

By Senator Bennett

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1 A bill to be entitled

2 An act relating to the Department of Business and
3 Professional Regulation; amending s. 20.165, F.S.;
4 changing the name of the Division of Florida Land Sales,
5 Condominiums, and Mobile Homes to the Division of Florida
6 Condominiums, Timeshares, and Mobile Homes; amending s.
7 215.20, F.S.; conforming the name of the division's trust
8 fund to correspond to the name change of the division;
9 amending s. 450.33, F.S.; removing the requirement for a
10 farm labor contractor to file a set of fingerprints with
11 the department; amending s. 455.203, F.S.; authorizing the
12 department to close and terminate deficient license
13 applications and to approve professional license
14 applications meeting certain criteria; amending s. 475.17,
15 F.S.; revising requirements for licensure as a real estate
16 broker; amending s. 475.451, F.S.; deleting requirements
17 relating to the submission of certain real estate course
18 rosters to the department; amending s. 489.511, F.S.;
19 revising requirements for taking the electrical or alarm
20 system contractor certification examination; providing
21 requirements for certification; amending s. 489.515, F.S.;
22 revising requirements for certification as a certified
23 contractor by the Electrical Contractors' Licensing Board
24 to reflect changes made to s. 489.511, F.S., by this act;
25 renumbering s. 498.009, F.S., relating to the location of
26 the division's offices; amending and renumbering s.
27 498.011, F.S., relating to payment of per diem, mileage,
28 and other expenses for division employees; providing for
29 reimbursement of expenses for on-site review; deleting the

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30 expense reimbursement for inspection of subdivided lands;
31 renumbering s. 498.013, F.S., relating to the
32 authentication of records; amending and renumbering s.
33 498.057, F.S., relating to service of process; deleting
34 provision that service may be made by delivering a copy of
35 the process to the division director; providing that the
36 division can be the petitioner or the plaintiff; repealing
37 ss. 498.001, 498.003, 498.005, 498.007, 498.017, 498.019,
38 498.021, 498.022, 498.023, 498.024, 498.025, 498.027,
39 498.028, 498.029, 498.031, 498.033, 498.035, 498.037,
40 498.039, 498.041, 498.047, 498.049, 498.051, 498.053,
41 498.059, 498.061, and 498.063, F.S., relating to
42 regulation of land sales practices; amending s. 548.0065,
43 F.S.; including amateur mixed martial arts in a provision
44 relating to the authority of the Florida State Boxing
45 Commission to suspend amateur matches for violation of
46 certain health and safety standards; amending s. 548.008,
47 F.S.; removing prohibition against holding amateur mixed
48 martial arts matches in this state; amending s. 548.041,
49 F.S.; providing additional licensure requirements for
50 boxing participants; amending s. 718.501, F.S.; providing
51 additional powers and duties of the division; providing
52 for additional enforcement proceedings for carrying out
53 the purposes of ch. 718, F.S.; deleting the payment of
54 money by a developer to a condominium association as a
55 permissible affirmative action; providing for actions of
56 conservator or receiver; providing for application to
57 circuit court for an order of restitution; providing for
58 imposition of civil penalties and award of court costs,

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59 attorney's fees, and costs of investigation under certain
60 circumstances; providing for contracting for investigative
61 services; providing for acceptance of grants-in-aid;
62 requiring the cooperation with similar agencies on
63 establishment of certain procedures, standards, and forms;
64 providing what constitutes completeness of notice;
65 authorizing the division to issue a notice to show cause;
66 providing conforming changes; amending s. 718.509, F.S.;
67 revising to incorporate provisions of s. 498.019, F.S.,
68 relating to the Division of Florida Condominiums,
69 Timeshares, and Mobile Homes Trust Fund; revising
70 provisions to conform to the change in division name;
71 providing for the deposit of moneys resulting from an
72 administrative final order; amending ss. 73.073, 190.009,
73 192.037, 213.053, 326.002, 326.006, 380.05, 380.06,
74 380.0651, 381.0065, 455.116, 475.455, 494.008, 509.512,
75 517.301, 559.935, 718.103, 718.105, 718.1255, 718.5011,
76 718.502, 718.504, 718.508, 718.608, 719.103, 719.1255,
77 719.501, 719.502, 719.504, 719.508, 719.608, 720.301,
78 720.401, 721.05, 721.07, 721.08, 721.26, 721.28, 721.301,
79 721.50, 723.003, 723.006, 723.009, and 723.0611, F.S., to
80 conform; providing an effective date.

