty in a court of competent  
2922 | jurisdiction. If an association fails to pay the civil penalty,  
2923 | the division shall thereupon pursue enforcement in a court of  
2924 | competent jurisdiction, and the order imposing the civil penalty  
2925 | or the cease and desist order shall not become effective until 20  
2926 | days after the date of such order. Any action commenced by the  
2927 | division shall be brought in the county in which the division has  
2928 | its executive offices or in the county where the violation  
2929 | occurred.

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2930 (e) The division may ~~is authorized to~~ prepare and  
2931 disseminate a prospectus and other information to assist  
2932 prospective owners, purchasers, lessees, and developers of  
2933 residential cooperatives in assessing the rights, privileges, and  
2934 duties pertaining thereto.

2935 (f) The division has authority to adopt rules pursuant to  
2936 ss. 120.536(1) and 120.54 to implement and enforce the provisions  
2937 of this chapter.

2938 (g) The division shall establish procedures for providing  
2939 notice to an association when the division is considering the  
2940 issuance of a declaratory statement with respect to the  
2941 cooperative documents governing such cooperative community.

2942 (h) The division shall furnish each association which pays  
2943 the fees required by paragraph (2) (a) a copy of this act,  
2944 subsequent changes to this act on an annual basis, an amended  
2945 version of this act as it becomes available from the Secretary of  
2946 State's office on a biennial basis, and the rules adopted  
2947 ~~promulgated pursuant~~ thereto on an annual basis.

2948 (i) The division shall annually provide each association  
2949 with a summary of declaratory statements and formal legal  
2950 opinions relating to the operations of cooperatives which were  
2951 rendered by the division during the previous year.

2952 (j) The division shall adopt uniform accounting principles,  
2953 policies, and standards to be used by all associations in the  
2954 preparation and presentation of all financial statements required  
2955 by this chapter. The principles, policies, and standards shall  
2956 take into consideration the size of the association and the total  
2957 revenue collected by the association.

2958 (k) The division shall provide training programs for

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2959 cooperative association board members and unit owners.

2960 (l) The division shall maintain a toll-free telephone  
2961 number accessible to cooperative unit owners.

2962 (m) When a complaint is made to the division, the division  
2963 shall conduct its inquiry with reasonable dispatch and with due  
2964 regard to the interests of the affected parties. Within 30 days  
2965 after receipt of a complaint, the division shall acknowledge the  
2966 complaint in writing and notify the complainant whether the  
2967 complaint is within the jurisdiction of the division and whether  
2968 additional information is needed by the division from the  
2969 complainant. The division shall conduct its investigation and  
2970 shall, within 90 days after receipt of the original complaint or  
2971 timely requested additional information, take action upon the  
2972 complaint. However, the failure to complete the investigation  
2973 within 90 days does not prevent the division from continuing the  
2974 investigation, accepting or considering evidence obtained or  
2975 received after 90 days, or taking administrative action if  
2976 reasonable cause exists to believe that a violation of this  
2977 chapter or a rule of the division has occurred. If an  
2978 investigation is not completed within the time limits established  
2979 in this paragraph, the division shall, on a monthly basis, notify  
2980 the complainant in writing of the status of the investigation.  
2981 When reporting its action to the complainant, the division shall  
2982 inform the complainant of any right to a hearing pursuant to ss.  
2983 120.569 and 120.57.

2984 (n) The division shall develop a program to certify both  
2985 volunteer and paid mediators to provide mediation of cooperative  
2986 disputes. The division shall provide, upon request, a list of  
2987 such mediators to any association, unit owner, or other

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2988 participant in arbitration proceedings under s. 718.1255  
2989 requesting a copy of the list. The division shall include on the  
2990 list of voluntary mediators only persons who have received at  
2991 least 20 hours of training in mediation techniques or have  
2992 mediated at least 20 disputes. In order to become initially  
2993 certified by the division, paid mediators must be certified by  
2994 the Supreme Court to mediate court cases in ~~either~~ county or  
2995 circuit courts. However, the division may adopt, by rule,  
2996 additional factors for the certification of paid mediators, which  
2997 factors must be related to experience, education, or background.  
2998 Any person initially certified as a paid mediator by the division  
2999 must, in order to continue to be certified, comply with the  
3000 factors or requirements imposed by rules adopted by the division.

3001 (2) (a) Each cooperative association shall pay to the  
3002 division, on or before January 1 of each year, an annual fee in  
3003 the amount of \$4 for each residential unit in cooperatives  
3004 operated by the association. If the fee is not paid by March 1,  
3005 then the association shall be assessed a penalty of 10 percent of  
3006 the amount due, and the association shall not have the standing  
3007 to maintain or defend any action in the courts of this state  
3008 until the amount due is paid.

3009 (b) All fees shall be deposited in the Division of Florida  
3010 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust Fund  
3011 as provided by law.

3012 Section 55. Paragraph (a) of subsection (2) of section  
3013 719.502, Florida Statutes, is amended to read:

3014 719.502 Filing prior to sale or lease.--

3015 (2) (a) Prior to filing as required by subsection (1), and  
3016 prior to acquiring an ownership, leasehold, or contractual



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3017 | interest in the land upon which the cooperative is to be  
3018 | developed, a developer shall not offer a contract for purchase or  
3019 | lease of a unit for more than 5 years. However, the developer may  
3020 | accept deposits for reservations upon the approval of a fully  
3021 | executed escrow agreement and reservation agreement form properly  
3022 | filed with the Division of Florida ~~Land Sales,~~ Condominiums,  
3023 | Timeshares, and Mobile Homes. Each filing of a proposed  
3024 | reservation program shall be accompanied by a filing fee of \$250.  
3025 | Reservations shall not be taken on a proposed cooperative unless  
3026 | the developer has an ownership, leasehold, or contractual  
3027 | interest in the land upon which the cooperative is to be  
3028 | developed. The division shall notify the developer within 20 days  
3029 | of receipt of the reservation filing of any deficiencies  
3030 | contained therein. Such notification shall not preclude the  
3031 | determination of reservation filing deficiencies at a later date,  
3032 | nor shall it relieve the developer of any responsibility under  
3033 | the law. The escrow agreement and the reservation agreement form  
3034 | shall include a statement of the right of the prospective  
3035 | purchaser to an immediate unqualified refund of the reservation  
3036 | deposit moneys upon written request to the escrow agent by the  
3037 | prospective purchaser or the developer.

