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CHAMBER ACTION

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

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

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

5 Delete everything after the enacting clause
 6 and insert:

7
 8 Section 1. Paragraphs (d) and (j) of subsection (2) of
 9 section 20.165, Florida Statutes, are amended to read:

10 20.165 Department of Business and Professional
 11 Regulation.--There is created a Department of Business and
 12 Professional Regulation.

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

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

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



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

20 73.073 Eminent domain procedure with respect to condominium
21 common elements.--

22 (2) With respect to the exercise of eminent domain or a
23 negotiated sale for the purchase or taking of a portion of the
24 common elements of a condominium, the condemning authority shall
25 have the responsibility of contacting the condominium association
26 and acquiring the most recent rolls indicating the names of the
27 unit owners or contacting the appropriate taxing authority to
28 obtain the names of the owners of record on the tax rolls.

29 Notification shall ~~thereupon~~ be sent by certified mail, return
30 receipt requested, to the unit owners of record of the
31 condominium units by the condemning authority indicating the
32 intent to purchase or take the required property and requesting a
33 response from the unit owner. The condemning authority shall be
34 responsible for the expense of sending notification pursuant to
35 this section. Such notice shall, at a minimum, include:

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

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

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

39 (d) The appraisal value of the property.

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

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

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48 The Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
49 Mobile Homes of the Department of Business and Professional
50 Regulation may adopt, by rule, a standard form for such notice
51 and may require the notice to include any additional relevant
52 information.

53 Section 3. Subsections (2) and (3) of section 190.009,
54 Florida Statutes, are amended to read:

55 190.009 Disclosure of public financing.--

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

60 (2)~~(3)~~ The Department of Community Affairs shall keep a
61 current list of districts and their disclosures pursuant to this
62 act and shall make such studies and reports and take such actions
63 as it deems necessary.

64 Section 4. Paragraph (e) of subsection (6) of section
65 192.037, Florida Statutes, is amended to read:

66 192.037 Fee timeshare real property; taxes and assessments;
67 escrow.--

68 (6)

69 (e) On or before May 1 of each year, a statement of
70 receipts and disbursements of the escrow account must be filed
71 with the Division of Florida ~~Land Sales,~~ Condominiums,
72 Timeshares, and Mobile Homes of the Department of Business and
73 Professional Regulation, which may enforce this paragraph
74 pursuant to s. 721.26. This statement must appropriately show the
75 amount of principal and interest in such account.

76 Section 5. Paragraph (i) of subsection (8) of section
77 213.053, Florida Statutes, is amended to read:

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78 | 213.053 Confidentiality and information sharing.--

79 | (8) Notwithstanding any other provision of this section,
80 | the department may provide:

81 | (i) Information relative to chapters 212 and 326 to the
82 | Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
83 | Mobile Homes of the Department of Business and Professional
84 | Regulation in the conduct of its official duties.

85 |
86 | Disclosure of information under this subsection shall be pursuant
87 | to a written agreement between the executive director and the
88 | agency. Such agencies, governmental or nongovernmental, shall be
89 | bound by the same requirements of confidentiality as the
90 | Department of Revenue. Breach of confidentiality is a misdemeanor
91 | of the first degree, punishable as provided by s. 775.082 or s.
92 | 775.083.

93 | Section 6. Paragraph (d) of subsection (4) of section
94 | 215.20, Florida Statutes, is amended to read:

95 | 215.20 Certain income and certain trust funds to contribute
96 | to the General Revenue Fund.--

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

101 | (d) Within the Department of Business and Professional
102 | Regulation:

103 | 1. The Administrative Trust Fund.

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

105 | 3. The Cigarette Tax Collection Trust Fund.

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

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

111 6. The Professional Regulation Trust Fund.

112 7. The trust funds administered by the Division of Pari-
113 mutuel Wagering.

114
115 The enumeration of the foregoing moneys or trust funds shall not
116 prohibit the applicability ~~thereto~~ of s. 215.24 should the
117 Governor determine that for the reasons mentioned in s. 215.24
118 the money or trust funds should be exempt herefrom, as it is the
119 purpose of this law to exempt income from its force and effect
120 when, by the operation of this law, federal matching funds or
121 contributions or private grants to any trust fund would be lost
122 to the state.

123 Section 7. Subsection (2) of section 326.002, Florida
124 Statutes, is amended to read:

125 326.002 Definitions.--As used in ss. 326.001-326.006, the
126 term:

127 (2) "Division" means the Division of Florida ~~Land Sales,~~
128 Condominiums, Timeshares, and Mobile Homes of the Department of
129 Business and Professional Regulation.

130 Section 8. Paragraph (d) of subsection (2) and subsection
131 (3) of section 326.006, Florida Statutes, are amended to read:

132 326.006 Powers and duties of division.--

133 (2) The division has the power to enforce and ensure
134 compliance with the provisions of this chapter and rules adopted
135 under this chapter relating to the sale and ownership of yachts
136 and ships. In performing its duties, the division has the
137 following powers and duties:



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138 (d) Notwithstanding any remedies available to a yacht or
139 ship purchaser, if the division has reasonable cause to believe
140 that a violation of any provision of this chapter or rule adopted
141 under this chapter has occurred, the division may institute
142 enforcement proceedings in its own name against any broker or
143 salesperson or any of his or her assignees or agents, or against
144 any unlicensed person or any of his or her assignees or agents,
145 as follows:

146 1. The division may permit a person whose conduct or
147 actions are under investigation to waive formal proceedings and
148 enter into a consent proceeding whereby orders, rules, or letters
149 of censure or warning, whether formal or informal, may be entered
150 against the person.

151 2. The division may issue an order requiring the broker or
152 salesperson or any of his or her assignees or agents, or
153 requiring any unlicensed person or any of his or her assignees or
154 agents, to cease and desist from the unlawful practice and take
155 such affirmative action as in the judgment of the division will
156 carry out the purposes of this chapter.

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

160 4. The division may impose a civil penalty against a broker
161 or salesperson or any of his or her assignees or agents, or
162 against an unlicensed person or any of his or her assignees or
163 agents, for any violation of this chapter or a rule adopted under
164 this chapter. A penalty may be imposed for each day of continuing
165 violation, but in no event may the penalty for any offense exceed
166 \$10,000. All amounts collected must be deposited with the Chief
167 Financial Officer to the credit of the Division of Florida ~~Land~~

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168 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust Fund. If
169 a broker, salesperson, or unlicensed person working for a broker,
170 fails to pay the civil penalty, the division shall ~~thereupon~~
171 issue an order suspending the broker's license until such time as
172 the civil penalty is paid or may pursue enforcement of the
173 penalty in a court of competent jurisdiction. The order imposing
174 the civil penalty or the order of suspension may not become
175 effective until 20 days after the date of such order. Any action
176 commenced by the division must be brought in the county in which
177 the division has its executive offices or in the county where the
178 violation occurred.

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

182 Section 9. Subsection (18) of section 380.05, Florida
183 Statutes, is amended to read:

184 380.05 Areas of critical state concern.--

185 (18) Neither the designation of an area of critical state
186 concern nor the adoption of any regulations for such an area
187 shall in any way limit or modify the rights of any person to
188 complete any development that was ~~has been~~ authorized by
189 registration of a subdivision pursuant to former chapter 498 or
190 former chapter 478, by recordation pursuant to local subdivision
191 plat law, or by a building permit or other authorization to
192 commence development on which there has been reliance and a
193 change of position, and which registration or recordation was
194 accomplished, or which permit or authorization was issued, prior
195 to the approval under subsection (6), or the adoption under
196 subsection (8), of land development regulations for the area of
197 critical state concern. If a developer has by his or her actions



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

203 | Section 10. Subsection (20) of section 380.06, Florida
204 | Statutes, is amended to read:

205 | 380.06 Developments of regional impact.--

206 | (20) VESTED RIGHTS.--Nothing in this section shall limit or
207 | modify the rights of any person to complete any development that
208 | was ~~has been~~ authorized by registration of a subdivision pursuant
209 | to former chapter 498, by recordation pursuant to local
210 | subdivision plat law, or by a building permit or other
211 | authorization to commence development on which there has been
212 | reliance and a change of position and which registration or
213 | recordation was accomplished, or which permit or authorization
214 | was issued, prior to July 1, 1973. If a developer has, by his or
215 | her actions in reliance on prior regulations, obtained vested or
216 | other legal rights that in law would have prevented a local
217 | government from changing those regulations in a way adverse to
218 | the developer's interests, nothing in this chapter authorizes any
219 | governmental agency to abridge those rights.

220 | (a) For the purpose of determining the vesting of rights
221 | under this subsection, approval pursuant to local subdivision
222 | plat law, ordinances, or regulations of a subdivision plat by
223 | formal vote of a county or municipal governmental body having
224 | jurisdiction after August 1, 1967, and prior to July 1, 1973, is
225 | sufficient to vest all property rights for the purposes of this
226 | subsection; and no action in reliance on, or change of position
227 | concerning, such local governmental approval is required for



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228 vesting to take place. Anyone claiming vested rights under this
229 paragraph must ~~se~~ notify the department in writing by January 1,
230 1986. Such notification shall include information adequate to
231 document the rights established by this subsection. When such
232 notification requirements are met, in order for the vested rights
233 authorized pursuant to this paragraph to remain valid after June
234 30, 1990, development of the vested plan must be commenced prior
235 to that date upon the property that the state land planning
236 agency has determined to have acquired vested rights following
237 the notification or in a binding letter of interpretation. When
238 the notification requirements have not been met, the vested
239 rights authorized by this paragraph shall expire June 30, 1986,
240 unless development commenced prior to that date.

241 (b) For the purpose of this act, the conveyance of, or the
242 agreement to convey, property to the county, state, or local
243 government as a prerequisite to zoning change approval shall be
244 construed as an act of reliance to vest rights as determined
245 under this subsection, provided such zoning change is actually
246 granted by such government.

247 Section 11. Paragraph (a) of subsection (4) of section
248 380.0651, Florida Statutes, is amended to read:

249 380.0651 Statewide guidelines and standards.--

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

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



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

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

262 | c. There is common management of the developments
263 | controlling the form of physical development or disposition of
264 | parcels of the development.

265 | 2. There is a reasonable closeness in time between the
266 | completion of 80 percent or less of one development and the
267 | submission to a governmental agency of a master plan or series of
268 | plans or drawings for the other development which is indicative
269 | of a common development effort.

270 | 3. A master plan or series of plans or drawings exists
271 | covering the developments sought to be aggregated which have been
272 | submitted to a local general-purpose government, water management
273 | district, the Florida Department of Environmental Protection, or
274 | the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
275 | Mobile Homes for authorization to commence development. The
276 | existence or implementation of a utility's master utility plan
277 | required by the Public Service Commission or general-purpose
278 | local government or a master drainage plan shall not be the sole
279 | determinant of the existence of a master plan.

280 | 4. The voluntary sharing of infrastructure that is
281 | indicative of a common development effort or is designated
282 | specifically to accommodate the developments sought to be
283 | aggregated, except that which was implemented because it was
284 | required by a local general-purpose government; water management
285 | district; the Department of Environmental Protection; the
286 | Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
287 | Mobile Homes; or the Public Service Commission.

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

290 | Section 12. Paragraph (c) of subsection (4) of section
291 | 381.0065, Florida Statutes, is amended to read:

292 | 381.0065 Onsite sewage treatment and disposal systems;
293 | regulation.--

294 | (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may
295 | not construct, repair, modify, abandon, or operate an onsite
296 | sewage treatment and disposal system without first obtaining a
297 | permit approved by the department. The department may issue
298 | permits to carry out this section, but shall not make the
299 | issuance of such permits contingent upon prior approval by the
300 | Department of Environmental Protection, except that the issuance
301 | of a permit for work seaward of the coastal construction control
302 | line established under s. 161.053 shall be contingent upon
303 | receipt of any required coastal construction control line permit
304 | from the Department of Environmental Protection. A construction
305 | permit is valid for 18 months from the issuance date and may be
306 | extended by the department for one 90-day period under rules
307 | adopted by the department. A repair permit is valid for 90 days
308 | from the date of issuance. An operating permit must be obtained
309 | prior to the use of any aerobic treatment unit or if the
310 | establishment generates commercial waste. Buildings or
311 | establishments that use an aerobic treatment unit or generate
312 | commercial waste shall be inspected by the department at least
313 | annually to assure compliance with the terms of the operating
314 | permit. The operating permit for a commercial wastewater system
315 | is valid for 1 year from the date of issuance and must be renewed
316 | annually. The operating permit for an aerobic treatment unit is
317 | valid for 2 years from the date of issuance and must be renewed



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318 every 2 years. If all information pertaining to the siting,
319 location, and installation conditions or repair of an onsite
320 sewage treatment and disposal system remains the same, a
321 construction or repair permit for the onsite sewage treatment and
322 disposal system may be transferred to another person, if the
323 transferee files, within 60 days after the transfer of ownership,
324 an amended application providing all corrected information and
325 proof of ownership of the property. There is no fee associated
326 with the processing of this supplemental information. A person
327 may not contract to construct, modify, alter, repair, service,
328 abandon, or maintain any portion of an onsite sewage treatment
329 and disposal system without being registered under part III of
330 chapter 489. A property owner who personally performs
331 construction, maintenance, or repairs to a system serving his or
332 her own owner-occupied single-family residence is exempt from
333 registration requirements for performing such construction,
334 maintenance, or repairs on that residence, but is subject to all
335 permitting requirements. A municipality or political subdivision
336 of the state may not issue a building or plumbing permit for any
337 building that requires the use of an onsite sewage treatment and
338 disposal system unless the owner or builder has received a
339 construction permit for such system from the department. A
340 building or structure may not be occupied and a municipality,
341 political subdivision, or any state or federal agency may not
342 authorize occupancy until the department approves the final
343 installation of the onsite sewage treatment and disposal system.
344 A municipality or political subdivision of the state may not
345 approve any change in occupancy or tenancy of a building that
346 uses an onsite sewage treatment and disposal system until the



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347 department has reviewed the use of the system with the proposed
348 change, approved the change, and amended the operating permit.

349 (c) Notwithstanding ~~the provisions of~~ paragraphs (a) and
350 (b), for subdivisions platted of record on or before October 1,
351 1991, when a developer or other appropriate entity has previously
352 made or makes provisions, including financial assurances or other
353 commitments, acceptable to the Department of Health, that a
354 central water system will be installed by a regulated public
355 utility based on a density formula, private potable wells may be
356 used with onsite sewage treatment and disposal systems until the
357 agreed-upon densities are reached. ~~The department may consider~~
358 ~~assurances filed with the Department of Business and Professional~~
359 ~~Regulation under chapter 498 in determining the adequacy of the~~
360 ~~financial assurance required by this paragraph.~~ In a subdivision
361 regulated by this paragraph, the average daily sewage flow may
362 not exceed 2,500 gallons per acre per day. This section does not
363 affect the validity of existing prior agreements. After October
364 1, 1991, the exception provided under this paragraph is not
365 available to a developer or other appropriate entity.

366 Section 13. Subsections (8) through (12) of section 450.33,
367 Florida Statutes, are amended to read:

368 450.33 Duties of farm labor contractor.--Every farm labor
369 contractor must:

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

372 ~~(8)-(9)~~ Produce evidence to the department that each vehicle
373 he or she uses for the transportation of employees complies with
374 the requirements and specifications established in chapter 316,
375 s. 316.622, or Pub. L. No. 93-518 as amended by Pub. L. No. 97-
376 470 meeting Department of Transportation requirements or, in lieu

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377 | thereof, bears a valid inspection sticker showing that the
378 | vehicle has passed the inspection in the state in which the
379 | vehicle is registered.

380 | ~~(9)-(10)~~ Comply with all applicable statutes, rules, and
381 | regulations of the United States and of the State of Florida for
382 | the protection or benefit of labor, including, but not limited
383 | to, those providing for wages, hours, fair labor standards,
384 | social security, workers' compensation, unemployment
385 | compensation, child labor, and transportation.

386 | ~~(10)-(11)~~ Maintain accurate daily field records for each
387 | employee actually paid by the farm labor contractor reflecting
388 | the hours worked for the farm labor contractor and, if paid by
389 | unit, the number of units harvested and the amount paid per unit.

390 | ~~(11)-(12)~~ Clearly display on each vehicle used to transport
391 | migrant or seasonal farm workers a display sticker issued by the
392 | department, which states that the vehicle is authorized by the
393 | department to transport farm workers and the expiration date of
394 | the authorization.

395 | Section 14. Subsection (10) is added to section 455.203,
396 | Florida Statutes, to read:

397 | 455.203 Department; powers and duties.--The department, for
398 | the boards under its jurisdiction, shall:

399 | (10) Have authority to:

400 | (a) Close and terminate deficient license application files
401 | 2 years after the date on which the board or the department
402 | notifies the applicant of the deficiency; and

403 | (b) Approve applications for professional licenses meeting
404 | all statutory and rule requirements for licensure.

405 | Section 15. Subsection (5) of section 455.116, Florida
406 | Statutes, is amended to read:

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407 455.116 Regulation trust funds.--The following trust funds
408 shall be placed in the department:

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

411 Section 16. Subsection (1) of section 455.217, Florida
412 Statutes, is amended to read:

413 455.217 Examinations.--This section shall be read in
414 conjunction with the appropriate practice act associated with
415 each regulated profession under this chapter.

416 (1) The Division of Technology, ~~Licensure, and Testing~~ of
417 the Department of Business and Professional Regulation shall
418 provide, contract, or approve services for the development,
419 preparation, administration, scoring, score reporting, and
420 evaluation of all examinations. The division shall seek the
421 advice of the appropriate board in providing such services.

422 (a) The department, acting in conjunction with the Division
423 of Technology, ~~Licensure, and Testing~~ and the Division of Real
424 Estate, as appropriate, shall ensure that examinations adequately
425 and reliably measure an applicant's ability to practice the
426 profession regulated by the department. After an examination
427 developed or approved by the department has been administered,
428 the board or department may reject any question which does not
429 reliably measure the general areas of competency specified in the
430 rules of the board or department, when there is no board. The
431 department shall use professional testing services for the
432 development, preparation, and evaluation of examinations, when
433 such services are available and approved by the board.

434 (b) For each examination developed by the department or
435 contracted vendor, to the extent not otherwise specified by
436 statute, the board or the department when there is no board,



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437 shall by rule specify the general areas of competency to be
438 covered by the examination, the relative weight to be assigned in
439 grading each area tested, the score necessary to achieve a
440 passing grade, and the fees, where applicable, to cover the
441 actual cost for any purchase, development, and administration of
442 the required examination. However, statutory fee caps in each
443 practice act shall apply. This subsection does not apply to
444 national examinations approved and administered pursuant to
445 paragraph (d).

446 (c) If a practical examination is deemed to be necessary,
447 rules shall specify the criteria by which examiners are to be
448 selected, the grading criteria to be used by the examiner, the
449 relative weight to be assigned in grading each criterion, and the
450 score necessary to achieve a passing grade. When a mandatory
451 standardization exercise for a practical examination is required
452 by law, the board may conduct such exercise. Therefore, board
453 members may serve as examiners at a practical examination with
454 the consent of the board.

455 (d) A board, or the department when there is no board, may
456 approve by rule the use of any national examination which the
457 department has certified as meeting requirements of national
458 examinations and generally accepted testing standards pursuant to
459 department rules. Providers of examinations, which may be either
460 profit or nonprofit entities, seeking certification by the
461 department shall pay the actual costs incurred by the department
462 in making a determination regarding the certification. The
463 department shall use any national examination which is available,
464 certified by the department, and approved by the board. The name
465 and number of a candidate may be provided to a national
466 contractor for the limited purpose of preparing the grade tape

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467 and information to be returned to the board or department or, to
468 the extent otherwise specified by rule, the candidate may apply
469 directly to the vendor of the national examination. The
470 department may delegate to the board the duty to provide and
471 administer the examination. Any national examination approved by
472 a board, or the department when there is no board, prior to
473 October 1, 1997, is deemed certified under this paragraph. Any
474 licensing or certification examination that is not developed or
475 administered by the department in-house or provided as a national
476 examination shall be competitively bid.