81
82 Be It Enacted by the Legislature of the State of Florida:

83
84 Section 1. Paragraph (d) of subsection (2) of section
85 20.165, Florida Statutes, is amended to read:

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86 20.165 Department of Business and Professional
87 Regulation.--There is created a Department of Business and
88 Professional Regulation.

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

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

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

95 73.073 Eminent domain procedure with respect to condominium
96 common elements.--

97 (2) With respect to the exercise of eminent domain or a
98 negotiated sale for the purchase or taking of a portion of the
99 common elements of a condominium, the condemning authority shall
100 have the responsibility of contacting the condominium association
101 and acquiring the most recent rolls indicating the names of the
102 unit owners or contacting the appropriate taxing authority to
103 obtain the names of the owners of record on the tax rolls.
104 Notification shall ~~thereupon~~ be sent by certified mail, return
105 receipt requested, to the unit owners of record of the
106 condominium units by the condemning authority indicating the
107 intent to purchase or take the required property and requesting a
108 response from the unit owner. The condemning authority shall be
109 responsible for the expense of sending notification pursuant to
110 this section. Such notice shall, at a minimum, include:

- 111 (a) The name and address of the condemning authority.
112 (b) A written or visual description of the property.
113 (c) The public purpose for which the property is needed.
114 (d) The appraisal value of the property.

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

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

122

123 The Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
124 Mobile Homes of the Department of Business and Professional
125 Regulation may adopt, by rule, a standard form for such notice
126 and may require the notice to include any additional relevant
127 information.

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

130 190.009 Disclosure of public financing.--

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

135 (2) ~~(3)~~ The Department of Community Affairs shall keep a
136 current list of districts and their disclosures pursuant to this
137 act and shall make such studies and reports and take such actions
138 as it deems necessary.

139 Section 4. Paragraph (e) of subsection (6) of section
140 192.037, Florida Statutes, is amended to read:

141 192.037 Fee timeshare real property; taxes and assessments;
142 escrow.--

143 (6)

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144 (e) On or before May 1 of each year, a statement of
145 receipts and disbursements of the escrow account must be filed
146 with the Division of Florida ~~Land Sales~~, Condominiums,
147 Timeshares, and Mobile Homes of the Department of Business and
148 Professional Regulation, which may enforce this paragraph
149 pursuant to s. 721.26. This statement must appropriately show the
150 amount of principal and interest in such account.

151 Section 5. Paragraph (i) of subsection (8) of section
152 213.053, Florida Statutes, is amended to read:

153 213.053 Confidentiality and information sharing.--

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

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

160
161 Disclosure of information under this subsection shall be pursuant
162 to a written agreement between the executive director and the
163 agency. Such agencies, governmental or nongovernmental, shall be
164 bound by the same requirements of confidentiality as the
165 Department of Revenue. Breach of confidentiality is a misdemeanor
166 of the first degree, punishable as provided by s. 775.082 or s.
167 775.083.

168 Section 6. Paragraph (d) of subsection (4) of section
169 215.20, Florida Statutes, is amended to read:

170 215.20 Certain income and certain trust funds to contribute
171 to the General Revenue Fund.--

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

176 (d) Within the Department of Business and Professional
177 Regulation:

- 178 1. The Administrative Trust Fund.
- 179 2. The Alcoholic Beverage and Tobacco Trust Fund.
- 180 3. The Cigarette Tax Collection Trust Fund.
- 181 4. The Division of Florida ~~Land Sales~~, Condominiums,
182 Timeshares, and Mobile Homes Trust Fund.
- 183 5. The Hotel and Restaurant Trust Fund, with the exception
184 of those fees collected for the purpose of funding of the
185 hospitality education program as stated in s. 509.302.
- 186 6. The Professional Regulation Trust Fund.
- 187 7. The trust funds administered by the Division of Pari-
188 mutuel Wagering.

189
190 The enumeration of the foregoing moneys or trust funds shall not
191 prohibit the applicability ~~thereto~~ of s. 215.24 should the
192 Governor determine that for the reasons mentioned in s. 215.24
193 the money or trust funds should be exempt herefrom, as it is the
194 purpose of this law to exempt income from its force and effect
195 when, by the operation of this law, federal matching funds or
196 contributions or private grants to any trust fund would be lost
197 to the state.

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

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200 326.002 Definitions.--As used in ss. 326.001-326.006, the
201 term:

202 (2) "Division" means the Division of Florida ~~Land Sales,~~
203 Condominiums, Timeshares, and Mobile Homes of the Department of
204 Business and Professional Regulation.