3038 |       Section 56. Section 719.504, Florida Statutes, is amended  
3039 | to read:

3040 |       719.504 Prospectus or offering circular.--Every developer  
3041 | of a residential cooperative which contains more than 20  
3042 | residential units, or which is part of a group of residential  
3043 | cooperatives which will be served by property to be used in  
3044 | common by unit owners of more than 20 residential units, shall  
3045 | prepare a prospectus or offering circular and file it with the

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3046 | Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
3047 | Mobile Homes prior to entering into an enforceable contract of  
3048 | purchase and sale of any unit or lease of a unit for more than 5  
3049 | years and shall furnish a copy of the prospectus or offering  
3050 | circular to each buyer. In addition to the prospectus or offering  
3051 | circular, each buyer shall be furnished a separate page entitled  
3052 | "Frequently Asked Questions and Answers," which must be in  
3053 | accordance with a format approved by the division. This page  
3054 | must, in readable language: inform prospective purchasers  
3055 | regarding their voting rights and unit use restrictions,  
3056 | including restrictions on the leasing of a unit; indicate whether  
3057 | and in what amount the unit owners or the association is  
3058 | obligated to pay rent or land use fees for recreational or other  
3059 | commonly used facilities; contain a statement identifying that  
3060 | amount of assessment which, pursuant to the budget, would be  
3061 | levied upon each unit type, exclusive of any special assessments,  
3062 | and which identifies the basis upon which assessments are levied,  
3063 | whether monthly, quarterly, or otherwise; state and identify any  
3064 | court cases in which the association is currently a party of  
3065 | record in which the association may face liability in excess of  
3066 | \$100,000; and state whether membership in a recreational  
3067 | facilities association is mandatory and, if so, identify the fees  
3068 | currently charged per unit type. The division shall by rule  
3069 | require such other disclosure as in its judgment will assist  
3070 | prospective purchasers. The prospectus or offering circular may  
3071 | include more than one cooperative, although not all such units  
3072 | are being offered for sale as of the date of the prospectus or  
3073 | offering circular. The prospectus or offering circular must  
3074 | contain the following information:

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- 3075 (1) The front cover or the first page must contain only:  
3076 (a) The name of the cooperative.  
3077 (b) The following statements in conspicuous type:  
3078 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
3079 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.  
3080 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
3081 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
3082 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.  
3083 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
3084 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
3085 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
3086 REPRESENTATIONS.
- 3087 (2) Summary: The next page must contain all statements  
3088 required to be in conspicuous type in the prospectus or offering  
3089 circular.
- 3090 (3) A separate index of the contents and exhibits of the  
3091 prospectus.
- 3092 (4) Beginning on the first page of the text (not including  
3093 the summary and index), a description of the cooperative,  
3094 including, but not limited to, the following information:  
3095 (a) Its name and location.  
3096 (b) A description of the cooperative property, including,  
3097 without limitation:  
3098 1. The number of buildings, the number of units in each  
3099 building, the number of bathrooms and bedrooms in each unit, and  
3100 the total number of units, if the cooperative is not a phase  
3101 cooperative; or, if the cooperative is a phase cooperative, the  
3102 maximum number of buildings that may be contained within the  
3103 cooperative, the minimum and maximum number of units in each

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3104 | building, the minimum and maximum number of bathrooms and  
3105 | bedrooms that may be contained in each unit, and the maximum  
3106 | number of units that may be contained within the cooperative.

3107 |         2. The page in the cooperative documents where a copy of  
3108 | the survey and plot plan of the cooperative is located.

3109 |         3. The estimated latest date of completion of constructing,  
3110 | finishing, and equipping. In lieu of a date, a statement that the  
3111 | estimated date of completion of the cooperative is in the  
3112 | purchase agreement and a reference to the article or paragraph  
3113 | containing that information.

3114 |         (c) The maximum number of units that will use facilities in  
3115 | common with the cooperative. If the maximum number of units will  
3116 | vary, a description of the basis for variation and the minimum  
3117 | amount of dollars per unit to be spent for additional  
3118 | recreational facilities or enlargement of such facilities. If the  
3119 | addition or enlargement of facilities will result in a material  
3120 | increase of a unit owner's maintenance expense or rental expense,  
3121 | if any, the maximum increase and limitations thereon shall be  
3122 | stated.

3123 |         (5) (a) A statement in conspicuous type describing whether  
3124 | the cooperative is created and being sold as fee simple interests  
3125 | or as leasehold interests. If the cooperative is created or being  
3126 | sold on a leasehold, the location of the lease in the disclosure  
3127 | materials shall be stated.

3128 |         (b) If timeshare estates are or may be created with respect  
3129 | to any unit in the cooperative, a statement in conspicuous type  
3130 | stating that timeshare estates are created and being sold in such  
3131 | specified units in the cooperative.

3132 |         (6) A description of the recreational and other common

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3133 areas that will be used only by unit owners of the cooperative,  
3134 including, but not limited to, the following:

3135 (a) Each room and its intended purposes, location,  
3136 approximate floor area, and capacity in numbers of people.

3137 (b) Each swimming pool, as to its general location,  
3138 approximate size and depths, approximate deck size and capacity,  
3139 and whether heated.

3140 (c) Additional facilities, as to the number of each  
3141 facility, its approximate location, approximate size, and  
3142 approximate capacity.

3143 (d) A general description of the items of personal property  
3144 and the approximate number of each item of personal property that  
3145 the developer is committing to furnish for each room or other  
3146 facility or, in the alternative, a representation as to the  
3147 minimum amount of expenditure that will be made to purchase the  
3148 personal property for the facility.

3149 (e) The estimated date when each room or other facility  
3150 will be available for use by the unit owners.

3151 (f)1. An identification of each room or other facility to  
3152 be used by unit owners that will not be owned by the unit owners  
3153 or the association;

3154 2. A reference to the location in the disclosure materials  
3155 of the lease or other agreements providing for the use of those  
3156 facilities; and

3157 3. A description of the terms of the lease or other  
3158 agreements, including the length of the term; the rent payable,  
3159 directly or indirectly, by each unit owner, and the total rent  
3160 payable to the lessor, stated in monthly and annual amounts for  
3161 the entire term of the lease; and a description of any option to

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3162 purchase the property leased under any such lease, including the  
3163 time the option may be exercised, the purchase price or how it is  
3164 to be determined, the manner of payment, and whether the option  
3165 may be exercised for a unit owner's share or only as to the  
3166 entire leased property.

3167 (g) A statement as to whether the developer may provide  
3168 additional facilities not described above, their general  
3169 locations and types, improvements or changes that may be made,  
3170 the approximate dollar amount to be expended, and the maximum  
3171 additional common expense or cost to the individual unit owners  
3172 that may be charged during the first annual period of operation  
3173 of the modified or added facilities.

3174  
3175 Descriptions as to locations, areas, capacities, numbers,  
3176 volumes, or sizes may be stated as approximations or minimums.

3177 (7) A description of the recreational and other facilities  
3178 that will be used in common with other cooperatives, community  
3179 associations, or planned developments which require the payment  
3180 of the maintenance and expenses of such facilities, ~~either~~  
3181 directly or indirectly, by the unit owners. The description shall  
3182 include, but not be limited to, the following:

3183 (a) Each building and facility committed to be built.

3184 (b) Facilities not committed to be built except under  
3185 certain conditions, and a statement of those conditions or  
3186 contingencies.

3187 (c) As to each facility committed to be built, or which  
3188 will be committed to be built upon the happening of one of the  
3189 conditions in paragraph (b), a statement of whether it will be  
3190 owned by the unit owners having the use thereof or by an

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3191 association or other entity which will be controlled by them, or  
3192 others, and the location in the exhibits of the lease or other  
3193 document providing for use of those facilities.

3194 (d) The year in which each facility will be available for  
3195 use by the unit owners or, in the alternative, the maximum number  
3196 of unit owners in the project at the time each of all of the  
3197 facilities is committed to be completed.

3198 (e) A general description of the items of personal  
3199 property, and the approximate number of each item of personal  
3200 property, that the developer is committing to furnish for each  
3201 room or other facility or, in the alternative, a representation  
3202 as to the minimum amount of expenditure that will be made to  
3203 purchase the personal property for the facility.