477 (e) The department shall adopt rules regarding the security
478 and monitoring of examinations. In order to maintain the security
479 of examinations, the department may employ the procedures set
480 forth in s. 455.228 to seek fines and injunctive relief against
481 an examinee who violates the provisions of s. 455.2175 or the
482 rules adopted pursuant to this paragraph. The department, or any
483 agent thereof, may, for the purposes of investigation, confiscate
484 any written, photographic, or recording material or device in the
485 possession of the examinee at the examination site which the
486 department deems necessary to enforce such provisions or rules.

487 (f) If the professional board with jurisdiction over an
488 examination concurs, the department may, for a fee, share with
489 any other state's licensing authority an examination developed by
490 or for the department unless prohibited by a contract entered
491 into by the department for development or purchase of the
492 examination. The department, with the concurrence of the
493 appropriate board, shall establish guidelines that ensure
494 security of a shared exam and shall require that any other
495 state's licensing authority comply with those guidelines. Those
496 guidelines shall be approved by the appropriate professional



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497 board. All fees paid by the user shall be applied to the
498 department's examination and development program for professions
499 regulated by this chapter. All fees paid by the user for
500 professions not regulated by this chapter shall be applied to
501 offset the fees for the development and administration of that
502 profession's examination. If both a written and a practical
503 examination are given, an applicant shall be required to retake
504 only the portion of the examination for which he or she failed to
505 achieve a passing grade, if he or she successfully passes that
506 portion within a reasonable time of his or her passing the other
507 portion.

508 Section 17. Subsection (6) is added to section 455.2273,
509 Florida Statutes, to read:

510 455.2273 Disciplinary guidelines.--

511 (6) Notwithstanding s. 455.017, this section applies to
512 disciplinary guidelines adopted by all boards or divisions within
513 the department.

514 Section 18. Paragraph (b) of subsection (2) of section
515 475.17, Florida Statutes, is amended to read:

516 475.17 Qualifications for practice.--

517 (2)

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

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



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

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

534
535 ~~This paragraph does not apply to a person employed as a real~~
536 ~~estate investigator by the Division of Real Estate, provided the~~
537 ~~person has been employed as a real estate investigator for at~~
538 ~~least 24 months. The person must be currently employed as a real~~
539 ~~estate investigator to sit for the real estate broker's~~
540 ~~examination and have held a valid and current sales associate's~~
541 ~~license for at least 12 months.~~

542 Section 19. Subsection (9) of section 475.451, Florida
543 Statutes, is amended to read:

544 475.451 Schools teaching real estate practice.--

545 ~~(9) (a) Each school permitholder of a proprietary real~~
546 ~~estate school, each chief administrative person of such an~~
547 ~~institution, or each course sponsor shall deliver to the~~
548 ~~department, in a format acceptable to the department, a copy of~~
549 ~~the classroom course roster of courses that require satisfactory~~
550 ~~completion of an examination no later than 30 days beyond the end~~
551 ~~of the calendar month in which the course was completed.~~

552 ~~(b) The course roster shall consist of the institution or~~
553 ~~school name and permit number, if applicable, the instructor's~~
554 ~~name and permit number, if applicable, course title, beginning~~
555 ~~and ending dates of the course, number of course hours, course~~

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556 ~~location, if applicable, each student's full name and license~~
557 ~~number, if applicable, each student's mailing address, and the~~
558 ~~numerical grade each student achieved. The course roster shall~~
559 ~~also include the signature of the school permitholder, the chief~~
560 ~~administrative person, or the course sponsor.~~

561 Section 20. Section 475.455, Florida Statutes, is amended
562 to read:

563 475.455 Exchange of disciplinary information.--The
564 commission shall inform the Division of Florida ~~Land Sales,~~
565 Condominiums, Timeshares, and Mobile Homes of the Department of
566 Business and Professional Regulation of any disciplinary action
567 the commission has taken against any of its licensees. The
568 division shall inform the commission of any disciplinary action
569 the division has taken against any broker or sales associate
570 registered with the division.

571 Section 21. Paragraph (d) is added to subsection (2) of
572 section 477.019, Florida Statutes, and subsection (4) of that
573 section is amended, to read:

574 477.019 Cosmetologists; qualifications; licensure;
575 supervised practice; license renewal; endorsement; continuing
576 education.--

577 (2) An applicant shall be eligible for licensure by
578 examination to practice cosmetology if the applicant:

579 (d) Has submitted for examination approval in the last 100
580 hours of training by a pregraduate of a licensed cosmetology
581 school or a program within the public school system, if such
582 school or program is certified by the Department of Education and
583 the applicant pays the application fee as required in paragraph
584 (b). Upon approval and the completion of all required training,
585 the applicant may schedule an examination. An applicant must take

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586 the examination within 6 months from the date on which he or she
587 receives approval. If the applicant fails to take the exam within
588 the 6-month period, he or she must reapply for examination
589 approval. The board shall establish by rule procedures for the
590 pregraduate application process.

591 (4) If an applicant passes all parts of the exam for
592 licensure as a cosmetologist, he or she may practice in the time
593 between passing the examination and receiving a physical copy of
594 his or her license if he or she practices under the supervision
595 of a licensed cosmetologist in a licensed salon. An applicant who
596 fails any part of the examination may not practice as a
597 cosmetologist and may immediately apply for reexamination.

598 ~~Following the completion of the first licensing examination and~~
599 ~~pending the results of that examination and issuance of a license~~
600 ~~to practice cosmetology, graduates of licensed cosmetology~~
601 ~~schools or cosmetology programs offered in public school systems,~~
602 ~~which schools or programs are certified by the Department of~~
603 ~~Education, are eligible to practice cosmetology, provided such~~
604 ~~graduates practice under the supervision of a licensed~~
605 ~~cosmetologist in a licensed cosmetology salon. A graduate who~~
606 ~~fails the first examination may continue to practice under the~~
607 ~~supervision of a licensed cosmetologist in a licensed cosmetology~~
608 ~~salon if the graduate applies for the next available examination~~
609 ~~and until the graduate receives the results of that examination.~~
610 ~~No graduate may continue to practice under this subsection if the~~
611 ~~graduate fails the examination twice.~~

612 Section 22. Subsection (6) of section 489.105, Florida
613 Statutes, is amended to read:

614 489.105 Definitions.--As used in this part:

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615 (6) "Contracting" means, except as exempted in this part,
616 engaging in business as a contractor and includes, but is not
617 limited to, performance of any of the acts as set forth in
618 subsection (3) which define types of contractors. The attempted
619 sale of contracting services and the negotiation or bid for a
620 contract on these services also constitutes contracting. If the
621 services offered require licensure or agent qualification, the
622 offering, negotiation for a bid, or attempted sale of these
623 services requires the corresponding licensure. However, the term
624 "contracting" shall not extend to an individual, partnership,
625 corporation, trust, or other legal entity that offers to sell or
626 sells completed residences on property on which the individual or
627 business entity has any legal or equitable interest, or to the
628 individual or business entity selling or offering to sell
629 manufactured or factory-built buildings that will be completed
630 on-site on property on which either party to a contract has any
631 legal or equitable interest, if the services of a qualified
632 contractor certified or registered pursuant to the requirements
633 of this chapter have been or will be retained for the purpose of
634 constructing or completing such residences.

635 Section 23. Section 489.511, Florida Statutes, is amended
636 to read:

637 489.511 Certification; application; examinations;
638 endorsement.--

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

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



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

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

649 ~~1.2. Be Is~~ Be of good moral character;

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

652 3. Meet Meets eligibility requirements according to one of
653 the following criteria:

654 a. Have Has, within the 6 years immediately preceding the
655 filing of the application, at least 3 years' proven management
656 experience in the trade or education equivalent thereto, or a
657 combination thereof, but not more than one-half of such
658 experience may be educational equivalent;

659 b. Have Has, within the 8 years immediately preceding the
660 filing of the application, at least 4 years' experience as a
661 supervisor or contractor in the trade for which he or she is
662 making application;

663 c. Have Has, within the 12 years immediately preceding the
664 filing of the application, at least 6 years of comprehensive
665 training, technical education, or supervisory experience
666 associated with an electrical or alarm system contracting
667 business, or at least 6 years of technical experience in
668 electrical or alarm system work with the Armed Forces or a
669 governmental entity;

670 d. Have Has, within the 12 years immediately preceding the
671 filing of the application, been licensed for 3 years as a
672 professional engineer who is qualified by education, training, or
673 experience to practice electrical engineering; or



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674 e. Have ~~Has~~ any combination of qualifications under sub-
675 subparagraphs a.-c. totaling 6 years of experience.

676 (c) ~~(b)~~ For purposes of this subsection, "supervisor" means
677 a person having the experience gained while having the general
678 duty of overseeing the technical duties of the trade, if provided
679 ~~that~~ such experience is gained by a person who is able to perform
680 the technical duties of the trade without supervision.

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

685 (2) ~~(3)~~ The board may determine by rule the number of times
686 per year the applicant may take the examination and after three
687 unsuccessful attempts may ~~On or after October 1, 1998, every~~
688 ~~applicant who is qualified shall be allowed to take the~~
689 ~~examination three times, notwithstanding the number of times the~~
690 ~~applicant has previously failed the examination. If an applicant~~
691 ~~fails the examination three times after October 1, 1998, the~~
692 ~~board shall require the applicant to complete additional college-~~
693 ~~level or technical education courses in the areas of deficiency,~~
694 ~~as determined by the board, as a condition of future eligibility~~
695 ~~to take the examination. The applicant must also submit a new~~
696 ~~application that meets all certification requirements at the time~~
697 ~~of its submission and must pay all appropriate fees.~~

698 (3) ~~(4)~~ (a) "Good moral character" means a personal history
699 of honesty, fairness, and respect for the rights of others and
700 for laws of this state and nation.

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



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704 | 1. There is a substantial connection between the lack of
705 | good moral character of the individual and the professional
706 | responsibilities of a certified contractor; and

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

709 | (c) When an individual is found to be unqualified for
710 | certification ~~examination~~ because of a lack of good moral
711 | character, the board shall furnish such individual a statement
712 | containing the findings of the board, a complete record of the
713 | evidence upon which the determination was based, and a notice of
714 | the rights of the individual to a rehearing and appeal.

715 | (4) ~~(5)~~ The board shall, by rule, designate those types of
716 | specialty electrical or alarm system contractors who may be
717 | certified under this part. The limit of the scope of work and
718 | responsibility of a certified specialty contractor shall be
719 | established by board rule. A certified specialty contractor
720 | category exists as an optional statewide licensing category.
721 | Qualification for certification in a specialty category created
722 | by rule shall be the same as set forth in paragraph (1) (b)
723 | ~~(2) (a)~~. The existence of a specialty category created by rule
724 | does not itself create any licensing requirement; however,
725 | neither does its optional nature remove any licensure requirement
726 | established elsewhere in this part.

727 | (5) ~~(6)~~ The board shall certify as qualified for
728 | certification by endorsement any individual applying for
729 | certification who:

730 | (a) Meets the requirements for certification as set forth
731 | in this section; has passed a national, regional, state, or
732 | United States territorial licensing examination that is
733 | substantially equivalent to the examination required by this

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734 part; and has satisfied the requirements set forth in s. 489.521;
735 or

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

741 ~~(6)-(7)~~ Upon the issuance of a certificate, any previously
742 issued registered licenses for the classification in which the
743 certification is issued are rendered void.

744 Section 24. Paragraph (b) of subsection (1) of section
745 489.515, Florida Statutes, is amended to read:

746 489.515 Issuance of certificates; registrations.--

747 (1)

748 (b) The board shall certify as qualified for certification
749 any person who satisfies the requirements of s. 489.511, ~~who~~
750 ~~successfully passes the certification examination administered by~~
751 ~~the department, achieving a passing grade as established by board~~
752 ~~rule,~~ and who submits satisfactory evidence that he or she has
753 obtained both workers' compensation insurance or an acceptable
754 exemption certificate issued by the department and public
755 liability and property damage insurance for the health, safety,
756 and welfare of the public in amounts determined by rule of the
757 board, and furnishes evidence of financial responsibility,
758 credit, and business reputation of either himself or herself or
759 the business organization he or she desires to qualify.

760 Section 25. Section 494.008, Florida Statutes, is amended
761 to read:

762 494.008 Mortgages offered by land developers ~~licensed~~
763 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~



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764 requirements; prohibitions.--No mortgage loan which has a face
765 amount of \$35,000 or less and is secured by vacant land
766 ~~registered under the Florida Uniform Land Sales Practices Law,~~
767 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial
768 institution, by any person unless all of the following
769 requirements are met:

770 (1) Each mortgage securing a note or other obligation sold
771 or offered for sale shall be eligible for a recordation as a
772 first mortgage.

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

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

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

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

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

797 (7) Willful failure to comply with any of the above
798 provisions shall subject the person to the penalties of s.
799 494.05.

800 Section 26. Section 498.009, Florida Statutes, is
801 transferred and renumbered as section 718.50152, Florida
802 Statutes.

803 Section 27. Section 498.011, Florida Statutes, is
804 transferred, renumbered as section 718.50153, Florida Statutes,
805 and amended to read:

806 718.50153 ~~498.011~~ Payment of per diem, mileage, and other
807 expenses to division employees.--The amount of per diem and
808 mileage and expense money paid to employees shall be as provided
809 in s. 112.061, except that the division shall establish by rule
810 the standards for reimbursement of actual verified expenses
811 incurred in connection with an on-site review ~~inspection~~ or
812 investigation ~~of subdivided lands~~.

813 Section 28. Section 498.013, Florida Statutes, is
814 transferred and renumbered as section 718.50154, Florida
815 Statutes.

816 Section 29. Section 498.057, Florida Statutes, is
817 transferred, renumbered as section 718.50155, Florida Statutes,
818 and amended, to read:

819 718.50155 ~~498.057~~ Service of process.--

820 (1) In addition to the methods of service provided for in
821 the Florida Rules of Civil Procedure and the Florida Statutes,
822 service may be made and ~~by delivering a copy of the process to~~



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823 ~~the director of the division, which~~ shall be binding upon the
824 defendant or respondent if:

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

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

832 (2) If any person, including any nonresident of this state,
833 allegedly engages in conduct prohibited by this chapter, or any
834 rule or order of the division, and has not filed a consent to
835 service of process, and personal jurisdiction over him or her
836 cannot otherwise be obtained in this state, the director shall be
837 authorized to receive service of process in any noncriminal
838 proceeding against that person or his or her successor which
839 grows out of the conduct and which is brought by the division
840 under this chapter or any rule or order of the division. The
841 process shall have the same force and validity as if personally
842 served. Notice shall be given as provided in subsection (1).

843 Section 30. Sections 498.001, 498.003, 498.005, 498.007,
844 498.017, 498.019, 498.021, 498.022, 498.023, 498.024, 498.025,
845 498.027, 498.028, 498.029, 498.031, 498.033, 498.035, 498.037,
846 498.039, 498.041, 498.047, 498.049, 498.051, 498.053, 498.059,
847 498.061, and 498.063, Florida Statutes, are repealed.

848 Section 31. Section 509.512, Florida Statutes, is amended
849 to read:

850 509.512 Timeshare plan developer and exchange company
851 exemption.--Sections 509.501-509.511 do not apply to a developer
852 of a timeshare plan or an exchange company approved by the

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853 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
854 Mobile Homes pursuant to chapter 721, but only to the extent that
855 the developer or exchange company engages in conduct regulated
856 under chapter 721.

857 Section 32. Subsection (2) of section 517.301, Florida
858 Statutes, is amended to read:

859 517.301 Fraudulent transactions; falsification or
860 concealment of facts.--

861 (2) For purposes of ss. 517.311 and 517.312 and this
862 section, the term "investment" means any commitment of money or
863 property principally induced by a representation that an economic
864 benefit may be derived from such commitment, except that the term
865 "~~investment~~" does not include a commitment of money or property
866 for:

867 (a) The purchase of a business opportunity, business
868 enterprise, or real property through a person licensed under
869 chapter 475 or registered under former chapter 498; or

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

873 1. There are no specific representations or guarantees made
874 by the offeror or seller as to the economic benefit to be derived
875 from the purchase;

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

879 3. The seller has offered the purchaser a full refund
880 policy in writing, exercisable by the purchaser within 10 days of
881 the date of delivery of such tangible personal property, except
882 that the amount of such refund may not ~~in no event shall~~ exceed

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883 the bid price in effect at the time the property is returned to
884 the seller. If the applicable sellers' market is closed at the
885 time the property is returned to the seller for a refund, the
886 amount of such refund shall be based on the bid price for such
887 property at the next opening of such market.

888 Section 33. Subsection (4) of section 548.0065, Florida
889 Statutes, is amended to read:

890 548.0065 Amateur matches; sanctioning and supervision;
891 health and safety standards; compliance checks; continuation,
892 suspension, and revocation of sanctioning approval.--

893 (4) Any member of the commission or the executive director
894 of the commission may suspend the approval of an amateur
895 sanctioning organization for failure to supervise amateur matches
896 or to enforce the approved health and safety standards required
897 under this chapter, provided that the suspension complies with
898 the procedures for summary suspensions in s. 120.60(6). At any
899 amateur boxing, ~~or~~ kickboxing, or mixed martial arts contest, any
900 member of the commission or a representative of the commission
901 may immediately suspend one or more matches in an event whenever
902 it appears that the match or matches violate the health and
903 safety standards established by rule as required by this chapter.
904 A law enforcement officer may assist any member of the commission
905 or a representative of the commission to enforce an order to stop
906 a contest if called upon to do so by a member of the commission
907 or a representative of the commission.

908 Section 34. Subsections (2), (3), and (4) of section
909 548.008, Florida Statutes, are amended to read:

910 548.008 Prohibited competitions.--

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



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913 ~~(2)(3)~~ No professional match may be held in this state
914 unless it meets the requirements for holding the match as
915 provided in this chapter and the rules adopted by the commission.

916 ~~(3)(4)~~(a) Any person participating in a match prohibited
917 under this section, knowing the match to be prohibited, commits a
918 misdemeanor of the second degree, punishable as provided in s.
919 775.082 or s. 775.083.

920 (b) Any person holding, promoting, or sponsoring a match
921 prohibited under this section commits a felony of the third
922 degree, punishable as provided in s. 775.082, s. 775.083, or s.
923 775.084.

924 Section 35. Subsection (1) of section 548.041, Florida
925 Statutes, is amended to read:

926 548.041 Age, condition, and suspension of participants.--

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

930 (a) Is under the age of 18;

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

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

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

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

941 Section 36. Subsection (1) of section 559.935, Florida
942 Statutes, is amended to read:



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943 | 559.935 Exemptions.--

944 | (1) This part does not apply to:

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

947 | (b) Any direct common carrier of passengers or property
948 | regulated by an agency of the Federal Government or employees of
949 | such carrier when engaged solely in the transportation business
950 | of the carrier as identified in the carrier's certificate;

951 | (c) An intrastate common carrier of passengers or property
952 | selling only transportation as defined in the applicable state or
953 | local registration or certification, or employees of such carrier
954 | when engaged solely in the transportation business of the
955 | carrier;

956 | (d) Hotels, motels, or other places of public accommodation
957 | selling public accommodations, or employees of such hotels,
958 | motels, or other places of public accommodation, when engaged
959 | solely in making arrangements for lodging, accommodations, or
960 | sightseeing tours within the state, or taking reservations for
961 | the traveler with times, dates, locations, and accommodations
962 | certain at the time the reservations are made, provided that
963 | hotels and motels registered with the Department of Business and
964 | Professional Regulation pursuant to chapter 509 are excluded from
965 | the provisions of this chapter;

966 | (e) Persons involved solely in the rental, leasing, or sale
967 | of residential property;

968 | (f) Persons involved solely in the rental, leasing, or sale
969 | of transportation vehicles;

970 | (g) Persons who make travel arrangements for themselves;
971 | for their employees or agents; for distributors, franchisees, or
972 | dealers of the persons' products or services; for entities which

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973 are financially related to the persons; or for the employees or
974 agents of the distributor, franchisee, or dealer or financially
975 related entity;

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

981 (i) Persons or entities engaged solely in offering diving
982 services, including classes and sales or rentals of equipment,
983 when engaged in making any prearranged travel-related or tourist-
984 related services in conjunction with a primarily dive-related
985 event.