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

207 326.006 Powers and duties of division.--

208 (2) The division has the power to enforce and ensure
209 compliance with the provisions of this chapter and rules adopted
210 under this chapter relating to the sale and ownership of yachts
211 and ships. In performing its duties, the division has the
212 following powers and duties:

213 (d) Notwithstanding any remedies available to a yacht or
214 ship purchaser, if the division has reasonable cause to believe
215 that a violation of any provision of this chapter or rule adopted
216 under this chapter has occurred, the division may institute
217 enforcement proceedings in its own name against any broker or
218 salesperson or any of his or her assignees or agents, or against
219 any unlicensed person or any of his or her assignees or agents,
220 as follows:

221 1. The division may permit a person whose conduct or
222 actions are under investigation to waive formal proceedings and
223 enter into a consent proceeding whereby orders, rules, or letters
224 of censure or warning, whether formal or informal, may be entered
225 against the person.

226 2. The division may issue an order requiring the broker or
227 salesperson or any of his or her assignees or agents, or
228 requiring any unlicensed person or any of his or her assignees or

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229 agents, to cease and desist from the unlawful practice and take
230 such affirmative action as in the judgment of the division will
231 carry out the purposes of this chapter.

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

235 4. The division may impose a civil penalty against a broker
236 or salesperson or any of his or her assignees or agents, or
237 against an unlicensed person or any of his or her assignees or
238 agents, for any violation of this chapter or a rule adopted under
239 this chapter. A penalty may be imposed for each day of continuing
240 violation, but in no event may the penalty for any offense exceed
241 \$10,000. All amounts collected must be deposited with the Chief
242 Financial Officer to the credit of the Division of Florida ~~Land~~
243 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If
244 a broker, salesperson, or unlicensed person working for a broker,
245 fails to pay the civil penalty, the division shall ~~thereupon~~
246 issue an order suspending the broker's license until such time as
247 the civil penalty is paid or may pursue enforcement of the
248 penalty in a court of competent jurisdiction. The order imposing
249 the civil penalty or the order of suspension may not become
250 effective until 20 days after the date of such order. Any action
251 commenced by the division must be brought in the county in which
252 the division has its executive offices or in the county where the
253 violation occurred.

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

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

259 380.05 Areas of critical state concern.--

260 (18) Neither the designation of an area of critical state
261 concern nor the adoption of any regulations for such an area
262 shall in any way limit or modify the rights of any person to
263 complete any development that was ~~has been~~ authorized by
264 registration of a subdivision pursuant to former chapter 498 or
265 former chapter 478, by recordation pursuant to local subdivision
266 plat law, or by a building permit or other authorization to
267 commence development on which there has been reliance and a
268 change of position, and which registration or recordation was
269 accomplished, or which permit or authorization was issued, prior
270 to the approval under subsection (6), or the adoption under
271 subsection (8), of land development regulations for the area of
272 critical state concern. If a developer has by his or her actions
273 in reliance on prior regulations obtained vested or other legal
274 rights that in law would have prevented a local government from
275 changing those regulations in a way adverse to the developer's
276 interests, nothing in this chapter authorizes any governmental
277 agency to abridge those rights.

278 Section 10. Subsection (20) of section 380.06, Florida
279 Statutes, is amended to read:

280 380.06 Developments of regional impact.--

281 (20) VESTED RIGHTS.--Nothing in this section shall limit or
282 modify the rights of any person to complete any development that
283 was ~~has been~~ authorized by registration of a subdivision pursuant
284 to former chapter 498, by recordation pursuant to local
285 subdivision plat law, or by a building permit or other

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286 authorization to commence development on which there has been
287 reliance and a change of position and which registration or
288 recordation was accomplished, or which permit or authorization
289 was issued, prior to July 1, 1973. If a developer has, by his or
290 her actions in reliance on prior regulations, obtained vested or
291 other legal rights that in law would have prevented a local
292 government from changing those regulations in a way adverse to
293 the developer's interests, nothing in this chapter authorizes any
294 governmental agency to abridge those rights.

295 (a) For the purpose of determining the vesting of rights
296 under this subsection, approval pursuant to local subdivision
297 plat law, ordinances, or regulations of a subdivision plat by
298 formal vote of a county or municipal governmental body having
299 jurisdiction after August 1, 1967, and prior to July 1, 1973, is
300 sufficient to vest all property rights for the purposes of this
301 subsection; and no action in reliance on, or change of position
302 concerning, such local governmental approval is required for
303 vesting to take place. Anyone claiming vested rights under this
304 paragraph must ~~se~~ notify the department in writing by January 1,
305 1986. Such notification shall include information adequate to
306 document the rights established by this subsection. When such
307 notification requirements are met, in order for the vested rights
308 authorized pursuant to this paragraph to remain valid after June
309 30, 1990, development of the vested plan must be commenced prior
310 to that date upon the property that the state land planning
311 agency has determined to have acquired vested rights following
312 the notification or in a binding letter of interpretation. When
313 the notification requirements have not been met, the vested

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

316 (b) For the purpose of this act, the conveyance of, or the
317 agreement to convey, property to the county, state, or local
318 government as a prerequisite to zoning change approval shall be
319 construed as an act of reliance to vest rights as determined
320 under this subsection, provided such zoning change is actually
321 granted by such government.