3204 (f) If there are leases, a description thereof, including  
3205 the length of the term, the rent payable, and a description of  
3206 any option to purchase.

3207  
3208 Descriptions shall include location, areas, capacities, numbers,  
3209 volumes, or sizes and may be stated as approximations or  
3210 minimums.

3211 (8) Recreation lease or associated club membership:

3212 (a) If any recreational facilities or other common areas  
3213 offered by the developer and available to, or to be used by, unit  
3214 owners are to be leased or have club membership associated, the  
3215 following statement in conspicuous type shall be included: THERE  
3216 IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
3217 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
3218 COOPERATIVE. There shall be a reference to the location in the  
3219 disclosure materials where the recreation lease or club

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3220 membership is described in detail.

3221 (b) If it is mandatory that unit owners pay a fee, rent,  
3222 dues, or other charges under a recreational facilities lease or  
3223 club membership for the use of facilities, there shall be in  
3224 conspicuous type the applicable statement:

3225 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
3226 MANDATORY FOR UNIT OWNERS; or

3227 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
3228 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3229 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS  
3230 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,  
3231 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE  
3232 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

3233 4. A similar statement of the nature of the organization or  
3234 manner in which the use rights are created, and that unit owners  
3235 are required to pay.

3236

3237 Immediately following the applicable statement, the location in  
3238 the disclosure materials where the development is described in  
3239 detail shall be stated.

3240 (c) If the developer, or any other person other than the  
3241 unit owners and other persons having use rights in the  
3242 facilities, reserves, or is entitled to receive, any rent, fee,  
3243 or other payment for the use of the facilities, then there shall  
3244 be the following statement in conspicuous type: THE UNIT OWNERS  
3245 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
3246 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this  
3247 statement, the location in the disclosure materials where the  
3248 rent or land use fees are described in detail shall be stated.



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3249 (d) If, in any recreation format, whether leasehold, club,  
3250 or other, any person other than the association has the right to  
3251 a lien on the units to secure the payment of assessments, rent,  
3252 or other exactions, there shall appear a statement in conspicuous  
3253 type in substantially the following form:

3254 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
3255 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
3256 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS  
3257 MAY RESULT IN FORECLOSURE OF THE LIEN; or

3258 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
3259 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
3260 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
3261 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE  
3262 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

3263  
3264 Immediately following the applicable statement, the location in  
3265 the disclosure materials where the lien or lien right is  
3266 described in detail shall be stated.

3267 (9) If the developer or any other person has the right to  
3268 increase or add to the recreational facilities at any time after  
3269 the establishment of the cooperative whose unit owners have use  
3270 rights therein, without the consent of the unit owners or  
3271 associations being required, there shall appear a statement in  
3272 conspicuous type in substantially the following form:

3273 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
3274 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
3275 statement, the location in the disclosure materials where such  
3276 reserved rights are described shall be stated.

3277 (10) A statement of whether the developer's plan includes a

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3278 program of leasing units rather than selling them, or leasing  
3279 units and selling them subject to such leases. If so, there shall  
3280 be a description of the plan, including the number and  
3281 identification of the units and the provisions and term of the  
3282 proposed leases, and a statement in boldfaced type that: THE  
3283 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

3284 (11) The arrangements for management of the association and  
3285 maintenance and operation of the cooperative property and of  
3286 other property that will serve the unit owners of the cooperative  
3287 property, and a description of the management contract and all  
3288 other contracts for these purposes having a term in excess of 1  
3289 year, including the following:

3290 (a) The names of contracting parties.

3291 (b) The term of the contract.

3292 (c) The nature of the services included.

3293 (d) The compensation, stated on a monthly and annual basis,  
3294 and provisions for increases in the compensation.

3295 (e) A reference to the volumes and pages of the cooperative  
3296 documents and of the exhibits containing copies of such  
3297 contracts.

3298  
3299 Copies of all described contracts shall be attached as exhibits.  
3300 If there is a contract for the management of the cooperative  
3301 property, then a statement in conspicuous type in substantially  
3302 the following form shall appear, identifying the proposed or  
3303 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE  
3304 MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE CONTRACT  
3305 MANAGER). Immediately following this statement, the location in  
3306 the disclosure materials of the contract for management of the

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3307 cooperative property shall be stated.

3308 (12) If the developer or any other person or persons other  
3309 than the unit owners has the right to retain control of the board  
3310 of administration of the association for a period of time which  
3311 can exceed 1 year after the closing of the sale of a majority of  
3312 the units in that cooperative to persons other than successors or  
3313 alternate developers, then a statement in conspicuous type in  
3314 substantially the following form shall be included: THE DEVELOPER  
3315 (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE  
3316 ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.  
3317 Immediately following this statement, the location in the  
3318 disclosure materials where this right to control is described in  
3319 detail shall be stated.

3320 (13) If there are any restrictions upon the sale, transfer,  
3321 conveyance, or leasing of a unit, then a statement in conspicuous  
3322 type in substantially the following form shall be included: THE  
3323 SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.  
3324 Immediately following this statement, the location in the  
3325 disclosure materials where the restriction, limitation, or  
3326 control on the sale, lease, or transfer of units is described in  
3327 detail shall be stated.

3328 (14) If the cooperative is part of a phase project, the  
3329 following shall be stated:

3330 (a) A statement in conspicuous type in substantially the  
3331 following form shall be included: THIS IS A PHASE COOPERATIVE.  
3332 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.  
3333 Immediately following this statement, the location in the  
3334 disclosure materials where the phasing is described shall be  
3335 stated.

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3336 (b) A summary of the provisions of the declaration  
3337 providing for the phasing.

3338 (c) A statement as to whether or not residential buildings  
3339 and units which are added to the cooperative may be substantially  
3340 different from the residential buildings and units originally in  
3341 the cooperative, and, if the added residential buildings and  
3342 units may be substantially different, there shall be a general  
3343 description of the extent to which such added residential  
3344 buildings and units may differ, and a statement in conspicuous  
3345 type in substantially the following form shall be included:  
3346 BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE MAY BE  
3347 SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE  
3348 COOPERATIVE. Immediately following this statement, the location  
3349 in the disclosure materials where the extent to which added  
3350 residential buildings and units may substantially differ is  
3351 described shall be stated.

3352 (d) A statement of the maximum number of buildings  
3353 containing units, the maximum and minimum number of units in each  
3354 building, the maximum number of units, and the minimum and  
3355 maximum square footage of the units that may be contained within  
3356 each parcel of land which may be added to the cooperative.

3357 (15) If the cooperative is created by conversion of  
3358 existing improvements, the following information shall be stated:

3359 (a) The information required by s. 719.616.

3360 (b) A caveat that there are no express warranties unless  
3361 they are stated in writing by the developer.

3362 (16) A summary of the restrictions, if any, to be imposed  
3363 on units concerning the use of any of the cooperative property,  
3364 including statements as to whether there are restrictions upon

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3365 children and pets, and reference to the volumes and pages of the  
3366 cooperative documents where such restrictions are found, or if  
3367 such restrictions are contained elsewhere, then a copy of the  
3368 documents containing the restrictions shall be attached as an  
3369 exhibit.