986 Section 37. Subsection (17) of section 718.103, Florida
987 Statutes, is amended to read:

988 718.103 Definitions.--As used in this chapter, the term:

989 (17) "Division" means the Division of Florida ~~Land Sales~~,
990 Condominiums, Timeshares, and Mobile Homes of the Department of
991 Business and Professional Regulation.

992 Section 38. Paragraph (c) of subsection (4) of section
993 718.105, Florida Statutes, is amended to read:

994 718.105 Recording of declaration.--

995 (4)

996 (c) If the sum of money held by the clerk has not been paid
997 to the developer or association as provided in paragraph (b)
998 within ~~by~~ 3 years after the date the declaration was originally
999 recorded, the clerk ~~in his or her discretion~~ may notify, in
1000 writing, the registered agent of the association that the sum is
1001 still available and the purpose for which it was deposited. If
1002 the association does not record the certificate within 90 days

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1003 after the clerk has given the notice, the clerk may disburse the
1004 money to the developer. If the developer cannot be located, the
1005 clerk shall disburse the money to the Division of Florida ~~Land~~
1006 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes for deposit in
1007 the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
1008 Mobile Homes Trust Fund.

1009 Section 39. Subsection (4) of section 718.1255, Florida
1010 Statutes, is amended to read:

1011 718.1255 Alternative dispute resolution; voluntary
1012 mediation; mandatory nonbinding arbitration; legislative
1013 findings.--

1014 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
1015 DISPUTES.--The Division of Florida ~~Land Sales~~, Condominiums,
1016 Timeshares, and Mobile Homes of the Department of Business and
1017 Professional Regulation shall employ full-time attorneys to act
1018 as arbitrators to conduct the arbitration hearings provided by
1019 this chapter. The division may also certify attorneys who are not
1020 employed by the division to act as arbitrators to conduct the
1021 arbitration hearings provided by this section. No person may be
1022 employed by the department as a full-time arbitrator unless he or
1023 she is a member in good standing of The Florida Bar. The
1024 department shall adopt ~~promulgate~~ rules of procedure to govern
1025 such arbitration hearings including mediation incident thereto.
1026 The decision of an arbitrator shall be final; however, ~~such~~ a
1027 decision shall not be deemed final agency action. Nothing in this
1028 provision shall be construed to foreclose parties from proceeding
1029 in a trial de novo unless the parties have agreed that the
1030 arbitration is binding. If ~~such~~ judicial proceedings are
1031 initiated, the final decision of the arbitrator shall be
1032 admissible in evidence in the trial de novo.



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1033 (a) Prior to the institution of court litigation, a party
1034 to a dispute shall petition the division for nonbinding
1035 arbitration. The petition must be accompanied by a filing fee in
1036 the amount of \$50. Filing fees collected under this section must
1037 be used to defray the expenses of the alternative dispute
1038 resolution program.

1039 (b) The petition must recite, and have attached thereto,
1040 supporting proof that the petitioner gave the respondents:

1041 1. Advance written notice of the specific nature of the
1042 dispute;

1043 2. A demand for relief, and a reasonable opportunity to
1044 comply or to provide the relief; and

1045 3. Notice of the intention to file an arbitration petition
1046 or other legal action in the absence of a resolution of the
1047 dispute.

1048
1049 Failure to include the allegations or proof of compliance with
1050 these prerequisites requires dismissal of the petition without
1051 prejudice.

1052 (c) Upon receipt, the petition shall be promptly reviewed
1053 by the division to determine the existence of a dispute and
1054 compliance with the requirements of paragraphs (a) and (b). If
1055 emergency relief is required and is not available through
1056 arbitration, a motion to stay the arbitration may be filed. The
1057 motion must be accompanied by a verified petition alleging facts
1058 that, if proven, would support entry of a temporary injunction,
1059 and if an appropriate motion and supporting papers are filed, the
1060 division may abate the arbitration pending a court hearing and
1061 disposition of a motion for temporary injunction.



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1062 (d) Upon determination by the division that a dispute
1063 exists and that the petition substantially meets the requirements
1064 of paragraphs (a) and (b) and any other applicable rules, a copy
1065 of the petition shall ~~forthwith~~ be served by the division upon
1066 all respondents.

1067 (e) ~~Either~~ Before or after the filing of the respondents'
1068 answer to the petition, any party may request that the arbitrator
1069 refer the case to mediation under this section and any rules
1070 adopted by the division. Upon receipt of a request for mediation,
1071 the division shall promptly contact the parties to determine if
1072 there is agreement that mediation would be appropriate. If all
1073 parties agree, the dispute must be referred to mediation.
1074 Notwithstanding a lack of an agreement by all parties, the
1075 arbitrator may refer a dispute to mediation at any time.

1076 (f) Upon referral of a case to mediation, the parties must
1077 select a mutually acceptable mediator. To assist in the
1078 selection, the arbitrator shall provide the parties with a list
1079 of both volunteer and paid mediators that have been certified by
1080 the division under s. 718.501. If the parties are unable to agree
1081 on a mediator within the time allowed by the arbitrator, the
1082 arbitrator shall appoint a mediator from the list of certified
1083 mediators. If a case is referred to mediation, the parties shall
1084 attend a mediation conference, as scheduled by the parties and
1085 the mediator. If any party fails to attend a duly noticed
1086 mediation conference, without the permission or approval of the
1087 arbitrator or mediator, the arbitrator must impose sanctions
1088 against the party, including the striking of any pleadings filed,
1089 the entry of an order of dismissal or default if appropriate, and
1090 the award of costs and attorneys' fees incurred by the other
1091 parties. Unless otherwise agreed to by the parties or as provided



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1092 | by order of the arbitrator, a party is deemed to have appeared at
1093 | a mediation conference by the physical presence of the party or
1094 | its representative having full authority to settle without
1095 | further consultation, provided that an association may comply by
1096 | having one or more representatives present with full authority to
1097 | negotiate a settlement and recommend that the board of
1098 | administration ratify and approve such a settlement within 5 days
1099 | from the date of the mediation conference. The parties shall
1100 | share equally the expense of mediation, unless they agree
1101 | otherwise.

1102 | (g) The purpose of mediation as provided for by this
1103 | section is to present the parties with an opportunity to resolve
1104 | the underlying dispute in good faith, and with a minimum
1105 | expenditure of time and resources.

1106 | (h) Mediation proceedings must generally be conducted in
1107 | accordance with the Florida Rules of Civil Procedure, and these
1108 | proceedings are privileged and confidential to the same extent as
1109 | court-ordered mediation. Persons who are not parties to the
1110 | dispute are not allowed to attend the mediation conference
1111 | without the consent of all parties, with the exception of counsel
1112 | for the parties and corporate representatives designated to
1113 | appear for a party. If the mediator declares an impasse after a
1114 | mediation conference has been held, the arbitration proceeding
1115 | terminates, unless all parties agree in writing to continue the
1116 | arbitration proceeding, in which case the arbitrator's decision
1117 | shall be ~~either~~ binding or nonbinding, as agreed upon by the
1118 | parties; in the arbitration proceeding, the arbitrator shall not
1119 | consider any evidence relating to the unsuccessful mediation
1120 | except in a proceeding to impose sanctions for failure to appear
1121 | at the mediation conference. If the parties do not agree to



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1122 continue arbitration, the arbitrator shall enter an order of
1123 dismissal, and either party may institute a suit in a court of
1124 competent jurisdiction. The parties may seek to recover any costs
1125 and attorneys' fees incurred in connection with arbitration and
1126 mediation proceedings under this section as part of the costs and
1127 fees that may be recovered by the prevailing party in any
1128 subsequent litigation.

1129 (i) Arbitration shall be conducted according to rules
1130 adopted ~~promulgated~~ by the division. The filing of a petition for
1131 arbitration shall toll the applicable statute of limitations.

1132 (j) At the request of any party to the arbitration, the
1133 ~~such~~ arbitrator shall issue subpoenas for the attendance of
1134 witnesses and the production of books, records, documents, and
1135 other evidence and any party on whose behalf a subpoena is issued
1136 may apply to the court for orders compelling such attendance and
1137 production. Subpoenas shall be served and shall be enforceable in
1138 the manner provided by the Florida Rules of Civil Procedure.
1139 Discovery may, in the discretion of the arbitrator, be permitted
1140 in the manner provided by the Florida Rules of Civil Procedure.
1141 Rules adopted by the division may authorize any reasonable
1142 sanctions except contempt for a violation of the arbitration
1143 procedural rules of the division or for the failure of a party to
1144 comply with a reasonable nonfinal order issued by an arbitrator
1145 which is not under judicial review.

1146 (k) The arbitration decision shall be presented to the
1147 parties in writing. An arbitration decision is final in those
1148 disputes in which the parties have agreed to be bound. An
1149 arbitration decision is also final if a complaint for a trial de
1150 novo is not filed in a court of competent jurisdiction in which
1151 the condominium is located within 30 days. The right to file for



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1152 a trial de novo entitles the parties to file a complaint in the
1153 appropriate trial court for a judicial resolution of the dispute.
1154 The prevailing party in an arbitration proceeding shall be
1155 awarded the costs of the arbitration and reasonable attorney's
1156 fees in an amount determined by the arbitrator. Such an award
1157 shall include the costs and reasonable attorney's fees incurred
1158 in the arbitration proceeding as well as the costs and reasonable
1159 attorney's fees incurred in preparing for and attending any
1160 scheduled mediation.

1161 (l) The party who files a complaint for a trial de novo
1162 shall be assessed the other party's arbitration costs, court
1163 costs, and other reasonable costs, including attorney's fees,
1164 investigation expenses, and expenses for expert or other
1165 testimony or evidence incurred after the arbitration hearing if
1166 the judgment upon the trial de novo is not more favorable than
1167 the arbitration decision. If the judgment is more favorable, the
1168 party who filed a complaint for trial de novo shall be awarded
1169 reasonable court costs and attorney's fees.

1170 (m) Any party to an arbitration proceeding may enforce an
1171 arbitration award by filing a petition in a court of competent
1172 jurisdiction in which the condominium is located. A petition may
1173 not be granted unless the time for appeal by the filing of a
1174 complaint for trial de novo has expired. If a complaint for a
1175 trial de novo has been filed, a petition may not be granted with
1176 respect to an arbitration award that has been stayed. If the
1177 petition for enforcement is granted, the petitioner shall recover
1178 reasonable attorney's fees and costs incurred in enforcing the
1179 arbitration award. A mediation settlement may also be enforced
1180 through the county or circuit court, as applicable, and any costs
1181 and fees incurred in the enforcement of a settlement agreement

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1182 reached at mediation must be awarded to the prevailing party in
1183 any enforcement action.

1184 Section 40. Section 718.501, Florida Statutes, is amended
1185 to read:

1186 718.501 Powers and duties of Division of Florida ~~Land~~
1187 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes.--

1188 (1) The Division of Florida ~~Land Sales,~~ Condominiums,
1189 Timeshares, and Mobile Homes of the Department of Business and
1190 Professional Regulation, referred to as the "division" in this
1191 part, ~~in addition to other powers and duties prescribed by~~
1192 ~~chapter 498,~~ has the power to enforce and ensure compliance with
1193 the provisions of this chapter and rules ~~promulgated pursuant~~
1194 ~~hereto~~ relating to the development, construction, sale, lease,
1195 ownership, operation, and management of residential condominium
1196 units. In performing its duties, the division has the following
1197 powers and duties:

1198 (a)1. The division may make necessary public or private
1199 investigations within or outside this state to determine whether
1200 any person has violated this chapter or any rule or order
1201 hereunder, to aid in the enforcement of this chapter, or to aid
1202 in the adoption of rules or forms hereunder.

1203 2. The division may submit any official written report,
1204 worksheet, or other related paper, or a duly certified copy
1205 thereof, compiled, prepared, drafted, or otherwise made by and
1206 duly authenticated by a financial examiner or analyst to be
1207 admitted as competent evidence in any hearing in which the
1208 financial examiner or analyst is available for cross-examination
1209 and attests under oath that such documents were prepared as a
1210 result of an examination or inspection conducted pursuant to this
1211 chapter.



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1212 (b) The division may require or permit any person to file a
1213 statement in writing, under oath or otherwise, as the division
1214 determines, as to the facts and circumstances concerning a matter
1215 to be investigated.

1216 (c) For the purpose of any investigation under this
1217 chapter, the division director or any officer or employee
1218 designated by the division director may administer oaths or
1219 affirmations, subpoena witnesses and compel their attendance,
1220 take evidence, and require the production of any matter which is
1221 relevant to the investigation, including the existence,
1222 description, nature, custody, condition, and location of any
1223 books, documents, or other tangible things and the identity and
1224 location of persons having knowledge of relevant facts or any
1225 other matter reasonably calculated to lead to the discovery of
1226 material evidence. Upon the failure by a person to obey a
1227 subpoena or to answer questions propounded by the investigating
1228 officer and upon reasonable notice to all persons affected
1229 thereby, the division may apply to the circuit court for an order
1230 compelling compliance.

1231 (d) Notwithstanding any remedies available to unit owners
1232 and associations, if the division has reasonable cause to believe
1233 that a violation of any provision of this chapter or related rule
1234 ~~promulgated pursuant hereto~~ has occurred, the division may
1235 institute enforcement proceedings in its own name against any
1236 developer, association, officer, or member of the board of
1237 administration, or its assignees or agents, as follows:

1238 1. The division may permit a person whose conduct or
1239 actions may be under investigation to waive formal proceedings
1240 and enter into a consent proceeding whereby orders, rules, or

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1241 letters of censure or warning, whether formal or informal, may be
1242 entered against the person.

1243 2. The division may issue an order requiring the developer,
1244 association, officer, or member of the board of administration,
1245 or its assignees or agents, to cease and desist from the unlawful
1246 practice and take such affirmative action as in the judgment of
1247 the division will carry out the purposes of this chapter. ~~Such~~
1248 ~~affirmative action may include, but is not limited to, an order~~
1249 ~~requiring a developer to pay moneys determined to be owed to a~~
1250 ~~condominium association. If the division finds that a developer,~~
1251 ~~association, officer, or member of the board of administration,~~
1252 ~~or its assignees or agents, is violating or is about to violate~~
1253 ~~any provision of this chapter, any rule adopted or order issued~~
1254 ~~by the division, or any written agreement entered into with the~~
1255 ~~division, and presents an immediate danger to the public~~
1256 ~~requiring an immediate final order, it may issue an emergency~~
1257 ~~cease and desist order reciting with particularity the facts~~
1258 ~~underlying such findings. The emergency cease and desist order is~~
1259 ~~effective for 90 days. If the division begins nonemergency cease~~
1260 ~~and desist proceedings, the emergency cease and desist order~~
1261 ~~remains effective until the conclusion of the proceedings under~~
1262 ~~ss. 120.569 and 120.57.~~

1263 3. The division may bring an action in circuit court on
1264 behalf of a class of unit owners, lessees, or purchasers for
1265 declaratory relief, injunctive relief, or restitution.

1266 4. The division may petition the court for the appointment
1267 of a receiver or conservator. If appointed, the receiver or
1268 conservator may take action to implement the court order to
1269 ensure the performance of the order and to remedy any breach
1270 thereof. In addition to all other means provided by law for the



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1271 enforcement of an injunction or temporary restraining order, the
1272 circuit court may impound or sequester the property of a party
1273 defendant, including books, papers, documents, and related
1274 records, and allow the examination and use of the property by the
1275 division and a court-appointed receiver or conservator.

1276 5. The division may apply to the circuit court for an order
1277 of restitution whereby the defendant in an action brought
1278 pursuant to subparagraph 4. shall be ordered to make restitution
1279 of those sums shown by the division to have been obtained by the
1280 defendant in violation of this chapter. Such restitution shall,
1281 at the option of the court, be payable to the conservator or
1282 receiver appointed pursuant to subparagraph 4. or directly to the
1283 persons whose funds or assets were obtained in violation of this
1284 chapter.

1285 6.4. The division may impose a civil penalty against a
1286 developer or association, or its assignee or agent, for any
1287 violation of this chapter or a rule adopted under this chapter
1288 ~~promulgated pursuant hereto~~. The division may impose a civil
1289 penalty individually against any officer or board member who
1290 willfully and knowingly violates a provision of this chapter,
1291 adopted a rule adopted pursuant hereto, or a final order of the
1292 division. The term "willfully and knowingly" means that the
1293 division informed the officer or board member that his or her
1294 action or intended action violates this chapter, a rule adopted
1295 under this chapter, or a final order of the division and that the
1296 officer or board member refused to comply with the requirements
1297 of this chapter, a rule adopted under this chapter, or a final
1298 order of the division. The division, prior to initiating formal
1299 agency action under chapter 120, shall afford the officer or
1300 board member an opportunity to voluntarily comply with this



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1301 chapter, a rule adopted under this chapter, or a final order of
1302 the division. An officer or board member who complies within 10
1303 days is not subject to a civil penalty. A penalty may be imposed
1304 on the basis of each day of continuing violation, but in no event
1305 shall the penalty for any offense exceed \$5,000. By January 1,
1306 1998, the division shall adopt, by rule, penalty guidelines
1307 applicable to possible violations or to categories of violations
1308 of this chapter or rules adopted by the division. The guidelines
1309 must specify a meaningful range of civil penalties for each such
1310 violation of the statute and rules and must be based upon the
1311 harm caused by the violation, the repetition of the violation,
1312 and upon such other factors deemed relevant by the division. For
1313 example, the division may consider whether the violations were
1314 committed by a developer or owner-controlled association, the
1315 size of the association, and other factors. The guidelines must
1316 designate the possible mitigating or aggravating circumstances
1317 that justify a departure from the range of penalties provided by
1318 the rules. It is the legislative intent that minor violations be
1319 distinguished from those which endanger the health, safety, or
1320 welfare of the condominium residents or other persons and that
1321 such guidelines provide reasonable and meaningful notice to the
1322 public of likely penalties that may be imposed for proscribed
1323 conduct. This subsection does not limit the ability of the
1324 division to informally dispose of administrative actions or
1325 complaints by stipulation, agreed settlement, or consent order.
1326 All amounts collected shall be deposited with the Chief Financial
1327 Officer to the credit of the Division of Florida ~~Land Sales,~~
1328 Condominiums, Timeshares, and Mobile Homes Trust Fund. If a
1329 developer fails to pay the civil penalty, the division shall
1330 ~~thereupon~~ issue an order directing that such developer cease and



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1331 desist from further operation until such time as the civil
1332 penalty is paid or may pursue enforcement of the penalty in a
1333 court of competent jurisdiction. If an association fails to pay
1334 the civil penalty, the division shall ~~thereupon~~ pursue
1335 enforcement in a court of competent jurisdiction, and the order
1336 imposing the civil penalty or the cease and desist order will not
1337 become effective until 20 days after the date of such order. Any
1338 action commenced by the division shall be brought in the county
1339 in which the division has its executive offices or in the county
1340 where the violation occurred.

1341 7. In addition to subparagraph 6., the division may seek
1342 the imposition of a civil penalty through the circuit court for
1343 any violation for which the division may issue a notice to show
1344 cause under paragraph (q). The civil penalty shall be at least
1345 \$500 but no more than \$5,000 for each violation. The court may
1346 also award to the prevailing party court costs and reasonable
1347 attorney's fees and, if the division prevails, may also award
1348 reasonable costs of investigation.

1349 (e) The division may ~~is authorized to~~ prepare and
1350 disseminate a prospectus and other information to assist
1351 prospective owners, purchasers, lessees, and developers of
1352 residential condominiums in assessing the rights, privileges, and
1353 duties pertaining thereto.

1354 (f) The division has authority to adopt rules pursuant to
1355 ss. 120.536(1) and 120.54 to implement and enforce the provisions
1356 of this chapter.

1357 (g) The division shall establish procedures for providing
1358 notice to an association when the division is considering the
1359 issuance of a declaratory statement with respect to the



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1360 declaration of condominium or any related document governing in
1361 such condominium community.

1362 (h) The division shall furnish each association which pays
1363 the fees required by paragraph (2) (a) a copy of this act,
1364 subsequent changes to this act on an annual basis, an amended
1365 version of this act as it becomes available from the Secretary of
1366 State's office on a biennial basis, and the rules adopted
1367 ~~promulgated pursuant~~ thereto on an annual basis.

1368 (i) The division shall annually provide each association
1369 with a summary of declaratory statements and formal legal
1370 opinions relating to the operations of condominiums which were
1371 rendered by the division during the previous year.