322 Section 11. Paragraph (a) of subsection (4) of section
323 380.0651, Florida Statutes, is amended to read:

324 380.0651 Statewide guidelines and standards.--

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

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

333 1.a. The same person has retained or shared control of the
334 developments;

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

337 c. There is common management of the developments
338 controlling the form of physical development or disposition of
339 parcels of the development.

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

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343 plans or drawings for the other development which is indicative
344 of a common development effort.

345 3. A master plan or series of plans or drawings exists
346 covering the developments sought to be aggregated which have been
347 submitted to a local general-purpose government, water management
348 district, the Florida Department of Environmental Protection, or
349 the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
350 Mobile Homes for authorization to commence development. The
351 existence or implementation of a utility's master utility plan
352 required by the Public Service Commission or general-purpose
353 local government or a master drainage plan shall not be the sole
354 determinant of the existence of a master plan.

355 4. The voluntary sharing of infrastructure that is
356 indicative of a common development effort or is designated
357 specifically to accommodate the developments sought to be
358 aggregated, except that which was implemented because it was
359 required by a local general-purpose government; water management
360 district; the Department of Environmental Protection; the
361 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
362 Mobile Homes; or the Public Service Commission.

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

365 Section 12. Paragraph (c) of subsection (4) of section
366 381.0065, Florida Statutes, is amended to read:

367 381.0065 Onsite sewage treatment and disposal systems;
368 regulation.--

369 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may
370 not construct, repair, modify, abandon, or operate an onsite
371 sewage treatment and disposal system without first obtaining a

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372 permit approved by the department. The department may issue
373 permits to carry out this section, but shall not make the
374 issuance of such permits contingent upon prior approval by the
375 Department of Environmental Protection, except that the issuance
376 of a permit for work seaward of the coastal construction control
377 line established under s. 161.053 shall be contingent upon
378 receipt of any required coastal construction control line permit
379 from the Department of Environmental Protection. A construction
380 permit is valid for 18 months from the issuance date and may be
381 extended by the department for one 90-day period under rules
382 adopted by the department. A repair permit is valid for 90 days
383 from the date of issuance. An operating permit must be obtained
384 prior to the use of any aerobic treatment unit or if the
385 establishment generates commercial waste. Buildings or
386 establishments that use an aerobic treatment unit or generate
387 commercial waste shall be inspected by the department at least
388 annually to assure compliance with the terms of the operating
389 permit. The operating permit for a commercial wastewater system
390 is valid for 1 year from the date of issuance and must be renewed
391 annually. The operating permit for an aerobic treatment unit is
392 valid for 2 years from the date of issuance and must be renewed
393 every 2 years. If all information pertaining to the siting,
394 location, and installation conditions or repair of an onsite
395 sewage treatment and disposal system remains the same, a
396 construction or repair permit for the onsite sewage treatment and
397 disposal system may be transferred to another person, if the
398 transferee files, within 60 days after the transfer of ownership,
399 an amended application providing all corrected information and
400 proof of ownership of the property. There is no fee associated

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401 | with the processing of this supplemental information. A person
402 | may not contract to construct, modify, alter, repair, service,
403 | abandon, or maintain any portion of an onsite sewage treatment
404 | and disposal system without being registered under part III of
405 | chapter 489. A property owner who personally performs
406 | construction, maintenance, or repairs to a system serving his or
407 | her own owner-occupied single-family residence is exempt from
408 | registration requirements for performing such construction,
409 | maintenance, or repairs on that residence, but is subject to all
410 | permitting requirements. A municipality or political subdivision
411 | of the state may not issue a building or plumbing permit for any
412 | building that requires the use of an onsite sewage treatment and
413 | disposal system unless the owner or builder has received a
414 | construction permit for such system from the department. A
415 | building or structure may not be occupied and a municipality,
416 | political subdivision, or any state or federal agency may not
417 | authorize occupancy until the department approves the final
418 | installation of the onsite sewage treatment and disposal system.
419 | A municipality or political subdivision of the state may not
420 | approve any change in occupancy or tenancy of a building that
421 | uses an onsite sewage treatment and disposal system until the
422 | department has reviewed the use of the system with the proposed
423 | change, approved the change, and amended the operating permit.