3370 (17) If there is any land that is offered by the developer  
3371 for use by the unit owners and that is neither owned by them nor  
3372 leased to them, the association, or any entity controlled by unit  
3373 owners and other persons having the use rights to such land, a  
3374 statement shall be made as to how such land will serve the  
3375 cooperative. If any part of such land will serve the cooperative,  
3376 the statement shall describe the land and the nature and term of  
3377 service, and the cooperative documents or other instrument  
3378 creating such servitude shall be included as an exhibit.

3379 (18) The manner in which utility and other services,  
3380 including, but not limited to, sewage and waste disposal, water  
3381 supply, and storm drainage, will be provided and the person or  
3382 entity furnishing them.

3383 (19) An explanation of the manner in which the  
3384 apportionment of common expenses and ownership of the common  
3385 areas have been determined.

3386 (20) An estimated operating budget for the cooperative and  
3387 the association, and a schedule of the unit owner's expenses  
3388 shall be attached as an exhibit and shall contain the following  
3389 information:

3390 (a) The estimated monthly and annual expenses of the  
3391 cooperative and the association that are collected from unit  
3392 owners by assessments.

3393 (b) The estimated monthly and annual expenses of each unit

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3394 owner for a unit, other than assessments payable to the  
3395 association, payable by the unit owner to persons or entities  
3396 other than the association, and the total estimated monthly and  
3397 annual expense. There may be excluded from this estimate expenses  
3398 that are personal to unit owners, which are not uniformly  
3399 incurred by all unit owners, or which are not provided for or  
3400 contemplated by the cooperative documents, including, but not  
3401 limited to, the costs of private telephone; maintenance of the  
3402 interior of cooperative units, which is not the obligation of the  
3403 association; maid or janitorial services privately contracted for  
3404 by the unit owners; utility bills billed directly to each unit  
3405 owner for utility services to his or her unit; insurance premiums  
3406 other than those incurred for policies obtained by the  
3407 cooperative; and similar personal expenses of the unit owner. A  
3408 unit owner's estimated payments for assessments shall also be  
3409 stated in the estimated amounts for the times when they will be  
3410 due.

3411 (c) The estimated items of expenses of the cooperative and  
3412 the association, except as excluded under paragraph (b),  
3413 including, but not limited to, the following items, which shall  
3414 be stated ~~either~~ as an association expense collectible by  
3415 assessments or as unit owners' expenses payable to persons other  
3416 than the association:

- 3417 1. Expenses for the association and cooperative:
  - 3418 a. Administration of the association.
  - 3419 b. Management fees.
  - 3420 c. Maintenance.
  - 3421 d. Rent for recreational and other commonly used areas.
  - 3422 e. Taxes upon association property.

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- 3423 f. Taxes upon leased areas.
- 3424 g. Insurance.
- 3425 h. Security provisions.
- 3426 i. Other expenses.
- 3427 j. Operating capital.
- 3428 k. Reserves.
- 3429 l. Fee payable to the division.
- 3430 2. Expenses for a unit owner:
- 3431 a. Rent for the unit, if subject to a lease.
- 3432 b. Rent payable by the unit owner directly to the lessor or
- 3433 agent under any recreational lease or lease for the use of
- 3434 commonly used areas, which use and payment are a mandatory
- 3435 condition of ownership and are not included in the common expense
- 3436 or assessments for common maintenance paid by the unit owners to
- 3437 the association.
- 3438 (d) The following statement in conspicuous type: THE BUDGET
- 3439 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
- 3440 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
- 3441 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
- 3442 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
- 3443 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
- 3444 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE
- 3445 OFFERING.
- 3446 (e) Each budget for an association prepared by a developer
- 3447 consistent with this subsection shall be prepared in good faith
- 3448 and shall reflect accurate estimated amounts for the required
- 3449 items in paragraph (c) at the time of the filing of the offering
- 3450 circular with the division, and subsequent increased amounts of
- 3451 any item included in the association's estimated budget that are

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3452 beyond the control of the developer shall not be considered an  
3453 amendment that would give rise to rescission rights set forth in  
3454 s. 719.503(1)(a) or (b), nor shall such increases modify, void,  
3455 or otherwise affect any guarantee of the developer contained in  
3456 the offering circular or any purchase contract. It is the intent  
3457 of this paragraph to clarify existing law.

3458 (f) The estimated amounts shall be stated for a period of  
3459 at least 12 months and may distinguish between the period prior  
3460 to the time unit owners other than the developer elect a majority  
3461 of the board of administration and the period after that date.

3462 (21) A schedule of estimated closing expenses to be paid by  
3463 a buyer or lessee of a unit and a statement of whether title  
3464 opinion or title insurance policy is available to the buyer and,  
3465 if so, at whose expense.

3466 (22) The identity of the developer and the chief operating  
3467 officer or principal directing the creation and sale of the  
3468 cooperative and a statement of its and his or her experience in  
3469 this field.

3470 (23) Copies of the following, to the extent they are  
3471 applicable, shall be included as exhibits:

3472 (a) The cooperative documents, or the proposed cooperative  
3473 documents if the documents have not been recorded.

3474 (b) The articles of incorporation creating the association.

3475 (c) The bylaws of the association.

3476 (d) The ground lease or other underlying lease of the  
3477 cooperative.

3478 (e) The management agreement and all maintenance and other  
3479 contracts for management of the association and operation of the  
3480 cooperative and facilities used by the unit owners having a



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3481 service term in excess of 1 year.

3482 (f) The estimated operating budget for the cooperative and  
3483 the required schedule of unit owners' expenses.

3484 (g) A copy of the floor plan of the unit and the plot plan  
3485 showing the location of the residential buildings and the  
3486 recreation and other common areas.

3487 (h) The lease of recreational and other facilities that  
3488 will be used only by unit owners of the subject cooperative.

3489 (i) The lease of facilities used by owners and others.

3490 (j) The form of unit lease, if the offer is of a leasehold.

3491 (k) A declaration of servitude of properties serving the  
3492 cooperative but not owned by unit owners or leased to them or the  
3493 association.

3494 (l) The statement of condition of the existing building or  
3495 buildings, if the offering is of units in an operation being  
3496 converted to cooperative ownership.

3497 (m) The statement of inspection for termite damage and  
3498 treatment of the existing improvements, if the cooperative is a  
3499 conversion.

3500 (n) The form of agreement for sale or lease of units.

3501 (o) A copy of the agreement for escrow of payments made to  
3502 the developer prior to closing.

3503 (p) A copy of the documents containing any restrictions on  
3504 use of the property required by subsection (16).

3505 (24) Any prospectus or offering circular complying with the  
3506 provisions of former ss. 711.69 and 711.802 may continue to be  
3507 used without amendment, or may be amended to comply with ~~the~~  
3508 ~~provisions of~~ this chapter.

3509 (25) A brief narrative description of the location and

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3510 effect of all existing and intended easements located or to be  
3511 located on the cooperative property other than those in the  
3512 declaration.

3513 (26) If the developer is required by state or local  
3514 authorities to obtain acceptance or approval of any dock or  
3515 marina facility intended to serve the cooperative, a copy of such  
3516 acceptance or approval acquired by the time of filing with the  
3517 division pursuant to s. 719.502 or a statement that such  
3518 acceptance has not been acquired or received.

3519 (27) Evidence demonstrating that the developer has an  
3520 ownership, leasehold, or contractual interest in the land upon  
3521 which the cooperative is to be developed.