1372 (j) The division shall provide training programs for
1373 condominium association board members and unit owners.

1374 (k) The division shall maintain a toll-free telephone
1375 number accessible to condominium unit owners.

1376 (l) The division shall develop a program to certify both
1377 volunteer and paid mediators to provide mediation of condominium
1378 disputes. The division shall provide, upon request, a list of
1379 such mediators to any association, unit owner, or other
1380 participant in arbitration proceedings under s. 718.1255
1381 requesting a copy of the list. The division shall include on the
1382 list of volunteer mediators only the names of persons who have
1383 received at least 20 hours of training in mediation techniques or
1384 who have mediated at least 20 disputes. In order to become
1385 initially certified by the division, paid mediators must be
1386 certified by the Supreme Court to mediate court cases in ~~either~~
1387 county or circuit courts. However, the division may adopt, by
1388 rule, additional factors for the certification of paid mediators,
1389 which factors must be related to experience, education, or



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1390 background. Any person initially certified as a paid mediator by
1391 the division must, in order to continue to be certified, comply
1392 with the factors or requirements imposed by rules adopted by the
1393 division.

1394 (m) When a complaint is made, the division shall conduct
1395 its inquiry with due regard to the interests of the affected
1396 parties. Within 30 days after receipt of a complaint, the
1397 division shall acknowledge the complaint in writing and notify
1398 the complainant whether the complaint is within the jurisdiction
1399 of the division and whether additional information is needed by
1400 the division from the complainant. The division shall conduct its
1401 investigation and shall, within 90 days after receipt of the
1402 original complaint or of timely requested additional information,
1403 take action upon the complaint. However, the failure to complete
1404 the investigation within 90 days does not prevent the division
1405 from continuing the investigation, accepting or considering
1406 evidence obtained or received after 90 days, or taking
1407 administrative action if reasonable cause exists to believe that
1408 a violation of this chapter or a rule of the division has
1409 occurred. If an investigation is not completed within the time
1410 limits established in this paragraph, the division shall, on a
1411 monthly basis, notify the complainant in writing of the status of
1412 the investigation. When reporting its action to the complainant,
1413 the division shall inform the complainant of any right to a
1414 hearing pursuant to ss. 120.569 and 120.57.

1415 (n) The division may:

- 1416 1. Contract with agencies in this state or other
1417 jurisdictions to perform investigative functions; or
1418 2. Accept grants-in-aid from any source.



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1419 (o) The division shall cooperate with similar agencies in
1420 other jurisdictions to establish uniform filing procedures and
1421 forms, public offering statements, advertising standards, and
1422 rules and common administrative practices.

1423 (p) The division shall consider notice to a developer to be
1424 complete when it is delivered to the developer's address
1425 currently on file with the division.

1426 (q) In addition to its enforcement authority, the division
1427 may issue a notice to show cause, which shall provide for a
1428 hearing, upon written request, in accordance with chapter 120.

1429 (2) (a) Effective January 1, 1992, Each condominium
1430 association which operates more than two units shall pay to the
1431 division an annual fee in the amount of \$4 for each residential
1432 unit in condominiums operated by the association. If the fee is
1433 not paid by March 1, ~~then~~ the association shall be assessed a
1434 penalty of 10 percent of the amount due, and the association will
1435 not have standing to maintain or defend any action in the courts
1436 of this state until the amount due, plus any penalty, is paid.

1437 (b) All fees shall be deposited in the Division of Florida
1438 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust Fund
1439 as provided by law.

1440 Section 41. Subsection (1) of section 718.5011, Florida
1441 Statutes, is amended to read:

1442 718.5011 Ombudsman; appointment; administration.--

1443 (1) There is created an Office of the Condominium
1444 Ombudsman, to be located for administrative purposes within the
1445 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
1446 Mobile Homes. The functions of the office shall be funded by the
1447 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
1448 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief of

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1449 the division, and the office shall be set within the division in
1450 the same manner as any other bureau is staffed and funded.

1451 Section 42. Paragraph (a) of subsection (2) of section
1452 718.502, Florida Statutes, is amended to read:

1453 718.502 Filing prior to sale or lease.--

1454 (2) (a) Prior to filing as required by subsection (1), and
1455 prior to acquiring an ownership, leasehold, or contractual
1456 interest in the land upon which the condominium is to be
1457 developed, a developer shall not offer a contract for purchase of
1458 a unit or lease of a unit for more than 5 years. However, the
1459 developer may accept deposits for reservations upon the approval
1460 of a fully executed escrow agreement and reservation agreement
1461 form properly filed with the Division of Florida ~~Land Sales,~~
1462 Condominiums, Timeshares, and Mobile Homes. Each filing of a
1463 proposed reservation program shall be accompanied by a filing fee
1464 of \$250. Reservations shall not be taken on a proposed
1465 condominium unless the developer has an ownership, leasehold, or
1466 contractual interest in the land upon which the condominium is to
1467 be developed. The division shall notify the developer within 20
1468 days of receipt of the reservation filing of any deficiencies
1469 contained therein. Such notification shall not preclude the
1470 determination of reservation filing deficiencies at a later date,
1471 nor shall it relieve the developer of any responsibility under
1472 the law. The escrow agreement and the reservation agreement form
1473 shall include a statement of the right of the prospective
1474 purchaser to an immediate unqualified refund of the reservation
1475 deposit moneys upon written request to the escrow agent by the
1476 prospective purchaser or the developer.

1477 Section 43. Section 718.504, Florida Statutes, is amended
1478 to read:



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1479 718.504 Prospectus or offering circular.--Every developer
1480 of a residential condominium which contains more than 20
1481 residential units, or which is part of a group of residential
1482 condominiums which will be served by property to be used in
1483 common by unit owners of more than 20 residential units, shall
1484 prepare a prospectus or offering circular and file it with the
1485 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
1486 Mobile Homes prior to entering into an enforceable contract of
1487 purchase and sale of any unit or lease of a unit for more than 5
1488 years and shall furnish a copy of the prospectus or offering
1489 circular to each buyer. In addition to the prospectus or offering
1490 circular, each buyer shall be furnished a separate page entitled
1491 "Frequently Asked Questions and Answers," which shall be in
1492 accordance with a format approved by the division and a copy of
1493 the financial information required by s. 718.111. This page
1494 shall, in readable language, inform prospective purchasers
1495 regarding their voting rights and unit use restrictions,
1496 including restrictions on the leasing of a unit; shall indicate
1497 whether and in what amount the unit owners or the association is
1498 obligated to pay rent or land use fees for recreational or other
1499 commonly used facilities; shall contain a statement identifying
1500 that amount of assessment which, pursuant to the budget, would be
1501 levied upon each unit type, exclusive of any special assessments,
1502 and which shall further identify the basis upon which assessments
1503 are levied, whether monthly, quarterly, or otherwise; shall state
1504 and identify any court cases in which the association is
1505 currently a party of record in which the association may face
1506 liability in excess of \$100,000; and which shall further state
1507 whether membership in a recreational facilities association is
1508 mandatory, and if so, shall identify the fees currently charged



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1509 per unit type. The division shall by rule require such other
1510 disclosure as in its judgment will assist prospective purchasers.
1511 The prospectus or offering circular may include more than one
1512 condominium, although not all such units are being offered for
1513 sale as of the date of the prospectus or offering circular. The
1514 prospectus or offering circular must contain the following
1515 information:

1516 (1) The front cover or the first page must contain only:

1517 (a) The name of the condominium.

1518 (b) The following statements in conspicuous type:

1519 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
1520 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

1521 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
1522 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
1523 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

1524 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
1525 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
1526 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
1527 REPRESENTATIONS.

1528 (2) Summary: The next page must contain all statements
1529 required to be in conspicuous type in the prospectus or offering
1530 circular.

1531 (3) A separate index of the contents and exhibits of the
1532 prospectus.

1533 (4) Beginning on the first page of the text (not including
1534 the summary and index), a description of the condominium,
1535 including, but not limited to, the following information:

1536 (a) Its name and location.

1537 (b) A description of the condominium property, including,
1538 without limitation:



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1539 | 1. The number of buildings, the number of units in each
1540 | building, the number of bathrooms and bedrooms in each unit, and
1541 | the total number of units, if the condominium is not a phase
1542 | condominium, or the maximum number of buildings that may be
1543 | contained within the condominium, the minimum and maximum numbers
1544 | of units in each building, the minimum and maximum numbers of
1545 | bathrooms and bedrooms that may be contained in each unit, and
1546 | the maximum number of units that may be contained within the
1547 | condominium, if the condominium is a phase condominium.

1548 | 2. The page in the condominium documents where a copy of
1549 | the plot plan and survey of the condominium is located.

1550 | 3. The estimated latest date of completion of constructing,
1551 | finishing, and equipping. In lieu of a date, the description
1552 | shall include a statement that the estimated date of completion
1553 | of the condominium is in the purchase agreement and a reference
1554 | to the article or paragraph containing that information.

1555 | (c) The maximum number of units that will use facilities in
1556 | common with the condominium. If the maximum number of units will
1557 | vary, a description of the basis for variation and the minimum
1558 | amount of dollars per unit to be spent for additional
1559 | recreational facilities or enlargement of such facilities. If the
1560 | addition or enlargement of facilities will result in a material
1561 | increase of a unit owner's maintenance expense or rental expense,
1562 | if any, the maximum increase and limitations thereon shall be
1563 | stated.

1564 | (5) (a) A statement in conspicuous type describing whether
1565 | the condominium is created and being sold as fee simple interests
1566 | or as leasehold interests. If the condominium is created or being
1567 | sold on a leasehold, the location of the lease in the disclosure
1568 | materials shall be stated.



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1569 (b) If timeshare estates are or may be created with respect
1570 to any unit in the condominium, a statement in conspicuous type
1571 stating that timeshare estates are created and being sold in
1572 units in the condominium.

1573 (6) A description of the recreational and other commonly
1574 used facilities that will be used only by unit owners of the
1575 condominium, including, but not limited to, the following:

1576 (a) Each room and its intended purposes, location,
1577 approximate floor area, and capacity in numbers of people.

1578 (b) Each swimming pool, as to its general location,
1579 approximate size and depths, approximate deck size and capacity,
1580 and whether heated.

1581 (c) Additional facilities, as to the number of each
1582 facility, its approximate location, approximate size, and
1583 approximate capacity.

1584 (d) A general description of the items of personal property
1585 and the approximate number of each item of personal property that
1586 the developer is committing to furnish for each room or other
1587 facility or, in the alternative, a representation as to the
1588 minimum amount of expenditure that will be made to purchase the
1589 personal property for the facility.

1590 (e) The estimated date when each room or other facility
1591 will be available for use by the unit owners.

1592 (f)1. An identification of each room or other facility to
1593 be used by unit owners that will not be owned by the unit owners
1594 or the association;

1595 2. A reference to the location in the disclosure materials
1596 of the lease or other agreements providing for the use of those
1597 facilities; and

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1598 3. A description of the terms of the lease or other
1599 agreements, including the length of the term; the rent payable,
1600 directly or indirectly, by each unit owner, and the total rent
1601 payable to the lessor, stated in monthly and annual amounts for
1602 the entire term of the lease; and a description of any option to
1603 purchase the property leased under any such lease, including the
1604 time the option may be exercised, the purchase price or how it is
1605 to be determined, the manner of payment, and whether the option
1606 may be exercised for a unit owner's share or only as to the
1607 entire leased property.

1608 (g) A statement as to whether the developer may provide
1609 additional facilities not described above; their general
1610 locations and types; improvements or changes that may be made;
1611 the approximate dollar amount to be expended; and the maximum
1612 additional common expense or cost to the individual unit owners
1613 that may be charged during the first annual period of operation
1614 of the modified or added facilities.

1615
1616 Descriptions as to locations, areas, capacities, numbers,
1617 volumes, or sizes may be stated as approximations or minimums.

1618 (7) A description of the recreational and other facilities
1619 that will be used in common with other condominiums, community
1620 associations, or planned developments which require the payment
1621 of the maintenance and expenses of such facilities, ~~either~~
1622 directly or indirectly, by the unit owners. The description shall
1623 include, but not be limited to, the following:

1624 (a) Each building and facility committed to be built.

1625 (b) Facilities not committed to be built except under
1626 certain conditions, and a statement of those conditions or
1627 contingencies.



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1628 (c) As to each facility committed to be built, or which
1629 will be committed to be built upon the happening of one of the
1630 conditions in paragraph (b), a statement of whether it will be
1631 owned by the unit owners having the use thereof or by an
1632 association or other entity which will be controlled by them, or
1633 others, and the location in the exhibits of the lease or other
1634 document providing for use of those facilities.

1635 (d) The year in which each facility will be available for
1636 use by the unit owners or, in the alternative, the maximum number
1637 of unit owners in the project at the time each of all of the
1638 facilities is committed to be completed.

1639 (e) A general description of the items of personal
1640 property, and the approximate number of each item of personal
1641 property, that the developer is committing to furnish for each
1642 room or other facility or, in the alternative, a representation
1643 as to the minimum amount of expenditure that will be made to
1644 purchase the personal property for the facility.

1645 (f) If there are leases, a description thereof, including
1646 the length of the term, the rent payable, and a description of
1647 any option to purchase.

1648
1649 Descriptions shall include location, areas, capacities, numbers,
1650 volumes, or sizes and may be stated as approximations or
1651 minimums.

1652 (8) Recreation lease or associated club membership:

1653 (a) If any recreational facilities or other facilities
1654 offered by the developer and available to, or to be used by, unit
1655 owners are to be leased or have club membership associated, the
1656 following statement in conspicuous type shall be included: THERE
1657 IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS

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1658 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
1659 CONDOMINIUM. There shall be a reference to the location in the
1660 disclosure materials where the recreation lease or club
1661 membership is described in detail.

1662 (b) If it is mandatory that unit owners pay a fee, rent,
1663 dues, or other charges under a recreational facilities lease or
1664 club membership for the use of facilities, there shall be in
1665 conspicuous type the applicable statement:

1666 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
1667 MANDATORY FOR UNIT OWNERS; or

1668 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
1669 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

1670 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS
1671 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,
1672 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE
1673 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

1674 4. A similar statement of the nature of the organization or
1675 the manner in which the use rights are created, and that unit
1676 owners are required to pay.

1677
1678 Immediately following the applicable statement, the location in
1679 the disclosure materials where the development is described in
1680 detail shall be stated.

1681 (c) If the developer, or any other person other than the
1682 unit owners and other persons having use rights in the
1683 facilities, reserves, or is entitled to receive, any rent, fee,
1684 or other payment for the use of the facilities, then there shall
1685 be the following statement in conspicuous type: THE UNIT OWNERS
1686 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
1687 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately



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1688 following this statement, the location in the disclosure
1689 materials where the rent or land use fees are described in detail
1690 shall be stated.

1691 (d) If, in any recreation format, whether leasehold, club,
1692 or other, any person other than the association has the right to
1693 a lien on the units to secure the payment of assessments, rent,
1694 or other exactions, there shall appear a statement in conspicuous
1695 type in substantially the following form:

1696 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
1697 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
1698 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS
1699 MAY RESULT IN FORECLOSURE OF THE LIEN; or

1700 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
1701 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
1702 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
1703 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE
1704 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

1705
1706 Immediately following the applicable statement, the location in
1707 the disclosure materials where the lien or lien right is
1708 described in detail shall be stated.

1709 (9) If the developer or any other person has the right to
1710 increase or add to the recreational facilities at any time after
1711 the establishment of the condominium whose unit owners have use
1712 rights therein, without the consent of the unit owners or
1713 associations being required, there shall appear a statement in
1714 conspicuous type in substantially the following form:

1715 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
1716 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this



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1717 statement, the location in the disclosure materials where such
1718 reserved rights are described shall be stated.

1719 (10) A statement of whether the developer's plan includes a
1720 program of leasing units rather than selling them, or leasing
1721 units and selling them subject to such leases. If so, there shall
1722 be a description of the plan, including the number and
1723 identification of the units and the provisions and term of the
1724 proposed leases, and a statement in boldfaced type that: THE
1725 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

1726 (11) The arrangements for management of the association and
1727 maintenance and operation of the condominium property and of
1728 other property that will serve the unit owners of the condominium
1729 property, and a description of the management contract and all
1730 other contracts for these purposes having a term in excess of 1
1731 year, including the following:

1732 (a) The names of contracting parties.

1733 (b) The term of the contract.

1734 (c) The nature of the services included.

1735 (d) The compensation, stated on a monthly and annual basis,
1736 and provisions for increases in the compensation.

1737 (e) A reference to the volumes and pages of the condominium
1738 documents and of the exhibits containing copies of such
1739 contracts.

1740

1741 Copies of all described contracts shall be attached as exhibits.

1742 If there is a contract for the management of the condominium

1743 property, then a statement in conspicuous type in substantially

1744 the following form shall appear, identifying the proposed or

1745 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE

1746 MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE CONTRACT



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1747 | MANAGER). Immediately following this statement, the location in
1748 | the disclosure materials of the contract for management of the
1749 | condominium property shall be stated.

1750 | (12) If the developer or any other person or persons other
1751 | than the unit owners has the right to retain control of the board
1752 | of administration of the association for a period of time which
1753 | can exceed 1 year after the closing of the sale of a majority of
1754 | the units in that condominium to persons other than successors or
1755 | alternate developers, then a statement in conspicuous type in
1756 | substantially the following form shall be included: THE DEVELOPER
1757 | (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE
1758 | ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.
1759 | Immediately following this statement, the location in the
1760 | disclosure materials where this right to control is described in
1761 | detail shall be stated.

1762 | (13) If there are any restrictions upon the sale, transfer,
1763 | conveyance, or leasing of a unit, then a statement in conspicuous
1764 | type in substantially the following form shall be included: THE
1765 | SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.
1766 | Immediately following this statement, the location in the
1767 | disclosure materials where the restriction, limitation, or
1768 | control on the sale, lease, or transfer of units is described in
1769 | detail shall be stated.

1770 | (14) If the condominium is part of a phase project, the
1771 | following information shall be stated:

1772 | (a) A statement in conspicuous type in substantially the
1773 | following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
1774 | UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
1775 | this statement, the location in the disclosure materials where
1776 | the phasing is described shall be stated.



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1777 (b) A summary of the provisions of the declaration which
1778 provide for the phasing.

1779 (c) A statement as to whether or not residential buildings
1780 and units which are added to the condominium may be substantially
1781 different from the residential buildings and units originally in
1782 the condominium. If the added residential buildings and units may
1783 be substantially different, there shall be a general description
1784 of the extent to which such added residential buildings and units
1785 may differ, and a statement in conspicuous type in substantially
1786 the following form shall be included: BUILDINGS AND UNITS WHICH
1787 ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM
1788 THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately
1789 following this statement, the location in the disclosure
1790 materials where the extent to which added residential buildings
1791 and units may substantially differ is described shall be stated.

1792 (d) A statement of the maximum number of buildings
1793 containing units, the maximum and minimum numbers of units in
1794 each building, the maximum number of units, and the minimum and
1795 maximum square footage of the units that may be contained within
1796 each parcel of land which may be added to the condominium.

1797 (15) If a condominium created on or after July 1, 2000, is
1798 or may become part of a multicondominium, the following
1799 information must be provided:

1800 (a) A statement in conspicuous type in substantially the
1801 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
1802 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
1803 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
1804 this statement, the location in the prospectus or offering
1805 circular and its exhibits where the multicondominium aspects of
1806 the offering are described must be stated.



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1807 (b) A summary of the provisions in the declaration,
1808 articles of incorporation, and bylaws which establish and provide
1809 for the operation of the multicondominium, including a statement
1810 as to whether unit owners in the condominium will have the right
1811 to use recreational or other facilities located or planned to be
1812 located in other condominiums operated by the same association,
1813 and the manner of sharing the common expenses related to such
1814 facilities.

1815 (c) A statement of the minimum and maximum number of
1816 condominiums, and the minimum and maximum number of units in each
1817 of those condominiums, which will or may be operated by the
1818 association, and the latest date by which the exact number will
1819 be finally determined.

1820 (d) A statement as to whether any of the condominiums in
1821 the multicondominium may include units intended to be used for
1822 nonresidential purposes and the purpose or purposes permitted for
1823 such use.