424 | (c) Notwithstanding ~~the provisions of~~ paragraphs (a) and
425 | (b), for subdivisions platted of record on or before October 1,
426 | 1991, when a developer or other appropriate entity has previously
427 | made or makes provisions, including financial assurances or other
428 | commitments, acceptable to the Department of Health, that a
429 | central water system will be installed by a regulated public

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430 utility based on a density formula, private potable wells may be
431 used with onsite sewage treatment and disposal systems until the
432 agreed-upon densities are reached. ~~The department may consider~~
433 ~~assurances filed with the Department of Business and Professional~~
434 ~~Regulation under chapter 498 in determining the adequacy of the~~
435 ~~financial assurance required by this paragraph.~~ In a subdivision
436 regulated by this paragraph, the average daily sewage flow may
437 not exceed 2,500 gallons per acre per day. This section does not
438 affect the validity of existing prior agreements. After October
439 1, 1991, the exception provided under this paragraph is not
440 available to a developer or other appropriate entity.

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

443 450.33 Duties of farm labor contractor.--Every farm labor
444 contractor must:

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

447 (8)~~(9)~~ Produce evidence to the department that each vehicle
448 he or she uses for the transportation of employees complies with
449 the requirements and specifications established in chapter 316,
450 s. 316.622, or Pub. L. No. 93-518 as amended by Pub. L. No. 97-
451 470 meeting Department of Transportation requirements or, in lieu
452 thereof, bears a valid inspection sticker showing that the
453 vehicle has passed the inspection in the state in which the
454 vehicle is registered.

455 (9)~~(10)~~ Comply with all applicable statutes, rules, and
456 regulations of the United States and of the State of Florida for
457 the protection or benefit of labor, including, but not limited
458 to, those providing for wages, hours, fair labor standards,

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459 social security, workers' compensation, unemployment
460 compensation, child labor, and transportation.

461 (10)~~(11)~~ Maintain accurate daily field records for each
462 employee actually paid by the farm labor contractor reflecting
463 the hours worked for the farm labor contractor and, if paid by
464 unit, the number of units harvested and the amount paid per unit.

465 (11)~~(12)~~ Clearly display on each vehicle used to transport
466 migrant or seasonal farm workers a display sticker issued by the
467 department, which states that the vehicle is authorized by the
468 department to transport farm workers and the expiration date of
469 the authorization.

470 Section 14. Subsection (10) is added to section 455.203,
471 Florida Statutes, to read:

472 455.203 Department; powers and duties.--The department, for
473 the boards under its jurisdiction, shall:

474 (10) Have authority to:

475 (a) Close and terminate deficient license application files
476 2 years after the board or the department notifies the applicant
477 of the deficiency; and

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

480 Section 15. Subsection (5) of section 455.116, Florida
481 Statutes, is amended to read:

482 455.116 Regulation trust funds.--The following trust funds
483 shall be placed in the department:

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

486 Section 16. Paragraph (b) of subsection (2) of section
487 475.17, Florida Statutes, is amended to read:

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488 475.17 Qualifications for practice.--

489 (2)

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

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

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

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

506

507 ~~This paragraph does not apply to a person employed as a real~~
508 ~~estate investigator by the Division of Real Estate, provided the~~
509 ~~person has been employed as a real estate investigator for at~~
510 ~~least 24 months. The person must be currently employed as a real~~
511 ~~estate investigator to sit for the real estate broker's~~
512 ~~examination and have held a valid and current sales associate's~~
513 ~~license for at least 12 months.~~

514 Section 17. Subsection (9) of section 475.451, Florida
515 Statutes, is amended to read:

516 475.451 Schools teaching real estate practice.--

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517 ~~(9) (a) Each school permitholder of a proprietary real~~
518 ~~estate school, each chief administrative person of such an~~
519 ~~institution, or each course sponsor shall deliver to the~~
520 ~~department, in a format acceptable to the department, a copy of~~
521 ~~the classroom course roster of courses that require satisfactory~~
522 ~~completion of an examination no later than 30 days beyond the end~~
523 ~~of the calendar month in which the course was completed.~~

524 ~~(b) The course roster shall consist of the institution or~~
525 ~~school name and permit number, if applicable, the instructor's~~
526 ~~name and permit number, if applicable, course title, beginning~~
527 ~~and ending dates of the course, number of course hours, course~~
528 ~~location, if applicable, each student's full name and license~~
529 ~~number, if applicable, each student's mailing address, and the~~
530 ~~numerical grade each student achieved. The course roster shall~~
531 ~~also include the signature of the school permitholder, the chief~~
532 ~~administrative person, or the course sponsor.~~