3522 Section 57. Section 719.508, Florida Statutes, is amended  
3523 to read:

3524 719.508 Regulation by Division of Hotels and  
3525 Restaurants.--In addition to the authority, regulation, or  
3526 control exercised by the Division of Florida ~~Land Sales,~~  
3527 Condominiums, Timeshares, and Mobile Homes pursuant to this act  
3528 with respect to cooperatives, buildings included in a cooperative  
3529 property shall be subject to the authority, regulation, or  
3530 control of the Division of Hotels and Restaurants of the  
3531 Department of Business and Professional Regulation, to the extent  
3532 provided ~~for~~ in chapters 399 and 509.

3533 Section 58. Paragraph (a) of subsection (2) of section  
3534 719.608, Florida Statutes, is amended to read:

3535 719.608 Notice of intended conversion; time of delivery;  
3536 content.--

3537 (2) (a) Each notice of intended conversion shall be dated  
3538 and in writing. The notice shall contain the following statement,

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3539 | with the phrases of the following statement which appear in upper  
3540 | case printed in conspicuous type:

3541 |

3542 |         These apartments are being converted to cooperative by  
3543 | (name of developer) , the developer.

3544 |         1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF  
3545 | YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL  
3546 | AGREEMENT AS FOLLOWS:

3547 |             a. If you have continuously been a resident of these  
3548 | apartments during the last 180 days and your rental agreement  
3549 | expires during the next 270 days, you may extend your rental  
3550 | agreement for up to 270 days after the date of this notice.

3551 |             b. If you have not been a continuous resident of these  
3552 | apartments for the last 180 days and your rental agreement  
3553 | expires during the next 180 days, you may extend your rental  
3554 | agreement for up to 180 days after the date of this notice.

3555 |             c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU  
3556 | MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE  
3557 | DATE OF THIS NOTICE.

3558 |         2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,  
3559 | you may extend your rental agreement for up to 45 days after the  
3560 | date of this notice while you decide whether to extend your  
3561 | rental agreement as explained above. To do so, you must notify  
3562 | the developer in writing. You will then have the full 45 days to  
3563 | decide whether to extend your rental agreement as explained  
3564 | above.

3565 |         3. During the extension of your rental agreement you will  
3566 | be charged the same rent that you are now paying.

3567 |         4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION

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3568 OF THE RENTAL AGREEMENT AS FOLLOWS:

3569 a. If your rental agreement began or was extended or  
3570 renewed after May 1, 1980, and your rental agreement, including  
3571 extensions and renewals, has an unexpired term of 180 days or  
3572 less, you may cancel your rental agreement upon 30 days' written  
3573 notice and move. Also, upon 30 days' written notice, you may  
3574 cancel any extension of the rental agreement.

3575 b. If your rental agreement was not begun or was not  
3576 extended or renewed after May 1, 1980, you may not cancel the  
3577 rental agreement without the consent of the developer. If your  
3578 rental agreement, including extensions and renewals, has an  
3579 unexpired term of 180 days or less, you may, however, upon 30  
3580 days' written notice cancel any extension of the rental  
3581 agreement.

3582 5. All notices must be given in writing and sent by mail,  
3583 return receipt requested, or delivered in person to the developer  
3584 at this address: (name and address of developer) .

3585 6. If you have continuously been a resident of these  
3586 apartments during the last 180 days:

3587 a. You have the right to purchase your apartment and will  
3588 have 45 days to decide whether to purchase. If you do not buy the  
3589 unit at that price and the unit is later offered at a lower  
3590 price, you will have the opportunity to buy the unit at the lower  
3591 price. However, in all events your right to purchase the unit  
3592 ends when the rental agreement or any extension of the rental  
3593 agreement ends or when you waive this right in writing.

3594 b. Within 90 days you will be provided purchase information  
3595 relating to your apartment, including the price of your unit and  
3596 the condition of the building. If you do not receive this

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3597 information within 90 days, your rental agreement and any  
3598 extension will be extended 1 day for each day over 90 days until  
3599 you are given the purchase information. If you do not want this  
3600 rental agreement extension, you must notify the developer in  
3601 writing.

3602 7. If you have any questions regarding this conversion or  
3603 the Cooperative Act, you may contact the developer or the state  
3604 agency which regulates cooperatives: The Division of Florida ~~Land~~  
3605 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes, (Tallahassee  
3606 address and telephone number of division) .

3607 Section 59. Subsection (7) of section 720.301, Florida  
3608 Statutes, is amended to read:

3609 720.301 Definitions.--As used in this chapter, the term:

3610 (7) "Division" means the Division of Florida ~~Land Sales~~,  
3611 Condominiums, Timeshares, and Mobile Homes in the Department of  
3612 Business and Professional Regulation.

3613 Section 60. Subsection (2) of section 720.401, Florida  
3614 Statutes, is amended to read:

3615 720.401 Prospective purchasers subject to association  
3616 membership requirement; disclosure required; covenants;  
3617 assessments; contract cancellation.--

3618 (2) This section does not apply to any association  
3619 regulated under chapter 718, chapter 719, chapter 721, or chapter  
3620 ~~723 or to a subdivider registered under chapter 498~~; and also  
3621 does not apply if disclosure regarding the association is  
3622 otherwise made in connection with the requirements of chapter  
3623 718, chapter 719, chapter 721, or chapter 723.

3624 Section 61. Paragraph (c) of subsection (1) of section  
3625 721.03, Florida Statutes, is amended to read:

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3626 721.03 Scope of chapter.--

3627 (1) This chapter applies to all timeshare plans consisting  
3628 of more than seven timeshare periods over a period of at least 3  
3629 years in which the accommodations and facilities, if any, are  
3630 located within this state or offered within this state; provided  
3631 that:

3632 (c) All timeshare accommodations or facilities which are  
3633 located outside the state but offered for sale in this state  
3634 shall be governed by the following:

3635 1. The offering for sale in this state of timeshare  
3636 accommodations and facilities located outside the state is  
3637 subject only to the provisions of ss. 721.01-721.12, 721.18,  
3638 721.20, 721.21, 721.26, 721.28, and part II.

3639 2. The division shall not require a developer of timeshare  
3640 accommodations or facilities located outside of this state to  
3641 make changes in any timeshare instrument to conform to the  
3642 provisions of s. 721.07 or s. 721.55. The division shall have the  
3643 power to require disclosure of those provisions of the timeshare  
3644 instrument that do not conform to s. 721.07 or s. 721.55 as the  
3645 director determines is necessary to fairly, meaningfully, and  
3646 effectively disclose all aspects of the timeshare plan.

3647 3. Except as provided in this subparagraph, the division  
3648 shall have no authority to determine whether any person has  
3649 complied with another state's laws or to disapprove any filing  
3650 out-of-state, timeshare instrument, or component site document,  
3651 based solely upon the lack or degree of timeshare regulation in  
3652 another state. The division may require a developer to obtain and  
3653 provide to the division existing documentation relating to an  
3654 out-of-state filing, timeshare instrument, or component site

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3655 document and prove compliance of same with the laws of that  
3656 state. In this regard, the division may accept any evidence of  
3657 the approval or acceptance of any out-of-state filing, timeshare  
3658 instrument, or component site document by another state in lieu  
3659 of requiring a developer to file the out-of-state filing,  
3660 timeshare instrument, or component site document with the  
3661 division pursuant to this section, or the division may accept an  
3662 opinion letter from an attorney or law firm opining as to the  
3663 compliance of such out-of-state filing, timeshare instrument, or  
3664 component site document with the laws of another state. The  
3665 division may refuse to approve the inclusion of any out-of-state  
3666 filing, timeshare instrument, or component site document as part  
3667 of a public offering statement based upon the inability of the  
3668 developer to establish the compliance of same with the laws of  
3669 another state.