1824 (e) A general description of the location and approximate
1825 acreage of any land on which any additional condominiums to be
1826 operated by the association may be located.

1827 (16) If the condominium is created by conversion of
1828 existing improvements, the following information shall be stated:

1829 (a) The information required by s. 718.616.

1830 (b) A caveat that there are no express warranties unless
1831 they are stated in writing by the developer.

1832 (17) A summary of the restrictions, if any, to be imposed
1833 on units concerning the use of any of the condominium property,
1834 including statements as to whether there are restrictions upon
1835 children and pets, and reference to the volumes and pages of the
1836 condominium documents where such restrictions are found, or if



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1837 such restrictions are contained elsewhere, then a copy of the
1838 documents containing the restrictions shall be attached as an
1839 exhibit.

1840 (18) If there is any land that is offered by the developer
1841 for use by the unit owners and that is neither owned by them nor
1842 leased to them, the association, or any entity controlled by unit
1843 owners and other persons having the use rights to such land, a
1844 statement shall be made as to how such land will serve the
1845 condominium. If any part of such land will serve the condominium,
1846 the statement shall describe the land and the nature and term of
1847 service, and the declaration or other instrument creating such
1848 servitude shall be included as an exhibit.

1849 (19) The manner in which utility and other services,
1850 including, but not limited to, sewage and waste disposal, water
1851 supply, and storm drainage, will be provided and the person or
1852 entity furnishing them.

1853 (20) An explanation of the manner in which the
1854 apportionment of common expenses and ownership of the common
1855 elements has been determined.

1856 (21) An estimated operating budget for the condominium and
1857 the association, and a schedule of the unit owner's expenses
1858 shall be attached as an exhibit and shall contain the following
1859 information:

1860 (a) The estimated monthly and annual expenses of the
1861 condominium and the association that are collected from unit
1862 owners by assessments.

1863 (b) The estimated monthly and annual expenses of each unit
1864 owner for a unit, other than common expenses paid by all unit
1865 owners, payable by the unit owner to persons or entities other
1866 than the association, as well as to the association, including

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1867 fees assessed pursuant to s. 718.113(1) for maintenance of
1868 limited common elements where such costs are shared only by those
1869 entitled to use the limited common element, and the total
1870 estimated monthly and annual expense. There may be excluded from
1871 this estimate expenses which are not provided for or contemplated
1872 by the condominium documents, including, but not limited to, the
1873 costs of private telephone; maintenance of the interior of
1874 condominium units, which is not the obligation of the
1875 association; maid or janitorial services privately contracted for
1876 by the unit owners; utility bills billed directly to each unit
1877 owner for utility services to his or her unit; insurance premiums
1878 other than those incurred for policies obtained by the
1879 condominium; and similar personal expenses of the unit owner. A
1880 unit owner's estimated payments for assessments shall also be
1881 stated in the estimated amounts for the times when they will be
1882 due.

1883 (c) The estimated items of expenses of the condominium and
1884 the association, except as excluded under paragraph (b),
1885 including, but not limited to, the following items, which shall
1886 be stated ~~either~~ as an association expense collectible by
1887 assessments or as unit owners' expenses payable to persons other
1888 than the association:

- 1889 1. Expenses for the association and condominium:
1890 a. Administration of the association.
1891 b. Management fees.
1892 c. Maintenance.
1893 d. Rent for recreational and other commonly used
1894 facilities.
1895 e. Taxes upon association property.
1896 f. Taxes upon leased areas.

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- 1897 g. Insurance.
- 1898 h. Security provisions.
- 1899 i. Other expenses.
- 1900 j. Operating capital.
- 1901 k. Reserves.
- 1902 1. Fees payable to the division.
- 1903 2. Expenses for a unit owner:
- 1904 a. Rent for the unit, if subject to a lease.
- 1905 b. Rent payable by the unit owner directly to the lessor or
- 1906 agent under any recreational lease or lease for the use of
- 1907 commonly used facilities, which use and payment is a mandatory
- 1908 condition of ownership and is not included in the common expense
- 1909 or assessments for common maintenance paid by the unit owners to
- 1910 the association.
- 1911 (d) The following statement in conspicuous type: THE BUDGET
- 1912 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
- 1913 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
- 1914 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
- 1915 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
- 1916 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
- 1917 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE
- 1918 OFFERING.
- 1919 (e) Each budget for an association prepared by a developer
- 1920 consistent with this subsection shall be prepared in good faith
- 1921 and shall reflect accurate estimated amounts for the required
- 1922 items in paragraph (c) at the time of the filing of the offering
- 1923 circular with the division, and subsequent increased amounts of
- 1924 any item included in the association's estimated budget that are
- 1925 beyond the control of the developer shall not be considered an
- 1926 amendment that would give rise to rescission rights set forth in

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1927 s. 718.503(1)(a) or (b), nor shall such increases modify, void,
1928 or otherwise affect any guarantee of the developer contained in
1929 the offering circular or any purchase contract. It is the intent
1930 of this paragraph to clarify existing law.

1931 (f) The estimated amounts shall be stated for a period of
1932 at least 12 months and may distinguish between the period prior
1933 to the time unit owners other than the developer elect a majority
1934 of the board of administration and the period after that date.

1935 (22) A schedule of estimated closing expenses to be paid by
1936 a buyer or lessee of a unit and a statement of whether title
1937 opinion or title insurance policy is available to the buyer and,
1938 if so, at whose expense.

1939 (23) The identity of the developer and the chief operating
1940 officer or principal directing the creation and sale of the
1941 condominium and a statement of its and his or her experience in
1942 this field.

1943 (24) Copies of the following, to the extent they are
1944 applicable, shall be included as exhibits:

1945 (a) The declaration of condominium, or the proposed
1946 declaration if the declaration has not been recorded.

1947 (b) The articles of incorporation creating the association.

1948 (c) The bylaws of the association.

1949 (d) The ground lease or other underlying lease of the
1950 condominium.

1951 (e) The management agreement and all maintenance and other
1952 contracts for management of the association and operation of the
1953 condominium and facilities used by the unit owners having a
1954 service term in excess of 1 year.

1955 (f) The estimated operating budget for the condominium and
1956 the required schedule of unit owners' expenses.



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1957 (g) A copy of the floor plan of the unit and the plot plan
1958 showing the location of the residential buildings and the
1959 recreation and other common areas.

1960 (h) The lease of recreational and other facilities that
1961 will be used only by unit owners of the subject condominium.

1962 (i) The lease of facilities used by owners and others.

1963 (j) The form of unit lease, if the offer is of a leasehold.

1964 (k) A declaration of servitude of properties serving the
1965 condominium but not owned by unit owners or leased to them or the
1966 association.

1967 (l) The statement of condition of the existing building or
1968 buildings, if the offering is of units in an operation being
1969 converted to condominium ownership.

1970 (m) The statement of inspection for termite damage and
1971 treatment of the existing improvements, if the condominium is a
1972 conversion.

1973 (n) The form of agreement for sale or lease of units.

1974 (o) A copy of the agreement for escrow of payments made to
1975 the developer prior to closing.

1976 (p) A copy of the documents containing any restrictions on
1977 use of the property required by subsection (17).

1978 (25) Any prospectus or offering circular complying, prior
1979 to the effective date of this act, with the provisions of former
1980 ss. 711.69 and 711.802 may continue to be used without amendment
1981 or may be amended to comply with ~~the provisions of~~ this chapter.

1982 (26) A brief narrative description of the location and
1983 effect of all existing and intended easements located or to be
1984 located on the condominium property other than those described in
1985 the declaration.

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1986 (27) If the developer is required by state or local
1987 authorities to obtain acceptance or approval of any dock or
1988 marina facilities intended to serve the condominium, a copy of
1989 any such acceptance or approval acquired by the time of filing
1990 with the division under s. 718.502(1) or a statement that such
1991 acceptance or approval has not been acquired or received.

1992 (28) Evidence demonstrating that the developer has an
1993 ownership, leasehold, or contractual interest in the land upon
1994 which the condominium is to be developed.

1995 Section 44. Section 718.508, Florida Statutes, is amended
1996 to read:

1997 718.508 Regulation by Division of Hotels and
1998 Restaurants.--In addition to the authority, regulation, or
1999 control exercised by the Division of Florida ~~Land Sales,~~
2000 Condominiums, Timeshares, and Mobile Homes pursuant to this act
2001 with respect to condominiums, buildings included in a condominium
2002 property are ~~shall be~~ subject to the authority, regulation, or
2003 control of the Division of Hotels and Restaurants of the
2004 Department of Business and Professional Regulation, to the extent
2005 provided ~~for~~ in chapter 399.

2006 Section 45. Section 718.509, Florida Statutes, is amended,
2007 to read:

2008 718.509 Division of Florida ~~Land Sales,~~ Condominiums,
2009 Timeshares, and Mobile Homes Trust Fund.--

2010 (1) There is created within the State Treasury the Division
2011 of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund
2012 to be used for the administration and operation of this chapter
2013 and chapters 718, 719, 721, and 723 by the division.

2014 (2) All moneys collected by the division from fees, fines,
2015 or penalties or from costs awarded to the division by a court or

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2016 administrative final order shall be paid into the Division of
2017 Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.
2018 The Legislature shall appropriate funds from the trust fund
2019 sufficient to carry out the provisions of this chapter and the
2020 provisions of law with respect to each category of business
2021 covered by the trust fund. The division shall maintain separate
2022 revenue accounts in the trust fund for each business regulated by
2023 the division. The division shall provide for the proportionate
2024 allocation among the accounts of expenses incurred by the
2025 division in the performance of its duties with respect to each
2026 business. As part of its normal budgetary process, the division
2027 shall prepare an annual report of revenues and allocated expenses
2028 related to the operation of each business which may be used to
2029 determine fees charged by the division. This subsection shall
2030 operate pursuant to s. 215.20. All funds collected by the
2031 division and any amount paid for a fee or penalty under this
2032 chapter shall be deposited in the State Treasury to the credit of
2033 the Division of Florida Land Sales, Condominiums, and Mobile
2034 Homes Trust Fund created by s. 498.019.

2035 Section 46. Paragraph (a) of subsection (2) of section
2036 718.608, Florida Statutes, is amended to read:

2037 718.608 Notice of intended conversion; time of delivery;
2038 content.--

2039 (2) (a) Each notice of intended conversion shall be dated
2040 and in writing. The notice shall contain the following statement,
2041 with the phrases of the following statement which appear in upper
2042 case printed in conspicuous type:

2043
2044 These apartments are being converted to condominium by
2045 (name of developer) , the developer.

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2046 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
2047 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
2048 AGREEMENT AS FOLLOWS:

2049 a. If you have continuously been a resident of these
2050 apartments during the last 180 days and your rental agreement
2051 expires during the next 270 days, you may extend your rental
2052 agreement for up to 270 days after the date of this notice.

2053 b. If you have not been a continuous resident of these
2054 apartments for the last 180 days and your rental agreement
2055 expires during the next 180 days, you may extend your rental
2056 agreement for up to 180 days after the date of this notice.

2057 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
2058 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
2059 DATE OF THIS NOTICE.

2060 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
2061 you may extend your rental agreement for up to 45 days after the
2062 date of this notice while you decide whether to extend your
2063 rental agreement as explained above. To do so, you must notify
2064 the developer in writing. You will then have the full 45 days to
2065 decide whether to extend your rental agreement as explained
2066 above.

2067 3. During the extension of your rental agreement you will
2068 be charged the same rent that you are now paying.

2069 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
2070 OF THE RENTAL AGREEMENT AS FOLLOWS:

2071 a. If your rental agreement began or was extended or
2072 renewed after May 1, 1980, and your rental agreement, including
2073 extensions and renewals, has an unexpired term of 180 days or
2074 less, you may cancel your rental agreement upon 30 days' written

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2075 notice and move. Also, upon 30 days' written notice, you may
2076 cancel any extension of the rental agreement.

2077 b. If your rental agreement was not begun or was not
2078 extended or renewed after May 1, 1980, you may not cancel the
2079 rental agreement without the consent of the developer. If your
2080 rental agreement, including extensions and renewals, has an
2081 unexpired term of 180 days or less, you may, however, upon 30
2082 days' written notice cancel any extension of the rental
2083 agreement.

2084 5. All notices must be given in writing and sent by mail,
2085 return receipt requested, or delivered in person to the developer
2086 at this address: (name and address of developer) .

2087 6. If you have continuously been a resident of these
2088 apartments during the last 180 days:

2089 a. You have the right to purchase your apartment and will
2090 have 45 days to decide whether to purchase. If you do not buy the
2091 unit at that price and the unit is later offered at a lower
2092 price, you will have the opportunity to buy the unit at the lower
2093 price. However, in all events your right to purchase the unit
2094 ends when the rental agreement or any extension of the rental
2095 agreement ends or when you waive this right in writing.

2096 b. Within 90 days you will be provided purchase information
2097 relating to your apartment, including the price of your unit and
2098 the condition of the building. If you do not receive this
2099 information within 90 days, your rental agreement and any
2100 extension will be extended 1 day for each day over 90 days until
2101 you are given the purchase information. If you do not want this
2102 rental agreement extension, you must notify the developer in
2103 writing.

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2104 7. If you have any questions regarding this conversion or
2105 the Condominium Act, you may contact the developer or the state
2106 agency which regulates condominiums: The Division of Florida ~~Land~~
2107 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes, (Tallahassee
2108 address and telephone number of division) .

2109 Section 47. Subsection (17) of section 719.103, Florida
2110 Statutes, is amended to read:

2111 719.103 Definitions.--As used in this chapter:

2112 (17) "Division" means the Division of Florida ~~Land Sales~~,
2113 Condominiums, Timeshares, and Mobile Homes of the Department of
2114 Business and Professional Regulation.

2115 Section 48. Section 719.1255, Florida Statutes, is amended
2116 to read:

2117 719.1255 Alternative resolution of disputes.--The Division
2118 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes
2119 of the Department of Business and Professional Regulation shall
2120 provide for alternative dispute resolution in accordance with s.
2121 718.1255.

2122 Section 49. Section 719.501, Florida Statutes, is amended
2123 to read:

2124 719.501 Powers and duties of Division of Florida ~~Land~~
2125 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

2126 (1) The Division of Florida ~~Land Sales~~, Condominiums,
2127 Timeshares, and Mobile Homes of the Department of Business and
2128 Professional Regulation, referred to as the "division" in this
2129 part, in addition to other powers and duties prescribed by
2130 chapter 718 498, has the power to enforce and ensure compliance
2131 with ~~the provisions of~~ this chapter and adopted rules ~~promulgated~~
2132 ~~pursuant hereto~~ relating to the development, construction, sale,
2133 lease, ownership, operation, and management of residential



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2134 cooperative units. In performing its duties, the division shall
2135 have the following powers and duties:

2136 (a) The division may make necessary public or private
2137 investigations within or outside this state to determine whether
2138 any person has violated this chapter or any rule or order
2139 hereunder, to aid in the enforcement of this chapter, or to aid
2140 in the adoption of rules or forms hereunder.

2141 (b) The division may require or permit any person to file a
2142 statement in writing, under oath or otherwise, as the division
2143 determines, as to the facts and circumstances concerning a matter
2144 to be investigated.

2145 (c) For the purpose of any investigation under this
2146 chapter, the division director or any officer or employee
2147 designated by the division director may administer oaths or
2148 affirmations, subpoena witnesses and compel their attendance,
2149 take evidence, and require the production of any matter which is
2150 relevant to the investigation, including the existence,
2151 description, nature, custody, condition, and location of any
2152 books, documents, or other tangible things and the identity and
2153 location of persons having knowledge of relevant facts or any
2154 other matter reasonably calculated to lead to the discovery of
2155 material evidence. Upon failure by a person to obey a subpoena or
2156 to answer questions propounded by the investigating officer and
2157 upon reasonable notice to all persons affected thereby, the
2158 division may apply to the circuit court for an order compelling
2159 compliance.

2160 (d) Notwithstanding any remedies available to unit owners
2161 and associations, if the division has reasonable cause to believe
2162 that a violation of any provision of this chapter or related rule
2163 ~~promulgated pursuant hereto~~ has occurred, the division may



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2164 institute enforcement proceedings in its own name against a
2165 developer, association, officer, or member of the board, or its
2166 assignees or agents, as follows:

2167 1. The division may permit a person whose conduct or
2168 actions may be under investigation to waive formal proceedings
2169 and enter into a consent proceeding whereby orders, rules, or
2170 letters of censure or warning, whether formal or informal, may be
2171 entered against the person.

2172 2. The division may issue an order requiring the developer,
2173 association, officer, or member of the board, or its assignees or
2174 agents, to cease and desist from the unlawful practice and take
2175 such affirmative action as in the judgment of the division will
2176 carry out the purposes of this chapter. Such affirmative action
2177 may include, but is not limited to, an order requiring a
2178 developer to pay moneys determined to be owed to a condominium
2179 association.

2180 3. The division may bring an action in circuit court on
2181 behalf of a class of unit owners, lessees, or purchasers for
2182 declaratory relief, injunctive relief, or restitution.

2183 4. The division may impose a civil penalty against a
2184 developer or association, or its assignees or agents, for any
2185 violation of this chapter or related ~~a rule promulgated pursuant~~
2186 ~~hereto~~. The division may impose a civil penalty individually
2187 against any officer or board member who willfully and knowingly
2188 violates a provision of this chapter, a rule adopted pursuant to
2189 this chapter, or a final order of the division. The term
2190 "willfully and knowingly" means that the division informed the
2191 officer or board member that his or her action or intended action
2192 violates this chapter, a rule adopted under this chapter, or a
2193 final order of the division, and that the officer or board member

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2194 refused to comply with the requirements of this chapter, a rule
2195 adopted under this chapter, or a final order of the division. The
2196 division, prior to initiating formal agency action under chapter
2197 120, shall afford the officer or board member an opportunity to
2198 voluntarily comply with this chapter, a rule adopted under this
2199 chapter, or a final order of the division. An officer or board
2200 member who complies within 10 days is not subject to a civil
2201 penalty. A penalty may be imposed on the basis of each day of
2202 continuing violation, but in no event shall the penalty for any
2203 offense exceed \$5,000. By January 1, 1998, the division shall
2204 adopt, by rule, penalty guidelines applicable to possible
2205 violations or to categories of violations of this chapter or
2206 rules adopted by the division. The guidelines must specify a
2207 meaningful range of civil penalties for each such violation of
2208 the statute and rules and must be based upon the harm caused by
2209 the violation, the repetition of the violation, and upon such
2210 other factors deemed relevant by the division. For example, the
2211 division may consider whether the violations were committed by a
2212 developer or owner-controlled association, the size of the
2213 association, and other factors. The guidelines must designate the
2214 possible mitigating or aggravating circumstances that justify a
2215 departure from the range of penalties provided by the rules. It
2216 is the legislative intent that minor violations be distinguished
2217 from those which endanger the health, safety, or welfare of the
2218 cooperative residents or other persons and that such guidelines
2219 provide reasonable and meaningful notice to the public of likely
2220 penalties that may be imposed for proscribed conduct. This
2221 subsection does not limit the ability of the division to
2222 informally dispose of administrative actions or complaints by
2223 stipulation, agreed settlement, or consent order. All amounts



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2224 collected shall be deposited with the Chief Financial Officer to
2225 the credit of the Division of Florida ~~Land Sales~~, Condominiums,
2226 Timeshares, and Mobile Homes Trust Fund. If a developer fails to
2227 pay the civil penalty, the division shall thereupon issue an
2228 order directing that such developer cease and desist from further
2229 operation until such time as the civil penalty is paid or may
2230 pursue enforcement of the penalty in a court of competent
2231 jurisdiction. If an association fails to pay the civil penalty,
2232 the division shall thereupon pursue enforcement in a court of
2233 competent jurisdiction, and the order imposing the civil penalty
2234 or the cease and desist order shall not become effective until 20
2235 days after the date of such order. Any action commenced by the
2236 division shall be brought in the county in which the division has
2237 its executive offices or in the county where the violation
2238 occurred.

2239 (e) The division may ~~is authorized to~~ prepare and
2240 disseminate a prospectus and other information to assist
2241 prospective owners, purchasers, lessees, and developers of
2242 residential cooperatives in assessing the rights, privileges, and
2243 duties pertaining thereto.

2244 (f) The division has authority to adopt rules pursuant to
2245 ss. 120.536(1) and 120.54 to implement and enforce the provisions
2246 of this chapter.