533 Section 18. Section 475.455, Florida Statutes, is amended
534 to read:

535 475.455 Exchange of disciplinary information.--The
536 commission shall inform the Division of Florida ~~Land Sales,~~
537 Condominiums, Timeshares, and Mobile Homes of the Department of
538 Business and Professional Regulation of any disciplinary action
539 the commission has taken against any of its licensees. The
540 division shall inform the commission of any disciplinary action
541 the division has taken against any broker or sales associate
542 registered with the division.

543 Section 19. Section 489.511, Florida Statutes, is amended
544 to read:

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545 489.511 Certification; application; examinations;
546 endorsement.--

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

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

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

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

557 ~~1.2. Be~~ Is of good moral character;

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

560 3. Meet ~~Meets~~ eligibility requirements according to one of
561 the following criteria:

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

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

571 c. Has, within the 12 years immediately preceding the
572 filing of the application, at least 6 years of comprehensive
573 training, technical education, or supervisory experience

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574 associated with an electrical or alarm system contracting
575 business, or at least 6 years of technical experience in
576 electrical or alarm system work with the Armed Forces or a
577 governmental entity;

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

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

584 ~~(c)~~~~(b)~~ For purposes of this subsection, "supervisor" means
585 a person having the experience gained while having the general
586 duty of overseeing the technical duties of the trade, provided
587 that such experience is gained by a person who is able to perform
588 the technical duties of the trade without supervision.

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

593 ~~(2)~~~~(3)~~ The board may determine by rule the number of times
594 per year the applicant may take the examination and after three
595 unsuccessful attempts may ~~On or after October 1, 1998, every~~
596 ~~applicant who is qualified shall be allowed to take the~~
597 ~~examination three times, notwithstanding the number of times the~~
598 ~~applicant has previously failed the examination. If an applicant~~
599 ~~fails the examination three times after October 1, 1998, the~~
600 ~~board shall~~ require the applicant to complete additional college-
601 level or technical education courses in the areas of deficiency,
602 as determined by the board, as a condition of future eligibility

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603 to take the examination. ~~The applicant must also submit a new~~
604 ~~application that meets all certification requirements at the time~~
605 ~~of its submission and must pay all appropriate fees.~~

606 (3) ~~(4)~~ (a) "Good moral character" means a personal history
607 of honesty, fairness, and respect for the rights of others and
608 for laws of this state and nation.

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

612 1. There is a substantial connection between the lack of
613 good moral character of the individual and the professional
614 responsibilities of a certified contractor; and

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

617 (c) When an individual is found to be unqualified for
618 certification ~~examination~~ because of a lack of good moral
619 character, the board shall furnish such individual a statement
620 containing the findings of the board, a complete record of the
621 evidence upon which the determination was based, and a notice of
622 the rights of the individual to a rehearing and appeal.

623 (4) ~~(5)~~ The board shall, by rule, designate those types of
624 specialty electrical or alarm system contractors who may be
625 certified under this part. The limit of the scope of work and
626 responsibility of a certified specialty contractor shall be
627 established by board rule. A certified specialty contractor
628 category exists as an optional statewide licensing category.
629 Qualification for certification in a specialty category created
630 by rule shall be the same as set forth in paragraph (1) (b)
631 ~~(2) (a)~~. The existence of a specialty category created by rule

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632 does not itself create any licensing requirement; however,
633 neither does its optional nature remove any licensure requirement
634 established elsewhere in this part.

635 (5)~~(6)~~ The board shall certify as qualified for
636 certification by endorsement any individual applying for
637 certification who:

638 (a) Meets the requirements for certification as set forth
639 in this section; has passed a national, regional, state, or
640 United States territorial licensing examination that is
641 substantially equivalent to the examination required by this
642 part; and has satisfied the requirements set forth in s. 489.521;
643 or

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

649 (6)~~(7)~~ Upon the issuance of a certificate, any previously
650 issued registered licenses for the classification in which the
651 certification is issued are rendered void.

652 Section 20. Paragraph (b) of subsection (1) of section
653 489.515, Florida Statutes, is amended to read:

654 489.515 Issuance of certificates; registrations.--

655 (1)

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

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661 obtained both workers' compensation insurance or an acceptable
662 exemption certificate issued by the department and public
663 liability and property damage insurance for the health, safety,
664 and welfare of the public in amounts determined by rule of the
665 board, and furnishes evidence of financial responsibility,
666 credit, and business reputation of either himself or herself or
667 the business organization he or she desires to qualify.