3670 4. The division is authorized to enter into an agreement  
3671 with another state for the purpose of facilitating the processing  
3672 of out-of-state timeshare instruments or other component site  
3673 documents pursuant to this chapter and for the purpose of  
3674 facilitating the referral of consumer complaints to the  
3675 appropriate state.

3676 5. Notwithstanding any other provision of this paragraph,  
3677 the offer, in this state, of an additional interest to existing  
3678 purchasers in the same timeshare plan or the same component site  
3679 of a multisite timeshare plan, the same nonspecific multisite  
3680 timeshare plan, with accommodations and facilities located  
3681 outside of this state shall not be subject to the provisions of  
3682 this chapter if the offer complies with the provisions of s.  
3683 721.11(4).

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3684 Section 62. Subsection (11) of section 721.05, Florida  
3685 Statutes, is amended to read:

3686 721.05 Definitions.--As used in this chapter, the term:

3687 (11) "Division" means the Division of Florida ~~Land Sales,~~  
3688 Condominiums, Timeshares, and Mobile Homes of the Department of  
3689 Business and Professional Regulation.

3690 Section 63. Paragraph (d) of subsection (2) of section  
3691 721.07, Florida Statutes, is amended to read:

3692 721.07 Public offering statement.--Prior to offering any  
3693 timeshare plan, the developer must submit a filed public offering  
3694 statement to the division for approval as prescribed by s.  
3695 721.03, s. 721.55, or this section. Until the division approves  
3696 such filing, any contract regarding the sale of that timeshare  
3697 plan is subject to cancellation by the purchaser pursuant to s.  
3698 721.10.

3699 (2)

3700 (d) A developer shall have the authority to deliver to  
3701 purchasers any purchaser public offering statement that is not  
3702 yet approved by the division, provided that the following shall  
3703 apply:

3704 1. At the time the developer delivers an unapproved  
3705 purchaser public offering statement to a purchaser pursuant to  
3706 this paragraph, the developer shall deliver a fully completed and  
3707 executed copy of the purchase contract required by s. 721.06 that  
3708 contains the following statement in conspicuous type in  
3709 substantially the following form which shall replace the  
3710 statements required by s. 721.06(1)(g):

3711

3712 The developer is delivering to you a public offering statement



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3713 that has been filed with but not yet approved by the Division of  
3714 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes.  
3715 Any revisions to the unapproved public offering statement you  
3716 have received must be delivered to you, but only if the revisions  
3717 materially alter or modify the offering in a manner adverse to  
3718 you. After the division approves the public offering statement,  
3719 you will receive notice of the approval from the developer and  
3720 the required revisions, if any.

3721  
3722 Your statutory right to cancel this transaction without any  
3723 penalty or obligation expires 10 calendar days after the date you  
3724 signed your purchase contract or the date on which you receive  
3725 the last of all documents required to be given to you pursuant to  
3726 section 721.07(6), Florida Statutes, or 10 calendar days after  
3727 you receive revisions required to be delivered to you, if any,  
3728 whichever is later. If you decide to cancel this contract, you  
3729 must notify the seller in writing of your intent to cancel. Your  
3730 notice of cancellation shall be effective upon the date sent and  
3731 shall be sent to (Name of Seller) at (Address of Seller) .  
3732 Any attempt to obtain a waiver of your cancellation right is void  
3733 and of no effect. While you may execute all closing documents in  
3734 advance, the closing, as evidenced by delivery of the deed or  
3735 other document, before expiration of your 10-day cancellation  
3736 period, is prohibited.

3737  
3738 2. After receipt of approval from the division and prior to  
3739 closing, if any revisions made to the documents contained in the  
3740 purchaser public offering statement materially alter or modify  
3741 the offering in a manner adverse to a purchaser, the developer

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3742 shall send the purchaser such revisions together with a notice  
3743 containing a statement in conspicuous type in substantially the  
3744 following form:

3745  
3746 The unapproved public offering statement previously delivered to  
3747 you, together with the enclosed revisions, has been approved by  
3748 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and  
3749 Mobile Homes. Accordingly, your cancellation right expires 10  
3750 calendar days after you sign your purchase contract or 10  
3751 calendar days after you receive these revisions, whichever is  
3752 later. If you have any questions regarding your cancellation  
3753 rights, you may contact the division at [insert division's  
3754 current address].

3755  
3756 3. After receipt of approval from the division and prior to  
3757 closing, if no revisions have been made to the documents  
3758 contained in the unapproved purchaser public offering statement,  
3759 or if such revisions do not materially alter or modify the  
3760 offering in a manner adverse to a purchaser, the developer shall  
3761 send the purchaser a notice containing a statement in conspicuous  
3762 type in substantially the following form:

3763  
3764 The unapproved public offering statement previously delivered to  
3765 you has been approved by the Division of Florida ~~Land Sales,~~  
3766 Condominiums, Timeshares, and Mobile Homes. Revisions made to the  
3767 unapproved public offering statement, if any, are ~~either~~ not  
3768 required to be delivered to you or are not deemed by the  
3769 developer, in its opinion, to materially alter or modify the  
3770 offering in a manner that is adverse to you. Accordingly, your

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3771 cancellation right expired 10 days after you signed your purchase  
3772 contract. A complete copy of the approved public offering  
3773 statement is available through the managing entity for inspection  
3774 as part of the books and records of the plan. If you have any  
3775 questions regarding your cancellation rights, you may contact the  
3776 division at [insert division's current address].

3777 Section 64. Subsection (8) of section 721.08, Florida  
3778 Statutes, is amended to read:

3779 721.08 Escrow accounts; nondisturbance instruments;  
3780 alternate security arrangements; transfer of legal title.--

3781 (8) An escrow agent holding escrowed funds pursuant to this  
3782 chapter that have not been claimed for a period of 5 years after  
3783 the date of deposit shall make at least one reasonable attempt to  
3784 deliver such unclaimed funds to the purchaser who submitted such  
3785 funds to escrow. In making such attempt, an escrow agent is  
3786 entitled to rely on a purchaser's last known address as set forth  
3787 in the books and records of the escrow agent and is not required  
3788 to conduct any further search for the purchaser. If an escrow  
3789 agent's attempt to deliver unclaimed funds to any purchaser is  
3790 unsuccessful, the escrow agent may deliver such unclaimed funds  
3791 to the division and the division shall deposit such unclaimed  
3792 funds in the Division of Florida ~~Land Sales~~, Condominiums,  
3793 Timeshares, and Mobile Homes Trust Fund, 30 days after giving  
3794 notice in a publication of general circulation in the county in  
3795 which the timeshare property containing the purchaser's timeshare  
3796 interest is located. The purchaser may claim the same at any time  
3797 prior to the delivery of such funds to the division. After  
3798 delivery of such funds to the division, the purchaser shall have  
3799 no more rights to the unclaimed funds. The escrow agent shall not

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3800 | be liable for any claims from any party arising out of the escrow  
3801 | agent's delivery of the unclaimed funds to the division pursuant  
3802 | to this section.