2247 (g) The division shall establish procedures for providing
2248 notice to an association when the division is considering the
2249 issuance of a declaratory statement with respect to the
2250 cooperative documents governing such cooperative community.

2251 (h) The division shall furnish each association which pays
2252 the fees required by paragraph (2) (a) a copy of this act,
2253 subsequent changes to this act on an annual basis, an amended



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2254 version of this act as it becomes available from the Secretary of
2255 State's office on a biennial basis, and the rules adopted
2256 ~~promulgated pursuant~~ thereto on an annual basis.

2257 (i) The division shall annually provide each association
2258 with a summary of declaratory statements and formal legal
2259 opinions relating to the operations of cooperatives which were
2260 rendered by the division during the previous year.

2261 (j) The division shall adopt uniform accounting principles,
2262 policies, and standards to be used by all associations in the
2263 preparation and presentation of all financial statements required
2264 by this chapter. The principles, policies, and standards shall
2265 take into consideration the size of the association and the total
2266 revenue collected by the association.

2267 (k) The division shall provide training programs for
2268 cooperative association board members and unit owners.

2269 (l) The division shall maintain a toll-free telephone
2270 number accessible to cooperative unit owners.

2271 (m) When a complaint is made to the division, the division
2272 shall conduct its inquiry with reasonable dispatch and with due
2273 regard to the interests of the affected parties. Within 30 days
2274 after receipt of a complaint, the division shall acknowledge the
2275 complaint in writing and notify the complainant whether the
2276 complaint is within the jurisdiction of the division and whether
2277 additional information is needed by the division from the
2278 complainant. The division shall conduct its investigation and
2279 shall, within 90 days after receipt of the original complaint or
2280 timely requested additional information, take action upon the
2281 complaint. However, the failure to complete the investigation
2282 within 90 days does not prevent the division from continuing the
2283 investigation, accepting or considering evidence obtained or

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2284 received after 90 days, or taking administrative action if
2285 reasonable cause exists to believe that a violation of this
2286 chapter or a rule of the division has occurred. If an
2287 investigation is not completed within the time limits established
2288 in this paragraph, the division shall, on a monthly basis, notify
2289 the complainant in writing of the status of the investigation.
2290 When reporting its action to the complainant, the division shall
2291 inform the complainant of any right to a hearing pursuant to ss.
2292 120.569 and 120.57.

2293 (n) The division shall develop a program to certify both
2294 volunteer and paid mediators to provide mediation of cooperative
2295 disputes. The division shall provide, upon request, a list of
2296 such mediators to any association, unit owner, or other
2297 participant in arbitration proceedings under s. 718.1255
2298 requesting a copy of the list. The division shall include on the
2299 list of voluntary mediators only persons who have received at
2300 least 20 hours of training in mediation techniques or have
2301 mediated at least 20 disputes. In order to become initially
2302 certified by the division, paid mediators must be certified by
2303 the Supreme Court to mediate court cases in ~~either~~ county or
2304 circuit courts. However, the division may adopt, by rule,
2305 additional factors for the certification of paid mediators, which
2306 factors must be related to experience, education, or background.
2307 Any person initially certified as a paid mediator by the division
2308 must, in order to continue to be certified, comply with the
2309 factors or requirements imposed by rules adopted by the division.

2310 (2) (a) Each cooperative association shall pay to the
2311 division, on or before January 1 of each year, an annual fee in
2312 the amount of \$4 for each residential unit in cooperatives
2313 operated by the association. If the fee is not paid by March 1,

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2314 then the association shall be assessed a penalty of 10 percent of
2315 the amount due, and the association shall not have the standing
2316 to maintain or defend any action in the courts of this state
2317 until the amount due is paid.

2318 (b) All fees shall be deposited in the Division of Florida
2319 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust Fund
2320 as provided by law.

2321 Section 50. Paragraph (a) of subsection (2) of section
2322 719.502, Florida Statutes, is amended to read:

2323 719.502 Filing prior to sale or lease.--

2324 (2) (a) Prior to filing as required by subsection (1), and
2325 prior to acquiring an ownership, leasehold, or contractual
2326 interest in the land upon which the cooperative is to be
2327 developed, a developer shall not offer a contract for purchase or
2328 lease of a unit for more than 5 years. However, the developer may
2329 accept deposits for reservations upon the approval of a fully
2330 executed escrow agreement and reservation agreement form properly
2331 filed with the Division of Florida ~~Land Sales,~~ Condominiums,
2332 Timeshares, and Mobile Homes. Each filing of a proposed
2333 reservation program shall be accompanied by a filing fee of \$250.
2334 Reservations shall not be taken on a proposed cooperative unless
2335 the developer has an ownership, leasehold, or contractual
2336 interest in the land upon which the cooperative is to be
2337 developed. The division shall notify the developer within 20 days
2338 of receipt of the reservation filing of any deficiencies
2339 contained therein. Such notification shall not preclude the
2340 determination of reservation filing deficiencies at a later date,
2341 nor shall it relieve the developer of any responsibility under
2342 the law. The escrow agreement and the reservation agreement form
2343 shall include a statement of the right of the prospective



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2344 purchaser to an immediate unqualified refund of the reservation
2345 deposit moneys upon written request to the escrow agent by the
2346 prospective purchaser or the developer.

2347 Section 51. Section 719.504, Florida Statutes, is amended
2348 to read:

2349 719.504 Prospectus or offering circular.--Every developer
2350 of a residential cooperative which contains more than 20
2351 residential units, or which is part of a group of residential
2352 cooperatives which will be served by property to be used in
2353 common by unit owners of more than 20 residential units, shall
2354 prepare a prospectus or offering circular and file it with the
2355 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
2356 Mobile Homes prior to entering into an enforceable contract of
2357 purchase and sale of any unit or lease of a unit for more than 5
2358 years and shall furnish a copy of the prospectus or offering
2359 circular to each buyer. In addition to the prospectus or offering
2360 circular, each buyer shall be furnished a separate page entitled
2361 "Frequently Asked Questions and Answers," which must be in
2362 accordance with a format approved by the division. This page
2363 must, in readable language: inform prospective purchasers
2364 regarding their voting rights and unit use restrictions,
2365 including restrictions on the leasing of a unit; indicate whether
2366 and in what amount the unit owners or the association is
2367 obligated to pay rent or land use fees for recreational or other
2368 commonly used facilities; contain a statement identifying that
2369 amount of assessment which, pursuant to the budget, would be
2370 levied upon each unit type, exclusive of any special assessments,
2371 and which identifies the basis upon which assessments are levied,
2372 whether monthly, quarterly, or otherwise; state and identify any
2373 court cases in which the association is currently a party of



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2374 record in which the association may face liability in excess of
2375 \$100,000; and state whether membership in a recreational
2376 facilities association is mandatory and, if so, identify the fees
2377 currently charged per unit type. The division shall by rule
2378 require such other disclosure as in its judgment will assist
2379 prospective purchasers. The prospectus or offering circular may
2380 include more than one cooperative, although not all such units
2381 are being offered for sale as of the date of the prospectus or
2382 offering circular. The prospectus or offering circular must
2383 contain the following information:

2384 (1) The front cover or the first page must contain only:

2385 (a) The name of the cooperative.

2386 (b) The following statements in conspicuous type:

2387 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
2388 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2389 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
2390 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
2391 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

2392 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
2393 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
2394 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
2395 REPRESENTATIONS.

2396 (2) Summary: The next page must contain all statements
2397 required to be in conspicuous type in the prospectus or offering
2398 circular.

2399 (3) A separate index of the contents and exhibits of the
2400 prospectus.

2401 (4) Beginning on the first page of the text (not including
2402 the summary and index), a description of the cooperative,
2403 including, but not limited to, the following information:



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- 2404 (a) Its name and location.
- 2405 (b) A description of the cooperative property, including,
2406 without limitation:
- 2407 1. The number of buildings, the number of units in each
2408 building, the number of bathrooms and bedrooms in each unit, and
2409 the total number of units, if the cooperative is not a phase
2410 cooperative; or, if the cooperative is a phase cooperative, the
2411 maximum number of buildings that may be contained within the
2412 cooperative, the minimum and maximum number of units in each
2413 building, the minimum and maximum number of bathrooms and
2414 bedrooms that may be contained in each unit, and the maximum
2415 number of units that may be contained within the cooperative.
- 2416 2. The page in the cooperative documents where a copy of
2417 the survey and plot plan of the cooperative is located.
- 2418 3. The estimated latest date of completion of constructing,
2419 finishing, and equipping. In lieu of a date, a statement that the
2420 estimated date of completion of the cooperative is in the
2421 purchase agreement and a reference to the article or paragraph
2422 containing that information.
- 2423 (c) The maximum number of units that will use facilities in
2424 common with the cooperative. If the maximum number of units will
2425 vary, a description of the basis for variation and the minimum
2426 amount of dollars per unit to be spent for additional
2427 recreational facilities or enlargement of such facilities. If the
2428 addition or enlargement of facilities will result in a material
2429 increase of a unit owner's maintenance expense or rental expense,
2430 if any, the maximum increase and limitations thereon shall be
2431 stated.
- 2432 (5) (a) A statement in conspicuous type describing whether
2433 the cooperative is created and being sold as fee simple interests



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2434 or as leasehold interests. If the cooperative is created or being
2435 sold on a leasehold, the location of the lease in the disclosure
2436 materials shall be stated.

2437 (b) If timeshare estates are or may be created with respect
2438 to any unit in the cooperative, a statement in conspicuous type
2439 stating that timeshare estates are created and being sold in such
2440 specified units in the cooperative.

2441 (6) A description of the recreational and other common
2442 areas that will be used only by unit owners of the cooperative,
2443 including, but not limited to, the following:

2444 (a) Each room and its intended purposes, location,
2445 approximate floor area, and capacity in numbers of people.

2446 (b) Each swimming pool, as to its general location,
2447 approximate size and depths, approximate deck size and capacity,
2448 and whether heated.

2449 (c) Additional facilities, as to the number of each
2450 facility, its approximate location, approximate size, and
2451 approximate capacity.

2452 (d) A general description of the items of personal property
2453 and the approximate number of each item of personal property that
2454 the developer is committing to furnish for each room or other
2455 facility or, in the alternative, a representation as to the
2456 minimum amount of expenditure that will be made to purchase the
2457 personal property for the facility.

2458 (e) The estimated date when each room or other facility
2459 will be available for use by the unit owners.

2460 (f)1. An identification of each room or other facility to
2461 be used by unit owners that will not be owned by the unit owners
2462 or the association;

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2463 2. A reference to the location in the disclosure materials
2464 of the lease or other agreements providing for the use of those
2465 facilities; and

2466 3. A description of the terms of the lease or other
2467 agreements, including the length of the term; the rent payable,
2468 directly or indirectly, by each unit owner, and the total rent
2469 payable to the lessor, stated in monthly and annual amounts for
2470 the entire term of the lease; and a description of any option to
2471 purchase the property leased under any such lease, including the
2472 time the option may be exercised, the purchase price or how it is
2473 to be determined, the manner of payment, and whether the option
2474 may be exercised for a unit owner's share or only as to the
2475 entire leased property.

2476 (g) A statement as to whether the developer may provide
2477 additional facilities not described above, their general
2478 locations and types, improvements or changes that may be made,
2479 the approximate dollar amount to be expended, and the maximum
2480 additional common expense or cost to the individual unit owners
2481 that may be charged during the first annual period of operation
2482 of the modified or added facilities.

2483
2484 Descriptions as to locations, areas, capacities, numbers,
2485 volumes, or sizes may be stated as approximations or minimums.

2486 (7) A description of the recreational and other facilities
2487 that will be used in common with other cooperatives, community
2488 associations, or planned developments which require the payment
2489 of the maintenance and expenses of such facilities, ~~either~~
2490 directly or indirectly, by the unit owners. The description shall
2491 include, but not be limited to, the following:

2492 (a) Each building and facility committed to be built.



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2493 (b) Facilities not committed to be built except under
2494 certain conditions, and a statement of those conditions or
2495 contingencies.

2496 (c) As to each facility committed to be built, or which
2497 will be committed to be built upon the happening of one of the
2498 conditions in paragraph (b), a statement of whether it will be
2499 owned by the unit owners having the use thereof or by an
2500 association or other entity which will be controlled by them, or
2501 others, and the location in the exhibits of the lease or other
2502 document providing for use of those facilities.

2503 (d) The year in which each facility will be available for
2504 use by the unit owners or, in the alternative, the maximum number
2505 of unit owners in the project at the time each of all of the
2506 facilities is committed to be completed.

2507 (e) A general description of the items of personal
2508 property, and the approximate number of each item of personal
2509 property, that the developer is committing to furnish for each
2510 room or other facility or, in the alternative, a representation
2511 as to the minimum amount of expenditure that will be made to
2512 purchase the personal property for the facility.

2513 (f) If there are leases, a description thereof, including
2514 the length of the term, the rent payable, and a description of
2515 any option to purchase.

2516

2517 Descriptions shall include location, areas, capacities, numbers,
2518 volumes, or sizes and may be stated as approximations or
2519 minimums.

2520 (8) Recreation lease or associated club membership:

2521 (a) If any recreational facilities or other common areas
2522 offered by the developer and available to, or to be used by, unit



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2523 owners are to be leased or have club membership associated, the
2524 following statement in conspicuous type shall be included: THERE
2525 IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
2526 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
2527 COOPERATIVE. There shall be a reference to the location in the
2528 disclosure materials where the recreation lease or club
2529 membership is described in detail.

2530 (b) If it is mandatory that unit owners pay a fee, rent,
2531 dues, or other charges under a recreational facilities lease or
2532 club membership for the use of facilities, there shall be in
2533 conspicuous type the applicable statement:

2534 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
2535 MANDATORY FOR UNIT OWNERS; or

2536 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
2537 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2538 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS
2539 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,
2540 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE
2541 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2542 4. A similar statement of the nature of the organization or
2543 manner in which the use rights are created, and that unit owners
2544 are required to pay.

2545
2546 Immediately following the applicable statement, the location in
2547 the disclosure materials where the development is described in
2548 detail shall be stated.

2549 (c) If the developer, or any other person other than the
2550 unit owners and other persons having use rights in the
2551 facilities, reserves, or is entitled to receive, any rent, fee,
2552 or other payment for the use of the facilities, then there shall



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2553 | be the following statement in conspicuous type: THE UNIT OWNERS
2554 | OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
2555 | RECREATIONAL OR OTHER COMMON AREAS. Immediately following this
2556 | statement, the location in the disclosure materials where the
2557 | rent or land use fees are described in detail shall be stated.

2558 | (d) If, in any recreation format, whether leasehold, club,
2559 | or other, any person other than the association has the right to
2560 | a lien on the units to secure the payment of assessments, rent,
2561 | or other exactions, there shall appear a statement in conspicuous
2562 | type in substantially the following form:

2563 | 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2564 | SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
2565 | RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS
2566 | MAY RESULT IN FORECLOSURE OF THE LIEN; or

2567 | 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2568 | SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
2569 | FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
2570 | OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE
2571 | PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2572 |
2573 | Immediately following the applicable statement, the location in
2574 | the disclosure materials where the lien or lien right is
2575 | described in detail shall be stated.

2576 | (9) If the developer or any other person has the right to
2577 | increase or add to the recreational facilities at any time after
2578 | the establishment of the cooperative whose unit owners have use
2579 | rights therein, without the consent of the unit owners or
2580 | associations being required, there shall appear a statement in
2581 | conspicuous type in substantially the following form:

2582 | RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT



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2583 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
2584 statement, the location in the disclosure materials where such
2585 reserved rights are described shall be stated.

2586 (10) A statement of whether the developer's plan includes a
2587 program of leasing units rather than selling them, or leasing
2588 units and selling them subject to such leases. If so, there shall
2589 be a description of the plan, including the number and
2590 identification of the units and the provisions and term of the
2591 proposed leases, and a statement in boldfaced type that: **THE**
2592 **UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

2593 (11) The arrangements for management of the association and
2594 maintenance and operation of the cooperative property and of
2595 other property that will serve the unit owners of the cooperative
2596 property, and a description of the management contract and all
2597 other contracts for these purposes having a term in excess of 1
2598 year, including the following:

2599 (a) The names of contracting parties.

2600 (b) The term of the contract.

2601 (c) The nature of the services included.

2602 (d) The compensation, stated on a monthly and annual basis,
2603 and provisions for increases in the compensation.

2604 (e) A reference to the volumes and pages of the cooperative
2605 documents and of the exhibits containing copies of such
2606 contracts.

2607
2608 Copies of all described contracts shall be attached as exhibits.
2609 If there is a contract for the management of the cooperative
2610 property, then a statement in conspicuous type in substantially
2611 the following form shall appear, identifying the proposed or
2612 existing contract manager: **THERE IS (IS TO BE) A CONTRACT FOR THE**



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2613 MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE CONTRACT
2614 MANAGER). Immediately following this statement, the location in
2615 the disclosure materials of the contract for management of the
2616 cooperative property shall be stated.

2617 (12) If the developer or any other person or persons other
2618 than the unit owners has the right to retain control of the board
2619 of administration of the association for a period of time which
2620 can exceed 1 year after the closing of the sale of a majority of
2621 the units in that cooperative to persons other than successors or
2622 alternate developers, then a statement in conspicuous type in
2623 substantially the following form shall be included: THE DEVELOPER
2624 (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE
2625 ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.

2626 Immediately following this statement, the location in the
2627 disclosure materials where this right to control is described in
2628 detail shall be stated.

2629 (13) If there are any restrictions upon the sale, transfer,
2630 conveyance, or leasing of a unit, then a statement in conspicuous
2631 type in substantially the following form shall be included: THE
2632 SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.

2633 Immediately following this statement, the location in the
2634 disclosure materials where the restriction, limitation, or
2635 control on the sale, lease, or transfer of units is described in
2636 detail shall be stated.

2637 (14) If the cooperative is part of a phase project, the
2638 following shall be stated:

2639 (a) A statement in conspicuous type in substantially the
2640 following form shall be included: THIS IS A PHASE COOPERATIVE.
2641 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.

2642 Immediately following this statement, the location in the

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2643 disclosure materials where the phasing is described shall be
2644 stated.

2645 (b) A summary of the provisions of the declaration
2646 providing for the phasing.

2647 (c) A statement as to whether or not residential buildings
2648 and units which are added to the cooperative may be substantially
2649 different from the residential buildings and units originally in
2650 the cooperative, and, if the added residential buildings and
2651 units may be substantially different, there shall be a general
2652 description of the extent to which such added residential
2653 buildings and units may differ, and a statement in conspicuous
2654 type in substantially the following form shall be included:
2655 BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE MAY BE
2656 SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE
2657 COOPERATIVE. Immediately following this statement, the location
2658 in the disclosure materials where the extent to which added
2659 residential buildings and units may substantially differ is
2660 described shall be stated.

2661 (d) A statement of the maximum number of buildings
2662 containing units, the maximum and minimum number of units in each
2663 building, the maximum number of units, and the minimum and
2664 maximum square footage of the units that may be contained within
2665 each parcel of land which may be added to the cooperative.

2666 (15) If the cooperative is created by conversion of
2667 existing improvements, the following information shall be stated:

2668 (a) The information required by s. 719.616.

2669 (b) A caveat that there are no express warranties unless
2670 they are stated in writing by the developer.

2671 (16) A summary of the restrictions, if any, to be imposed
2672 on units concerning the use of any of the cooperative property,



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2673 including statements as to whether there are restrictions upon
2674 children and pets, and reference to the volumes and pages of the
2675 cooperative documents where such restrictions are found, or if
2676 such restrictions are contained elsewhere, then a copy of the
2677 documents containing the restrictions shall be attached as an
2678 exhibit.

2679 (17) If there is any land that is offered by the developer
2680 for use by the unit owners and that is neither owned by them nor
2681 leased to them, the association, or any entity controlled by unit
2682 owners and other persons having the use rights to such land, a
2683 statement shall be made as to how such land will serve the
2684 cooperative. If any part of such land will serve the cooperative,
2685 the statement shall describe the land and the nature and term of
2686 service, and the cooperative documents or other instrument
2687 creating such servitude shall be included as an exhibit.