668 Section 21. Section 494.008, Florida Statutes, is amended
669 to read:

670 494.008 Mortgages offered by land developers ~~licensed~~
671 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~
672 requirements; prohibitions.--No mortgage loan which has a face
673 amount of \$35,000 or less and is secured by vacant land
674 ~~registered under the Florida Uniform Land Sales Practices Law,~~
675 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial
676 institution, by any person unless all of the following
677 requirements are met:

678 (1) Each mortgage securing a note or other obligation sold
679 or offered for sale shall be eligible for a recordation as a
680 first mortgage.

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

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

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

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

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

705 (7) Willful failure to comply with any of the above
706 provisions shall subject the person to the penalties of s.
707 494.05.

708 Section 22. Section 498.009, Florida Statutes, is
709 renumbered as section 718.50152, Florida Statutes.

710 Section 23. Section 498.011, Florida Statutes, is
711 renumbered as section 718.50153, Florida Statutes, and amended to
712 read:

713 718.50153 ~~498.011~~ Payment of per diem, mileage, and other
714 expenses to division employees.--The amount of per diem and
715 mileage and expense money paid to employees shall be as provided
716 in s. 112.061, except that the division shall establish by rule
717 the standards for reimbursement of actual verified expenses

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718 incurred in connection with an on-site review ~~inspection~~ or
719 investigation ~~of subdivided lands~~.

720 Section 24. Section 498.013, Florida Statutes, is
721 renumbered as section 718.50154, Florida Statutes.

722 Section 25. Section 498.057, Florida Statutes, is
723 renumbered as section 718.50155, Florida Statutes, and amended,
724 to read:

725 718.50155 ~~498.057~~ Service of process.--

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

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

735 (b) The division ~~plaintiff~~ files an affidavit of compliance
736 with this section on or before the return date of the process or
737 within the time set by the court.

738 (2) If any person, including any nonresident of this state,
739 allegedly engages in conduct prohibited by this chapter, or any
740 rule or order of the division, and has not filed a consent to
741 service of process, and personal jurisdiction over him or her
742 cannot otherwise be obtained in this state, the director shall be
743 authorized to receive service of process in any noncriminal
744 proceeding against that person or his or her successor which
745 grows out of the conduct and which is brought by the division
746 under this chapter or any rule or order of the division. The

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747 process shall have the same force and validity as if personally
748 served. Notice shall be given as provided in subsection (1).

749 Section 26. Sections 498.001, 498.003, 498.005, 498.007,
750 498.017, 498.019, 498.021, 498.022, 498.023, 498.024, 498.025,
751 498.027, 498.028, 498.029, 498.031, 498.033, 498.035, 498.037,
752 498.039, 498.041, 498.047, 498.049, 498.051, 498.053, 498.059,
753 498.061, and 498.063, Florida Statutes, are repealed.

754 Section 27. Section 509.512, Florida Statutes, is amended
755 to read:

756 509.512 Timeshare plan developer and exchange company
757 exemption.--Sections 509.501-509.511 do not apply to a developer
758 of a timeshare plan or an exchange company approved by the
759 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
760 Mobile Homes pursuant to chapter 721, but only to the extent that
761 the developer or exchange company engages in conduct regulated
762 under chapter 721.

763 Section 28. Subsection (2) of section 517.301, Florida
764 Statutes, is amended to read:

765 517.301 Fraudulent transactions; falsification or
766 concealment of facts.--

767 (2) For purposes of ss. 517.311 and 517.312 and this
768 section, the term "investment" means any commitment of money or
769 property principally induced by a representation that an economic
770 benefit may be derived from such commitment, except that the term
771 ~~"investment"~~ does not include a commitment of money or property
772 for:

773 (a) The purchase of a business opportunity, business
774 enterprise, or real property through a person licensed under
775 chapter 475 or registered under chapter 718 ~~498~~; or

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

779 1. There are no specific representations or guarantees made
780 by the offeror or seller as to the economic benefit to be derived
781 from the purchase;

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

785 3. The seller has offered the purchaser a full refund
786 policy in writing, exercisable by the purchaser within 10 days of
787 the date of delivery of such tangible personal property, except
788 that the amount of such refund may not ~~in no event shall~~ exceed
789 the bid price in effect at the time the property is returned to
790 the seller. If the applicable sellers' market is closed at the
791 time the property is returned to the seller for a refund, the
792 amount of such refund shall be based on the bid price for such
793 property at the next opening of such market.