3803 |       Section 65. Section 721.26, Florida Statutes, is amended to  
3804 | read:

3805 |       721.26 Regulation by division.--The division has the power  
3806 | to enforce and ensure compliance with ~~the provisions of this~~  
3807 | chapter, except for parts III and IV, using the powers provided  
3808 | in this chapter, as well as the powers prescribed in chapters  
3809 | ~~498~~, ~~718~~, and 719. In performing its duties, the division shall  
3810 | have the following powers and duties:

3811 |       (1) To aid in the enforcement of this chapter, or any  
3812 | division rule adopted or order ~~promulgated or~~ issued pursuant to  
3813 | this chapter, the division may make necessary public or private  
3814 | investigations within or outside this state to determine whether  
3815 | any person has violated or is about to violate this chapter, or  
3816 | any division rule adopted or order ~~promulgated or~~ issued pursuant  
3817 | to this chapter.

3818 |       (2) The division may require or permit any person to file a  
3819 | written statement under oath or otherwise, as the division  
3820 | determines, as to the facts and circumstances concerning a matter  
3821 | under investigation.

3822 |       (3) For the purpose of any investigation under this  
3823 | chapter, the director of the division or any officer or employee  
3824 | designated by the director may administer oaths or affirmations,  
3825 | subpoena witnesses and compel their attendance, take evidence,  
3826 | and require the production of any matter which is relevant to the  
3827 | investigation, including the identity, existence, description,  
3828 | nature, custody, condition, and location of any books, documents,

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3829 or other tangible things and the identity and location of persons  
3830 having knowledge of relevant facts or any other matter reasonably  
3831 calculated to lead to the discovery of material evidence. Failure  
3832 to obey a subpoena or to answer questions propounded by the  
3833 investigating officer and upon reasonable notice to all persons  
3834 affected thereby shall be a violation of this chapter. In  
3835 addition to the other enforcement powers authorized in this  
3836 subsection, the division may, ~~at its discretion,~~ apply to the  
3837 circuit court for an order compelling compliance.

3838 (4) The division may prepare and disseminate a prospectus  
3839 and other information to assist prospective purchasers, sellers,  
3840 and managing entities of timeshare plans in assessing the rights,  
3841 privileges, and duties pertaining thereto.

3842 (5) Notwithstanding any remedies available to purchasers,  
3843 if the division has reasonable cause to believe that a violation  
3844 of this chapter, or of any division rule adopted or order  
3845 ~~promulgated or~~ issued pursuant to this chapter, has occurred, the  
3846 division may institute enforcement proceedings in its own name  
3847 against any regulated party, as such term is defined in this  
3848 subsection:

3849 (a)1. "Regulated party," for purposes of this section,  
3850 means any developer, exchange company, seller, managing entity,  
3851 owners' association, owners' association director, owners'  
3852 association officer, manager, management firm, escrow agent,  
3853 trustee, any respective assignees or agents, or any other person  
3854 having duties or obligations pursuant to this chapter.

3855 2. Any person who materially participates in any offer or  
3856 disposition of any interest in, or the management or operation  
3857 of, a timeshare plan in violation of this chapter or relevant

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3858 | rules involving fraud, deception, false pretenses,  
3859 | misrepresentation, or false advertising or the disbursement,  
3860 | concealment, or diversion of any funds or assets, which conduct  
3861 | adversely affects the interests of a purchaser, and which person  
3862 | directly or indirectly controls a regulated party or is a general  
3863 | partner, officer, director, agent, or employee of such regulated  
3864 | party, shall be jointly and severally liable under this  
3865 | subsection with such regulated party, unless such person did not  
3866 | know, and in the exercise of reasonable care could not have  
3867 | known, of the existence of the facts giving rise to the violation  
3868 | of this chapter. A right of contribution shall exist among  
3869 | jointly and severally liable persons pursuant to this paragraph.

3870 |       (b) The division may permit any person whose conduct or  
3871 | actions may be under investigation to waive formal proceedings  
3872 | and enter into a consent proceeding whereby an order, rule, or  
3873 | letter of censure or warning, whether formal or informal, may be  
3874 | entered against that person.

3875 |       (c) The division may issue an order requiring a regulated  
3876 | party to cease and desist from an unlawful practice under this  
3877 | chapter and take such affirmative action as in the judgment of  
3878 | the division will carry out the purposes of this chapter.

3879 |       (d)1. The division may bring an action in circuit court for  
3880 | declaratory or injunctive relief or for other appropriate relief,  
3881 | including restitution.

3882 |       2. The division shall have broad authority and discretion  
3883 | to petition the circuit court to appoint a receiver with respect  
3884 | to any managing entity which fails to perform its duties and  
3885 | obligations under this chapter with respect to the operation of a  
3886 | timeshare plan. The circumstances giving rise to an appropriate

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3887 petition for receivership under this subparagraph include, but  
3888 are not limited to:

3889 a. Damage to or destruction of any of the accommodations or  
3890 facilities of a timeshare plan, where the managing entity has  
3891 failed to repair or reconstruct same.

3892 b. A breach of fiduciary duty by the managing entity,  
3893 including, but not limited to, undisclosed self-dealing or  
3894 failure to timely assess, collect, or disburse the common  
3895 expenses of the timeshare plan.

3896 c. Failure of the managing entity to operate the timeshare  
3897 plan in accordance with the timeshare instrument and this  
3898 chapter.

3899

3900 If, under the circumstances, it appears that the events giving  
3901 rise to the petition for receivership cannot be reasonably and  
3902 timely corrected in a cost-effective manner consistent with the  
3903 timeshare instrument, the receiver may petition the circuit court  
3904 to implement such amendments or revisions to the timeshare  
3905 instrument as may be necessary to enable the managing entity to  
3906 resume effective operation of the timeshare plan, or to enter an  
3907 order terminating the timeshare plan, or to enter such further  
3908 orders regarding the disposition of the timeshare property as the  
3909 court deems appropriate, including the disposition and sale of  
3910 the timeshare property held by the owners' association or the  
3911 purchasers. In the event of a receiver's sale, all rights, title,  
3912 and interest held by the owners' association or any purchaser  
3913 shall be extinguished and title shall vest in the buyer. This  
3914 provision applies to timeshare estates, personal property  
3915 timeshare interests, and timeshare licenses. All reasonable costs

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3916 and fees of the receiver relating to the receivership shall  
3917 become common expenses of the timeshare plan upon order of the  
3918 court.

3919 3. The division may revoke its approval of any filing for  
3920 any timeshare plan for which a petition for receivership has been  
3921 filed pursuant to this paragraph.

3922 (e)1. The division may impose a penalty against any  
3923 regulated party for a violation of this chapter or any rule  
3924 adopted thereunder. A penalty may be imposed on the basis of each  
3925 day of continuing violation, but in no event may the penalty for  
3926 any offense exceed \$10,000. All accounts collected shall be  
3927 deposited with the Chief Financial Officer to the credit of the  
3928 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
3929 Mobile Homes Trust Fund.