2688 (18) The manner in which utility and other services,
2689 including, but not limited to, sewage and waste disposal, water
2690 supply, and storm drainage, will be provided and the person or
2691 entity furnishing them.

2692 (19) An explanation of the manner in which the
2693 apportionment of common expenses and ownership of the common
2694 areas have been determined.

2695 (20) An estimated operating budget for the cooperative and
2696 the association, and a schedule of the unit owner's expenses
2697 shall be attached as an exhibit and shall contain the following
2698 information:

2699 (a) The estimated monthly and annual expenses of the
2700 cooperative and the association that are collected from unit
2701 owners by assessments.



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2702 (b) The estimated monthly and annual expenses of each unit
2703 owner for a unit, other than assessments payable to the
2704 association, payable by the unit owner to persons or entities
2705 other than the association, and the total estimated monthly and
2706 annual expense. There may be excluded from this estimate expenses
2707 that are personal to unit owners, which are not uniformly
2708 incurred by all unit owners, or which are not provided for or
2709 contemplated by the cooperative documents, including, but not
2710 limited to, the costs of private telephone; maintenance of the
2711 interior of cooperative units, which is not the obligation of the
2712 association; maid or janitorial services privately contracted for
2713 by the unit owners; utility bills billed directly to each unit
2714 owner for utility services to his or her unit; insurance premiums
2715 other than those incurred for policies obtained by the
2716 cooperative; and similar personal expenses of the unit owner. A
2717 unit owner's estimated payments for assessments shall also be
2718 stated in the estimated amounts for the times when they will be
2719 due.

2720 (c) The estimated items of expenses of the cooperative and
2721 the association, except as excluded under paragraph (b),
2722 including, but not limited to, the following items, which shall
2723 be stated ~~either~~ as an association expense collectible by
2724 assessments or as unit owners' expenses payable to persons other
2725 than the association:

- 2726 1. Expenses for the association and cooperative:
2727 a. Administration of the association.
2728 b. Management fees.
2729 c. Maintenance.
2730 d. Rent for recreational and other commonly used areas.
2731 e. Taxes upon association property.



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- 2732 f. Taxes upon leased areas.
- 2733 g. Insurance.
- 2734 h. Security provisions.
- 2735 i. Other expenses.
- 2736 j. Operating capital.
- 2737 k. Reserves.
- 2738 l. Fee payable to the division.
- 2739 2. Expenses for a unit owner:
- 2740 a. Rent for the unit, if subject to a lease.
- 2741 b. Rent payable by the unit owner directly to the lessor or
- 2742 agent under any recreational lease or lease for the use of
- 2743 commonly used areas, which use and payment are a mandatory
- 2744 condition of ownership and are not included in the common expense
- 2745 or assessments for common maintenance paid by the unit owners to
- 2746 the association.
- 2747 (d) The following statement in conspicuous type: THE BUDGET
- 2748 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
- 2749 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
- 2750 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
- 2751 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
- 2752 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
- 2753 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE
- 2754 OFFERING.
- 2755 (e) Each budget for an association prepared by a developer
- 2756 consistent with this subsection shall be prepared in good faith
- 2757 and shall reflect accurate estimated amounts for the required
- 2758 items in paragraph (c) at the time of the filing of the offering
- 2759 circular with the division, and subsequent increased amounts of
- 2760 any item included in the association's estimated budget that are
- 2761 beyond the control of the developer shall not be considered an



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2762 amendment that would give rise to rescission rights set forth in
2763 s. 719.503(1)(a) or (b), nor shall such increases modify, void,
2764 or otherwise affect any guarantee of the developer contained in
2765 the offering circular or any purchase contract. It is the intent
2766 of this paragraph to clarify existing law.

2767 (f) The estimated amounts shall be stated for a period of
2768 at least 12 months and may distinguish between the period prior
2769 to the time unit owners other than the developer elect a majority
2770 of the board of administration and the period after that date.

2771 (21) A schedule of estimated closing expenses to be paid by
2772 a buyer or lessee of a unit and a statement of whether title
2773 opinion or title insurance policy is available to the buyer and,
2774 if so, at whose expense.

2775 (22) The identity of the developer and the chief operating
2776 officer or principal directing the creation and sale of the
2777 cooperative and a statement of its and his or her experience in
2778 this field.

2779 (23) Copies of the following, to the extent they are
2780 applicable, shall be included as exhibits:

2781 (a) The cooperative documents, or the proposed cooperative
2782 documents if the documents have not been recorded.

2783 (b) The articles of incorporation creating the association.

2784 (c) The bylaws of the association.

2785 (d) The ground lease or other underlying lease of the
2786 cooperative.

2787 (e) The management agreement and all maintenance and other
2788 contracts for management of the association and operation of the
2789 cooperative and facilities used by the unit owners having a
2790 service term in excess of 1 year.



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2791 (f) The estimated operating budget for the cooperative and
2792 the required schedule of unit owners' expenses.

2793 (g) A copy of the floor plan of the unit and the plot plan
2794 showing the location of the residential buildings and the
2795 recreation and other common areas.

2796 (h) The lease of recreational and other facilities that
2797 will be used only by unit owners of the subject cooperative.

2798 (i) The lease of facilities used by owners and others.

2799 (j) The form of unit lease, if the offer is of a leasehold.

2800 (k) A declaration of servitude of properties serving the
2801 cooperative but not owned by unit owners or leased to them or the
2802 association.

2803 (l) The statement of condition of the existing building or
2804 buildings, if the offering is of units in an operation being
2805 converted to cooperative ownership.

2806 (m) The statement of inspection for termite damage and
2807 treatment of the existing improvements, if the cooperative is a
2808 conversion.

2809 (n) The form of agreement for sale or lease of units.

2810 (o) A copy of the agreement for escrow of payments made to
2811 the developer prior to closing.

2812 (p) A copy of the documents containing any restrictions on
2813 use of the property required by subsection (16).

2814 (24) Any prospectus or offering circular complying with the
2815 provisions of former ss. 711.69 and 711.802 may continue to be
2816 used without amendment, or may be amended to comply with ~~the~~
2817 ~~provisions of~~ this chapter.

2818 (25) A brief narrative description of the location and
2819 effect of all existing and intended easements located or to be

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2820 | located on the cooperative property other than those in the
2821 | declaration.

2822 | (26) If the developer is required by state or local
2823 | authorities to obtain acceptance or approval of any dock or
2824 | marina facility intended to serve the cooperative, a copy of such
2825 | acceptance or approval acquired by the time of filing with the
2826 | division pursuant to s. 719.502 or a statement that such
2827 | acceptance has not been acquired or received.

2828 | (27) Evidence demonstrating that the developer has an
2829 | ownership, leasehold, or contractual interest in the land upon
2830 | which the cooperative is to be developed.

2831 | Section 52. Section 719.508, Florida Statutes, is amended
2832 | to read:

2833 | 719.508 Regulation by Division of Hotels and
2834 | Restaurants.--In addition to the authority, regulation, or
2835 | control exercised by the Division of Florida ~~Land Sales,~~
2836 | Condominiums, Timeshares, and Mobile Homes pursuant to this act
2837 | with respect to cooperatives, buildings included in a cooperative
2838 | property shall be subject to the authority, regulation, or
2839 | control of the Division of Hotels and Restaurants of the
2840 | Department of Business and Professional Regulation, to the extent
2841 | provided ~~for~~ in chapters 399 and 509.

2842 | Section 53. Paragraph (a) of subsection (2) of section
2843 | 719.608, Florida Statutes, is amended to read:

2844 | 719.608 Notice of intended conversion; time of delivery;
2845 | content.--

2846 | (2) (a) Each notice of intended conversion shall be dated
2847 | and in writing. The notice shall contain the following statement,
2848 | with the phrases of the following statement which appear in upper
2849 | case printed in conspicuous type:



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2850
2851 These apartments are being converted to cooperative by
2852 (name of developer) , the developer.

2853 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
2854 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
2855 AGREEMENT AS FOLLOWS:

2856 a. If you have continuously been a resident of these
2857 apartments during the last 180 days and your rental agreement
2858 expires during the next 270 days, you may extend your rental
2859 agreement for up to 270 days after the date of this notice.

2860 b. If you have not been a continuous resident of these
2861 apartments for the last 180 days and your rental agreement
2862 expires during the next 180 days, you may extend your rental
2863 agreement for up to 180 days after the date of this notice.

2864 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
2865 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
2866 DATE OF THIS NOTICE.

2867 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
2868 you may extend your rental agreement for up to 45 days after the
2869 date of this notice while you decide whether to extend your
2870 rental agreement as explained above. To do so, you must notify
2871 the developer in writing. You will then have the full 45 days to
2872 decide whether to extend your rental agreement as explained
2873 above.

2874 3. During the extension of your rental agreement you will
2875 be charged the same rent that you are now paying.

2876 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
2877 OF THE RENTAL AGREEMENT AS FOLLOWS:

2878 a. If your rental agreement began or was extended or
2879 renewed after May 1, 1980, and your rental agreement, including



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2880 extensions and renewals, has an unexpired term of 180 days or
2881 less, you may cancel your rental agreement upon 30 days' written
2882 notice and move. Also, upon 30 days' written notice, you may
2883 cancel any extension of the rental agreement.

2884 b. If your rental agreement was not begun or was not
2885 extended or renewed after May 1, 1980, you may not cancel the
2886 rental agreement without the consent of the developer. If your
2887 rental agreement, including extensions and renewals, has an
2888 unexpired term of 180 days or less, you may, however, upon 30
2889 days' written notice cancel any extension of the rental
2890 agreement.

2891 5. All notices must be given in writing and sent by mail,
2892 return receipt requested, or delivered in person to the developer
2893 at this address: (name and address of developer) .

2894 6. If you have continuously been a resident of these
2895 apartments during the last 180 days:

2896 a. You have the right to purchase your apartment and will
2897 have 45 days to decide whether to purchase. If you do not buy the
2898 unit at that price and the unit is later offered at a lower
2899 price, you will have the opportunity to buy the unit at the lower
2900 price. However, in all events your right to purchase the unit
2901 ends when the rental agreement or any extension of the rental
2902 agreement ends or when you waive this right in writing.

2903 b. Within 90 days you will be provided purchase information
2904 relating to your apartment, including the price of your unit and
2905 the condition of the building. If you do not receive this
2906 information within 90 days, your rental agreement and any
2907 extension will be extended 1 day for each day over 90 days until
2908 you are given the purchase information. If you do not want this

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2909 rental agreement extension, you must notify the developer in
2910 writing.

2911 7. If you have any questions regarding this conversion or
2912 the Cooperative Act, you may contact the developer or the state
2913 agency which regulates cooperatives: The Division of Florida ~~Land~~
2914 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes, (Tallahassee
2915 address and telephone number of division) .

2916 Section 54. Subsection (7) of section 720.301, Florida
2917 Statutes, is amended to read:

2918 720.301 Definitions.--As used in this chapter, the term:

2919 (7) "Division" means the Division of Florida ~~Land Sales,~~
2920 Condominiums, Timeshares, and Mobile Homes in the Department of
2921 Business and Professional Regulation.

2922 Section 55. Subsection (2) of section 720.401, Florida
2923 Statutes, is amended to read:

2924 720.401 Prospective purchasers subject to association
2925 membership requirement; disclosure required; covenants;
2926 assessments; contract cancellation.--

2927 (2) This section does not apply to any association
2928 regulated under chapter 718, chapter 719, chapter 721, or chapter
2929 ~~723 or to a subdivider registered under chapter 498;~~ and also
2930 does not apply if disclosure regarding the association is
2931 otherwise made in connection with the requirements of chapter
2932 718, chapter 719, chapter 721, or chapter 723.

2933 Section 56. Paragraph (c) of subsection (1) of section
2934 721.03, Florida Statutes, is amended to read:

2935 721.03 Scope of chapter.--

2936 (1) This chapter applies to all timeshare plans consisting
2937 of more than seven timeshare periods over a period of at least 3
2938 years in which the accommodations and facilities, if any, are



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2939 | located within this state or offered within this state; provided
2940 | that:

2941 | (c) All timeshare accommodations or facilities which are
2942 | located outside the state but offered for sale in this state
2943 | shall be governed by the following:

2944 | 1. The offering for sale in this state of timeshare
2945 | accommodations and facilities located outside the state is
2946 | subject only to the provisions of ss. 721.01-721.12, 721.18,
2947 | 721.20, 721.21, 721.26, 721.28, and part II.

2948 | 2. The division shall not require a developer of timeshare
2949 | accommodations or facilities located outside of this state to
2950 | make changes in any timeshare instrument to conform to the
2951 | provisions of s. 721.07 or s. 721.55. The division shall have the
2952 | power to require disclosure of those provisions of the timeshare
2953 | instrument that do not conform to s. 721.07 or s. 721.55 as the
2954 | director determines is necessary to fairly, meaningfully, and
2955 | effectively disclose all aspects of the timeshare plan.

2956 | 3. Except as provided in this subparagraph, the division
2957 | shall have no authority to determine whether any person has
2958 | complied with another state's laws or to disapprove any filing
2959 | out-of-state, timeshare instrument, or component site document,
2960 | based solely upon the lack or degree of timeshare regulation in
2961 | another state. The division may require a developer to obtain and
2962 | provide to the division existing documentation relating to an
2963 | out-of-state filing, timeshare instrument, or component site
2964 | document and prove compliance of same with the laws of that
2965 | state. In this regard, the division may accept any evidence of
2966 | the approval or acceptance of any out-of-state filing, timeshare
2967 | instrument, or component site document by another state in lieu
2968 | of requiring a developer to file the out-of-state filing,

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2969 | timeshare instrument, or component site document with the
2970 | division pursuant to this section, or the division may accept an
2971 | opinion letter from an attorney or law firm opining as to the
2972 | compliance of such out-of-state filing, timeshare instrument, or
2973 | component site document with the laws of another state. The
2974 | division may refuse to approve the inclusion of any out-of-state
2975 | filing, timeshare instrument, or component site document as part
2976 | of a public offering statement based upon the inability of the
2977 | developer to establish the compliance of same with the laws of
2978 | another state.

2979 | 4. The division is authorized to enter into an agreement
2980 | with another state for the purpose of facilitating the processing
2981 | of out-of-state timeshare instruments or other component site
2982 | documents pursuant to this chapter and for the purpose of
2983 | facilitating the referral of consumer complaints to the
2984 | appropriate state.

2985 | 5. Notwithstanding any other provision of this paragraph,
2986 | the offer, in this state, of an additional interest to existing
2987 | purchasers in the same timeshare plan or the same component site
2988 | of a multisite timeshare plan, the same nonspecific multisite
2989 | timeshare plan, with accommodations and facilities located
2990 | outside of this state shall not be subject to the provisions of
2991 | this chapter if the offer complies with the provisions of s.
2992 | 721.11(4).

2993 | Section 57. Subsection (11) of section 721.05, Florida
2994 | Statutes, is amended to read:

2995 | 721.05 Definitions.--As used in this chapter, the term:

2996 | (11) "Division" means the Division of Florida ~~Land Sales,~~
2997 | Condominiums, Timeshares, and Mobile Homes of the Department of
2998 | Business and Professional Regulation.

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2999 Section 58. Paragraph (d) of subsection (2) of section
3000 721.07, Florida Statutes, is amended to read:

3001 721.07 Public offering statement.--Prior to offering any
3002 timeshare plan, the developer must submit a filed public offering
3003 statement to the division for approval as prescribed by s.
3004 721.03, s. 721.55, or this section. Until the division approves
3005 such filing, any contract regarding the sale of that timeshare
3006 plan is subject to cancellation by the purchaser pursuant to s.
3007 721.10.

3008 (2)

3009 (d) A developer shall have the authority to deliver to
3010 purchasers any purchaser public offering statement that is not
3011 yet approved by the division, provided that the following shall
3012 apply:

3013 1. At the time the developer delivers an unapproved
3014 purchaser public offering statement to a purchaser pursuant to
3015 this paragraph, the developer shall deliver a fully completed and
3016 executed copy of the purchase contract required by s. 721.06 that
3017 contains the following statement in conspicuous type in
3018 substantially the following form which shall replace the
3019 statements required by s. 721.06(1)(g):

3020

3021 The developer is delivering to you a public offering statement
3022 that has been filed with but not yet approved by the Division of
3023 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes.
3024 Any revisions to the unapproved public offering statement you
3025 have received must be delivered to you, but only if the revisions
3026 materially alter or modify the offering in a manner adverse to
3027 you. After the division approves the public offering statement,



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3028 | you will receive notice of the approval from the developer and
3029 | the required revisions, if any.

3030

3031 | Your statutory right to cancel this transaction without any
3032 | penalty or obligation expires 10 calendar days after the date you
3033 | signed your purchase contract or the date on which you receive
3034 | the last of all documents required to be given to you pursuant to
3035 | section 721.07(6), Florida Statutes, or 10 calendar days after
3036 | you receive revisions required to be delivered to you, if any,
3037 | whichever is later. If you decide to cancel this contract, you
3038 | must notify the seller in writing of your intent to cancel. Your
3039 | notice of cancellation shall be effective upon the date sent and
3040 | shall be sent to (Name of Seller) at (Address of Seller) .
3041 | Any attempt to obtain a waiver of your cancellation right is void
3042 | and of no effect. While you may execute all closing documents in
3043 | advance, the closing, as evidenced by delivery of the deed or
3044 | other document, before expiration of your 10-day cancellation
3045 | period, is prohibited.

3046

3047 | 2. After receipt of approval from the division and prior to
3048 | closing, if any revisions made to the documents contained in the
3049 | purchaser public offering statement materially alter or modify
3050 | the offering in a manner adverse to a purchaser, the developer
3051 | shall send the purchaser such revisions together with a notice
3052 | containing a statement in conspicuous type in substantially the
3053 | following form:

3054

3055 | The unapproved public offering statement previously delivered to
3056 | you, together with the enclosed revisions, has been approved by
3057 | the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and



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3058 Mobile Homes. Accordingly, your cancellation right expires 10
3059 calendar days after you sign your purchase contract or 10
3060 calendar days after you receive these revisions, whichever is
3061 later. If you have any questions regarding your cancellation
3062 rights, you may contact the division at [insert division's
3063 current address].

3064
3065 3. After receipt of approval from the division and prior to
3066 closing, if no revisions have been made to the documents
3067 contained in the unapproved purchaser public offering statement,
3068 or if such revisions do not materially alter or modify the
3069 offering in a manner adverse to a purchaser, the developer shall
3070 send the purchaser a notice containing a statement in conspicuous
3071 type in substantially the following form:

3072
3073 The unapproved public offering statement previously delivered to
3074 you has been approved by the Division of Florida ~~Land Sales,~~
3075 Condominiums, Timeshares, and Mobile Homes. Revisions made to the
3076 unapproved public offering statement, if any, are ~~either~~ not
3077 required to be delivered to you or are not deemed by the
3078 developer, in its opinion, to materially alter or modify the
3079 offering in a manner that is adverse to you. Accordingly, your
3080 cancellation right expired 10 days after you signed your purchase
3081 contract. A complete copy of the approved public offering
3082 statement is available through the managing entity for inspection
3083 as part of the books and records of the plan. If you have any
3084 questions regarding your cancellation rights, you may contact the
3085 division at [insert division's current address].

3086 Section 59. Subsection (8) of section 721.08, Florida
3087 Statutes, is amended to read:



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3088 721.08 Escrow accounts; nondisturbance instruments;
3089 alternate security arrangements; transfer of legal title.--

3090 (8) An escrow agent holding escrowed funds pursuant to this
3091 chapter that have not been claimed for a period of 5 years after
3092 the date of deposit shall make at least one reasonable attempt to
3093 deliver such unclaimed funds to the purchaser who submitted such
3094 funds to escrow. In making such attempt, an escrow agent is
3095 entitled to rely on a purchaser's last known address as set forth
3096 in the books and records of the escrow agent and is not required
3097 to conduct any further search for the purchaser. If an escrow
3098 agent's attempt to deliver unclaimed funds to any purchaser is
3099 unsuccessful, the escrow agent may deliver such unclaimed funds
3100 to the division and the division shall deposit such unclaimed
3101 funds in the Division of Florida ~~Land Sales,~~ Condominiums,
3102 Timeshares, and Mobile Homes Trust Fund, 30 days after giving
3103 notice in a publication of general circulation in the county in
3104 which the timeshare property containing the purchaser's timeshare
3105 interest is located. The purchaser may claim the same at any time
3106 prior to the delivery of such funds to the division. After
3107 delivery of such funds to the division, the purchaser shall have
3108 no more rights to the unclaimed funds. The escrow agent shall not
3109 be liable for any claims from any party arising out of the escrow
3110 agent's delivery of the unclaimed funds to the division pursuant
3111 to this section.

3112 Section 60. Section 721.26, Florida Statutes, is amended to
3113 read:

3114 721.26 Regulation by division.--The division has the power
3115 to enforce and ensure compliance with ~~the provisions of this~~
3116 chapter, except for parts III and IV, using the powers provided
3117 in this chapter, as well as the powers prescribed in chapters



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3118 | ~~498,~~ 718~~,~~ and 719. In performing its duties, the division shall
3119 | have the following powers and duties:

3120 | (1) To aid in the enforcement of this chapter, or any
3121 | division rule adopted or order ~~promulgated or~~ issued pursuant to
3122 | this chapter, the division may make necessary public or private
3123 | investigations within or outside this state to determine whether
3124 | any person has violated or is about to violate this chapter, or
3125 | any division rule adopted or order ~~promulgated or~~ issued pursuant
3126 | to this chapter.

3127 | (2) The division may require or permit any person to file a
3128 | written statement under oath or otherwise, as the division
3129 | determines, as to the facts and circumstances concerning a matter
3130 | under investigation.

3131 | (3) For the purpose of any investigation under this
3132 | chapter, the director of the division or any officer or employee
3133 | designated by the director may administer oaths or affirmations,
3134 | subpoena witnesses and compel their attendance, take evidence,
3135 | and require the production of any matter which is relevant to the
3136 | investigation, including the identity, existence, description,
3137 | nature, custody, condition, and location of any books, documents,
3138 | or other tangible things and the identity and location of persons
3139 | having knowledge of relevant facts or any other matter reasonably
3140 | calculated to lead to the discovery of material evidence. Failure
3141 | to obey a subpoena or to answer questions propounded by the
3142 | investigating officer and upon reasonable notice to all persons
3143 | affected thereby shall be a violation of this chapter. In
3144 | addition to the other enforcement powers authorized in this
3145 | subsection, the division may, ~~at its discretion,~~ apply to the
3146 | circuit court for an order compelling compliance.



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3147 (4) The division may prepare and disseminate a prospectus
3148 and other information to assist prospective purchasers, sellers,
3149 and managing entities of timeshare plans in assessing the rights,
3150 privileges, and duties pertaining thereto.

3151 (5) Notwithstanding any remedies available to purchasers,
3152 if the division has reasonable cause to believe that a violation
3153 of this chapter, or of any division rule adopted or order
3154 ~~promulgated or~~ issued pursuant to this chapter, has occurred, the
3155 division may institute enforcement proceedings in its own name
3156 against any regulated party, as such term is defined in this
3157 subsection:

3158 (a)1. "Regulated party," for purposes of this section,
3159 means any developer, exchange company, seller, managing entity,
3160 owners' association, owners' association director, owners'
3161 association officer, manager, management firm, escrow agent,
3162 trustee, any respective assignees or agents, or any other person
3163 having duties or obligations pursuant to this chapter.

3164 2. Any person who materially participates in any offer or
3165 disposition of any interest in, or the management or operation
3166 of, a timeshare plan in violation of this chapter or relevant
3167 rules involving fraud, deception, false pretenses,
3168 misrepresentation, or false advertising or the disbursement,
3169 concealment, or diversion of any funds or assets, which conduct
3170 adversely affects the interests of a purchaser, and which person
3171 directly or indirectly controls a regulated party or is a general
3172 partner, officer, director, agent, or employee of such regulated
3173 party, shall be jointly and severally liable under this
3174 subsection with such regulated party, unless such person did not
3175 know, and in the exercise of reasonable care could not have
3176 known, of the existence of the facts giving rise to the violation



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3177 of this chapter. A right of contribution shall exist among
3178 jointly and severally liable persons pursuant to this paragraph.

3179 (b) The division may permit any person whose conduct or
3180 actions may be under investigation to waive formal proceedings
3181 and enter into a consent proceeding whereby an order, rule, or
3182 letter of censure or warning, whether formal or informal, may be
3183 entered against that person.

3184 (c) The division may issue an order requiring a regulated
3185 party to cease and desist from an unlawful practice under this
3186 chapter and take such affirmative action as in the judgment of
3187 the division will carry out the purposes of this chapter.

3188 (d)1. The division may bring an action in circuit court for
3189 declaratory or injunctive relief or for other appropriate relief,
3190 including restitution.

3191 2. The division shall have broad authority and discretion
3192 to petition the circuit court to appoint a receiver with respect
3193 to any managing entity which fails to perform its duties and
3194 obligations under this chapter with respect to the operation of a
3195 timeshare plan. The circumstances giving rise to an appropriate
3196 petition for receivership under this subparagraph include, but
3197 are not limited to:

3198 a. Damage to or destruction of any of the accommodations or
3199 facilities of a timeshare plan, where the managing entity has
3200 failed to repair or reconstruct same.

3201 b. A breach of fiduciary duty by the managing entity,
3202 including, but not limited to, undisclosed self-dealing or
3203 failure to timely assess, collect, or disburse the common
3204 expenses of the timeshare plan.



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3205 c. Failure of the managing entity to operate the timeshare
3206 plan in accordance with the timeshare instrument and this
3207 chapter.

3208
3209 If, under the circumstances, it appears that the events giving
3210 rise to the petition for receivership cannot be reasonably and
3211 timely corrected in a cost-effective manner consistent with the
3212 timeshare instrument, the receiver may petition the circuit court
3213 to implement such amendments or revisions to the timeshare
3214 instrument as may be necessary to enable the managing entity to
3215 resume effective operation of the timeshare plan, or to enter an
3216 order terminating the timeshare plan, or to enter such further
3217 orders regarding the disposition of the timeshare property as the
3218 court deems appropriate, including the disposition and sale of
3219 the timeshare property held by the owners' association or the
3220 purchasers. In the event of a receiver's sale, all rights, title,
3221 and interest held by the owners' association or any purchaser
3222 shall be extinguished and title shall vest in the buyer. This
3223 provision applies to timeshare estates, personal property
3224 timeshare interests, and timeshare licenses. All reasonable costs
3225 and fees of the receiver relating to the receivership shall
3226 become common expenses of the timeshare plan upon order of the
3227 court.

3228 3. The division may revoke its approval of any filing for
3229 any timeshare plan for which a petition for receivership has been
3230 filed pursuant to this paragraph.

3231 (e)1. The division may impose a penalty against any
3232 regulated party for a violation of this chapter or any rule
3233 adopted thereunder. A penalty may be imposed on the basis of each
3234 day of continuing violation, but in no event may the penalty for



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3235 any offense exceed \$10,000. All accounts collected shall be
3236 deposited with the Chief Financial Officer to the credit of the
3237 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
3238 Mobile Homes Trust Fund.

3239 2.a. If a regulated party fails to pay a penalty, the
3240 division shall thereupon issue an order directing that such
3241 regulated party cease and desist from further operation until
3242 such time as the penalty is paid; or the division may pursue
3243 enforcement of the penalty in a court of competent jurisdiction.

3244 b. If an owners' association or managing entity fails to
3245 pay a civil penalty, the division may pursue enforcement in a
3246 court of competent jurisdiction.

3247 (f) In order to permit the regulated party an opportunity
3248 ~~either~~ to appeal such decision administratively or to seek relief
3249 in a court of competent jurisdiction, the order imposing the
3250 penalty or the cease and desist order shall not become effective
3251 until 20 days after the date of such order.

3252 (g) Any action commenced by the division shall be brought
3253 in the county in which the division has its executive offices or
3254 in the county where the violation occurred.

3255 (h) Notice to any regulated party shall be complete when
3256 delivered by United States mail, return receipt requested, to the
3257 party's address currently on file with the division or to such
3258 other address at which the division is able to locate the party.
3259 Every regulated party has an affirmative duty to notify the
3260 division of any change of address at least 5 business days prior
3261 to such change.

3262 (6) The division has authority to adopt rules pursuant to
3263 ss. 120.536(1) and 120.54 to implement and enforce the provisions
3264 of this chapter.

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3265 (7) (a) The use of any unfair or deceptive act or practice
3266 by any person in connection with the sales or other operations of
3267 an exchange program or timeshare plan is a violation of this
3268 chapter.

3269 (b) Any violation of the Florida Deceptive and Unfair Trade
3270 Practices Act, ss. 501.201 et seq., relating to the creation,
3271 promotion, sale, operation, or management of any timeshare plan
3272 shall also be a violation of this chapter.

3273 (c) The division may ~~is authorized to~~ institute proceedings
3274 against any such person and take any appropriate action
3275 authorized in this section in connection therewith,
3276 notwithstanding any remedies available to purchasers.

3277 (8) The failure of any person to comply with any order of
3278 the division is a violation of this chapter.

3279 Section 61. Section 721.28, Florida Statutes, is amended to
3280 read:

3281 721.28 Division of Florida ~~Land Sales,~~ Condominiums,
3282 Timeshares, and Mobile Homes Trust Fund.--All funds collected by
3283 the division and any amounts paid as fees or penalties under this
3284 chapter shall be deposited in the State Treasury to the credit of
3285 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
3286 Mobile Homes Trust Fund created by s. 718.509 ~~498.019~~.

3287 Section 62. Paragraph (c) of subsection (1) of section
3288 721.301, Florida Statutes, is amended to read:

3289 721.301 Florida Timesharing, Vacation Club, and Hospitality
3290 Program.--

3291 (1)

3292 (c) The director may designate funds from the Division of
3293 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes
3294 Trust Fund, not to exceed \$50,000 annually, to support the



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3295 projects and proposals undertaken pursuant to paragraph (b). All
3296 state trust funds to be expended pursuant to this section must be
3297 matched equally with private moneys and shall comprise no more
3298 than half of the total moneys expended annually.

3299 Section 63. Section 721.50, Florida Statutes, is amended to
3300 read:

3301 721.50 Short title.--This part may be cited as the
3302 "McAllister Act" in recognition and appreciation for the years of
3303 extraordinary and insightful contributions by Mr. Bryan C.
3304 McAllister, Examinations Supervisor of the former, Division of
3305 Florida Land Sales, Condominiums, and Mobile Homes.

3306 Section 64. Subsection (1) of section 723.003, Florida
3307 Statutes, is amended to read:

3308 723.003 Definitions.--As used in this chapter, the
3309 following words and terms have the following meanings unless
3310 clearly indicated otherwise:

3311 (1) The term "division" means the Division of Florida ~~Land~~
3312 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the
3313 Department of Business and Professional Regulation.

3314 Section 65. Paragraph (e) of subsection (5) of section
3315 723.006, Florida Statutes, is amended to read:

3316 723.006 Powers and duties of division.--In performing its
3317 duties, the division has the following powers and duties:

3318 (5) Notwithstanding any remedies available to mobile home
3319 owners, mobile home park owners, and homeowners' associations, if
3320 the division has reasonable cause to believe that a violation of
3321 any provision of this chapter or related ~~any rule promulgated~~
3322 ~~pursuant hereto~~ has occurred, the division may institute
3323 enforcement proceedings in its own name against a developer,

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3324 mobile home park owner, or homeowners' association, or its
3325 assignee or agent, as follows:

3326 (e)1. The division may impose a civil penalty against a
3327 mobile home park owner or homeowners' association, or its
3328 assignee or agent, for any violation of this chapter, a properly
3329 adopted ~~promulgated~~ park rule or regulation, or a rule adopted ~~or~~
3330 ~~regulation promulgated~~ pursuant hereto. A penalty may be imposed
3331 on the basis of each separate violation and, if the violation is
3332 a continuing one, for each day of continuing violation, but in no
3333 event may the penalty for each separate violation or for each day
3334 of continuing violation exceed \$5,000. All amounts collected
3335 shall be deposited with the Chief Financial Officer to the credit
3336 of the Division of Florida ~~Land Sales~~, Condominiums, Timeshares,
3337 and Mobile Homes Trust Fund.

3338 2. If a violator fails to pay the civil penalty, the
3339 division shall thereupon issue an order directing that such
3340 violator cease and desist from further violation until such time
3341 as the civil penalty is paid or may pursue enforcement of the
3342 penalty in a court of competent jurisdiction. If a homeowners'
3343 association fails to pay the civil penalty, the division shall
3344 thereupon pursue enforcement in a court of competent
3345 jurisdiction, and the order imposing the civil penalty or the
3346 cease and desist order shall not become effective until 20 days
3347 after the date of such order. Any action commenced by the
3348 division shall be brought in the county in which the division has
3349 its executive offices or in which the violation occurred.

3350 Section 66. Section 723.009, Florida Statutes, is amended
3351 to read:

3352 723.009 Division of Florida ~~Land Sales~~, Condominiums,
3353 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the



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3354 fees, penalties, and fines imposed pursuant to this chapter shall
 3355 be deposited into the Division of Florida ~~Land Sales,~~
 3356 Condominiums, Timeshares, and Mobile Homes Trust Fund created by
 3357 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the
 3358 Legislature pursuant to chapter 216, may be used to defray the
 3359 expenses incurred by the division in administering the provisions
 3360 of this chapter.

3361 Section 67. Paragraph (c) of subsection (2) of section
 3362 723.0611, Florida Statutes, is amended to read:

3363 723.0611 Florida Mobile Home Relocation Corporation.--
 3364 (2)

3365 (c) The corporation shall, for purposes of s. 768.28, be
 3366 considered an agency of the state. Agents or employees of the
 3367 corporation, members of the board of directors of the
 3368 corporation, or representatives of the Division of Florida ~~Land~~
 3369 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes shall be
 3370 considered officers, employees, or agents of the state, and
 3371 actions against them and the corporation shall be governed by s.
 3372 768.28.

3373 Section 68. This act shall take effect July 1, 2008.

3374
 3375 ===== T I T L E A M E N D M E N T =====

3376 And the title is amended as follows:

3377 Delete everything before the enacting clause
 3378 and insert:

3379 A bill to be entitled
 3380 An act relating to the Department of Business and
 3381 Professional Regulation; amending s. 20.165, F.S. ;
 3382 changing the name of the Division of Florida Land Sales,
 3383 Condominiums, and Mobile Homes to the Division of Florida

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3384 Condominiums, Timeshares, and Mobile Homes; changing the
3385 name of the Division of Technology, Licensure, and Testing
3386 to the Division of Technology; amending s. 215.20, F.S.;
3387 conforming the name of the former Division of Florida Land
3388 Sales, Condominiums, and Mobile Homes trust fund to
3389 correspond to the name change of the division; amending s.
3390 450.33, F.S.; removing the requirement for a farm labor
3391 contractor to file a set of fingerprints with the
3392 department; amending s. 455.203, F.S.; authorizing the
3393 department to close and terminate deficient license
3394 applications and to approve professional license
3395 applications meeting certain criteria; amending s.
3396 455.217, F.S.; conforming terminology to changes made by
3397 the act; amending s. 455.2273, F.S.; providing for the
3398 application of certain provisions of state law to
3399 disciplinary guidelines adopted by all boards and
3400 divisions; amending s. 475.17, F.S.; revising requirements
3401 for licensure as a real estate broker; amending s.
3402 475.451, F.S.; deleting requirements relating to the
3403 submission of certain real estate course rosters to the
3404 department; amending s. 477.019, F.S.; revising licensing
3405 and examination requirements for cosmetologists; providing
3406 that an applicant for approval to take the examination
3407 required for licensure as a cosmetologist may submit his
3408 or her application during a specified period in his or her
3409 training under certain circumstances; requiring that an
3410 approved applicant take such examination within a
3411 specified period of approval; requiring that an applicant
3412 reply for examination approval is he or she fails to take
3413 the exam within the specified period; requiring that the

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3414 Board of Cosmetology adopt rules; authorizing a person who
3415 passes such examination to practice cosmetology under
3416 certain conditions during the period between passing the
3417 examination and receiving his or her license; prohibiting
3418 an individual who fails any part of the examination from
3419 practicing cosmetology; providing that such persons are
3420 immediately eligible to apply for reexamination; amending
3421 s. 489.105, F.S.; clarifying that individuals and business
3422 entities selling manufactured and factory-built buildings
3423 may legally enter into contracts for those sales; amending
3424 s. 489.511, F.S.; revising requirements for taking the
3425 examination for certification as an electrical or alarm
3426 system contractor; providing requirements for such
3427 certification; amending s. 489.515, F.S.; revising
3428 requirements for certification as a certified contractor
3429 by the Electrical Contractors' Licensing Board to reflect
3430 changes made to s. 489.511, F.S., by this act;
3431 transferring and renumbering s. 498.009, F.S., relating to
3432 the location of the division's offices; transferring,
3433 amending, and renumbering s. 498.011, F.S., relating to
3434 payment of per diem, mileage, and other expenses for
3435 division employees; providing for reimbursement of
3436 expenses for on-site review; deleting the expense
3437 reimbursement for inspection of subdivided lands;
3438 transferring and renumbering s. 498.013, F.S., relating to
3439 the authentication of certain records; transferring,
3440 amending, and renumbering s. 498.057, F.S., relating to
3441 service of process; deleting a provision providing that
3442 service may be made by delivering a copy of the process to
3443 the division director; providing that the division may be

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3444 the petitioner or the plaintiff; repealing ss. 498.001,
3445 498.003, 498.005, 498.007, 498.017, 498.019, 498.021,
3446 498.022, 498.023, 498.024, 498.025, 498.027, 498.028,
3447 498.029, 498.031, 498.033, 498.035, 498.037, 498.039,
3448 498.041, 498.047, 498.049, 498.051, 498.053, 498.059,
3449 498.061, and 498.063, F.S., relating to regulation of land
3450 sales practices; amending s. 548.0065, F.S.; including
3451 amateur mixed martial arts in a provision relating to the
3452 authority of the Florida State Boxing Commission to
3453 suspend amateur matches for violation of certain health
3454 and safety standards; amending s. 548.008, F.S.; removing
3455 the prohibition against holding amateur mixed martial arts
3456 matches in this state; amending s. 548.041, F.S.;

3457 providing additional licensure requirements for boxing
3458 participants; amending s. 718.501, F.S.; providing
3459 additional powers and duties of the division; providing
3460 for additional enforcement proceedings for carrying out
3461 the purposes of certain provisions of state law; removing
3462 a provision providing that the payment of money by a
3463 developer to a condominium association constitutes a
3464 permissible affirmative action; providing for actions of
3465 conservator or receiver; providing for application to
3466 circuit court for an order of restitution; providing for
3467 imposition of civil penalties and award of court costs,
3468 attorney's fees, and costs of investigation under certain
3469 circumstances; providing requirements and guidelines for
3470 contracting for investigative services; providing for the
3471 acceptance of grants-in-aid; requiring that the division
3472 cooperate with similar agencies regarding the
3473 establishment of certain procedures, standards, and forms;

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3474 providing circumstances under which the division shall
3475 consider notice to a developer to be complete; authorizing
3476 the division to issue a notice to show cause; conforming
3477 provisions to changes made by the act; amending s.
3478 718.509, F.S.; incorporating certain provisions of state
3479 law relating to the Division of Florida Condominiums,
3480 Timeshares, and Mobile Homes Trust Fund; revising
3481 provisions to conform to the change in name of the
3482 division; providing for the deposit of moneys resulting
3483 from an administrative final order; amending s. 721.03,
3484 F.S.; clarifying that timeshare plan includes a
3485 nonspecific multisite timeshare plan; amending ss. 73.073,
3486 190.009, 192.037, 213.053, 326.002, 326.006, 380.05,
3487 380.06, 380.0651, 381.0065, 455.116, 475.455, 494.008,
3488 509.512, 517.301, 559.935, 718.103, 718.105, 718.1255,
3489 718.5011, 718.502, 718.504, 718.508, 718.608, 719.103,
3490 719.1255, 719.501, 719.502, 719.504, 719.508, 719.608,
3491 720.301, 720.401, 721.05, 721.07, 721.08, 721.26, 721.28,
3492 721.301, 721.50, 723.003, 723.006, 723.009, and 723.0611,
3493 F.S., to conform to changes made by the act; providing an
3494 effective date.