3930 2.a. If a regulated party fails to pay a penalty, the  
3931 division shall thereupon issue an order directing that such  
3932 regulated party cease and desist from further operation until  
3933 such time as the penalty is paid; or the division may pursue  
3934 enforcement of the penalty in a court of competent jurisdiction.

3935 b. If an owners' association or managing entity fails to  
3936 pay a civil penalty, the division may pursue enforcement in a  
3937 court of competent jurisdiction.

3938 (f) In order to permit the regulated party an opportunity  
3939 ~~either~~ to appeal such decision administratively or to seek relief  
3940 in a court of competent jurisdiction, the order imposing the  
3941 penalty or the cease and desist order shall not become effective  
3942 until 20 days after the date of such order.

3943 (g) Any action commenced by the division shall be brought  
3944 in the county in which the division has its executive offices or



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3945 | in the county where the violation occurred.

3946 |       (h) Notice to any regulated party shall be complete when  
3947 | delivered by United States mail, return receipt requested, to the  
3948 | party's address currently on file with the division or to such  
3949 | other address at which the division is able to locate the party.  
3950 | Every regulated party has an affirmative duty to notify the  
3951 | division of any change of address at least 5 business days prior  
3952 | to such change.

3953 |       (6) The division has authority to adopt rules pursuant to  
3954 | ss. 120.536(1) and 120.54 to implement and enforce the provisions  
3955 | of this chapter.

3956 |       (7) (a) The use of any unfair or deceptive act or practice  
3957 | by any person in connection with the sales or other operations of  
3958 | an exchange program or timeshare plan is a violation of this  
3959 | chapter.

3960 |       (b) Any violation of the Florida Deceptive and Unfair Trade  
3961 | Practices Act, ss. 501.201 et seq., relating to the creation,  
3962 | promotion, sale, operation, or management of any timeshare plan  
3963 | shall also be a violation of this chapter.

3964 |       (c) The division may ~~is authorized to~~ institute proceedings  
3965 | against any such person and take any appropriate action  
3966 | authorized in this section in connection therewith,  
3967 | notwithstanding any remedies available to purchasers.

3968 |       (8) The failure of any person to comply with any order of  
3969 | the division is a violation of this chapter.

3970 |       Section 66. Section 721.28, Florida Statutes, is amended to  
3971 | read:

3972 |       721.28 Division of Florida ~~Land Sales,~~ Condominiums,  
3973 | Timeshares, and Mobile Homes Trust Fund.--All funds collected by

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3974 the division and any amounts paid as fees or penalties under this  
3975 chapter shall be deposited in the State Treasury to the credit of  
3976 the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and  
3977 Mobile Homes Trust Fund created by s. 718.509 ~~498.019~~.

3978 Section 67. Paragraph (c) of subsection (1) of section  
3979 721.301, Florida Statutes, is amended to read:

3980 721.301 Florida Timesharing, Vacation Club, and Hospitality  
3981 Program.--

3982 (1)

3983 (c) The director may designate funds from the Division of  
3984 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes  
3985 Trust Fund, not to exceed \$50,000 annually, to support the  
3986 projects and proposals undertaken pursuant to paragraph (b). All  
3987 state trust funds to be expended pursuant to this section must be  
3988 matched equally with private moneys and shall comprise no more  
3989 than half of the total moneys expended annually.

3990 Section 68. Section 721.50, Florida Statutes, is amended to  
3991 read:

3992 721.50 Short title.--This part may be cited as the  
3993 "McAllister Act" in recognition and appreciation for the years of  
3994 extraordinary and insightful contributions by Mr. Bryan C.  
3995 McAllister, Examinations Supervisor of the former, Division of  
3996 Florida Land Sales, Condominiums, and Mobile Homes.

3997 Section 69. Subsection (1) of section 723.003, Florida  
3998 Statutes, is amended to read:

3999 723.003 Definitions.--As used in this chapter, the  
4000 following words and terms have the following meanings unless  
4001 clearly indicated otherwise:

4002 (1) The term "division" means the Division of Florida ~~Land~~

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4003 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes of the  
4004 Department of Business and Professional Regulation.

4005 Section 70. Paragraph (e) of subsection (5) of section  
4006 723.006, Florida Statutes, is amended to read:

4007 723.006 Powers and duties of division.--In performing its  
4008 duties, the division has the following powers and duties:

4009 (5) Notwithstanding any remedies available to mobile home  
4010 owners, mobile home park owners, and homeowners' associations, if  
4011 the division has reasonable cause to believe that a violation of  
4012 any provision of this chapter or related ~~any rule promulgated~~  
4013 ~~pursuant hereto~~ has occurred, the division may institute  
4014 enforcement proceedings in its own name against a developer,  
4015 mobile home park owner, or homeowners' association, or its  
4016 assignee or agent, as follows:

4017 (e)1. The division may impose a civil penalty against a  
4018 mobile home park owner or homeowners' association, or its  
4019 assignee or agent, for any violation of this chapter, a properly  
4020 adopted ~~promulgated~~ park rule or regulation, or a rule adopted ~~or~~  
4021 ~~regulation promulgated~~ pursuant hereto. A penalty may be imposed  
4022 on the basis of each separate violation and, if the violation is  
4023 a continuing one, for each day of continuing violation, but in no  
4024 event may the penalty for each separate violation or for each day  
4025 of continuing violation exceed \$5,000. All amounts collected  
4026 shall be deposited with the Chief Financial Officer to the credit  
4027 of the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares,  
4028 and Mobile Homes Trust Fund.

4029 2. If a violator fails to pay the civil penalty, the  
4030 division shall thereupon issue an order directing that such  
4031 violator cease and desist from further violation until such time

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4032 as the civil penalty is paid or may pursue enforcement of the  
4033 penalty in a court of competent jurisdiction. If a homeowners'  
4034 association fails to pay the civil penalty, the division shall  
4035 thereupon pursue enforcement in a court of competent  
4036 jurisdiction, and the order imposing the civil penalty or the  
4037 cease and desist order shall not become effective until 20 days  
4038 after the date of such order. Any action commenced by the  
4039 division shall be brought in the county in which the division has  
4040 its executive offices or in which the violation occurred.

4041 Section 71. Section 723.009, Florida Statutes, is amended  
4042 to read:

4043 723.009 Division of Florida ~~Land Sales~~, Condominiums,  
4044 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the  
4045 fees, penalties, and fines imposed pursuant to this chapter shall  
4046 be deposited into the Division of Florida ~~Land Sales~~,  
4047 Condominiums, Timeshares, and Mobile Homes Trust Fund created by  
4048 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the  
4049 Legislature pursuant to chapter 216, may be used to defray the  
4050 expenses incurred by the division in administering the provisions  
4051 of this chapter.

4052 Section 72. Paragraph (c) of subsection (2) of section  
4053 723.0611, Florida Statutes, is amended to read:

4054 723.0611 Florida Mobile Home Relocation Corporation.--

4055 (2)

4056 (c) The corporation shall, for purposes of s. 768.28, be  
4057 considered an agency of the state. Agents or employees of the  
4058 corporation, members of the board of directors of the  
4059 corporation, or representatives of the Division of Florida ~~Land~~  
4060 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be

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4061 | considered officers, employees, or agents of the state, and  
4062 | actions against them and the corporation shall be governed by s.  
4063 | 768.28.

4064 |       Section 73. Except as otherwise expressly provided in this  
4065 | act, this act shall take effect July 1, 2008.