794 Section 29. Subsection (4) of section 548.0065, Florida
795 Statutes, is amended to read:

796 548.0065 Amateur matches; sanctioning and supervision;
797 health and safety standards; compliance checks; continuation,
798 suspension, and revocation of sanctioning approval.--

799 (4) Any member of the commission or the executive director
800 of the commission may suspend the approval of an amateur
801 sanctioning organization for failure to supervise amateur matches
802 or to enforce the approved health and safety standards required
803 under this chapter, provided that the suspension complies with
804 the procedures for summary suspensions in s. 120.60(6). At any

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805 amateur boxing, ~~or~~ kickboxing, or mixed martial arts contest, any
806 member of the commission or a representative of the commission
807 may immediately suspend one or more matches in an event whenever
808 it appears that the match or matches violate the health and
809 safety standards established by rule as required by this chapter.
810 A law enforcement officer may assist any member of the commission
811 or a representative of the commission to enforce an order to stop
812 a contest if called upon to do so by a member of the commission
813 or a representative of the commission.

814 Section 30. Subsections (2), (3), and (4) of section
815 548.008, Florida Statutes, are amended to read:

816 548.008 Prohibited competitions.--

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

819 (2)~~(3)~~ No professional match may be held in this state
820 unless it meets the requirements for holding the match as
821 provided in this chapter and the rules adopted by the commission.

822 (3)~~(4)~~(a) Any person participating in a match prohibited
823 under this section, knowing the match to be prohibited, commits a
824 misdemeanor of the second degree, punishable as provided in s.
825 775.082 or s. 775.083.

826 (b) Any person holding, promoting, or sponsoring a match
827 prohibited under this section commits a felony of the third
828 degree, punishable as provided in s. 775.082, s. 775.083, or s.
829 775.084.

830 Section 31. Subsection (1) of section 548.041, Florida
831 Statutes, is amended to read:

832 548.041 Age, condition, and suspension of participants.--

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

836 (a) Is under the age of 18;

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

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

842 (d) Has not competed in 10 amateur boxing events prior to
843 licensure; or

844 (e) Has not competed in 5 amateur mixed martial arts events
845 prior to licensure.

846 Section 32. Subsection (1) of section 559.935, Florida
847 Statutes, is amended to read:

848 559.935 Exemptions.--

849 (1) This part does not apply to:

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

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

856 (c) An intrastate common carrier of passengers or property
857 selling only transportation as defined in the applicable state or
858 local registration or certification, or employees of such carrier
859 when engaged solely in the transportation business of the
860 carrier;

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861 (d) Hotels, motels, or other places of public accommodation
862 selling public accommodations, or employees of such hotels,
863 motels, or other places of public accommodation, when engaged
864 solely in making arrangements for lodging, accommodations, or
865 sightseeing tours within the state, or taking reservations for
866 the traveler with times, dates, locations, and accommodations
867 certain at the time the reservations are made, provided that
868 hotels and motels registered with the Department of Business and
869 Professional Regulation pursuant to chapter 509 are excluded from
870 the provisions of this chapter;

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

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

875 (g) Persons who make travel arrangements for themselves;
876 for their employees or agents; for distributors, franchisees, or
877 dealers of the persons' products or services; for entities which
878 are financially related to the persons; or for the employees or
879 agents of the distributor, franchisee, or dealer or financially
880 related entity;

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

886 (i) Persons or entities engaged solely in offering diving
887 services, including classes and sales or rentals of equipment,
888 when engaged in making any prearranged travel-related or tourist-

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889 related services in conjunction with a primarily dive-related
890 event.

891 Section 33. Subsection (17) of section 718.103, Florida
892 Statutes, is amended to read:

893 718.103 Definitions.--As used in this chapter, the term:

894 (17) "Division" means the Division of Florida ~~Land Sales,~~
895 Condominiums, Timeshares, and Mobile Homes of the Department of
896 Business and Professional Regulation.

897 Section 34. Paragraph (c) of subsection (4) of section
898 718.105, Florida Statutes, is amended to read:

899 718.105 Recording of declaration.--

900 (4)

901 (c) If the sum of money held by the clerk has not been paid
902 to the developer or association as provided in paragraph (b)
903 within ~~by~~ 3 years after the date the declaration was originally
904 recorded, the clerk ~~in his or her discretion~~ may notify, in
905 writing, the registered agent of the association that the sum is
906 still available and the purpose for which it was deposited. If
907 the association does not record the certificate within 90 days
908 after the clerk has given the notice, the clerk may disburse the
909 money to the developer. If the developer cannot be located, the
910 clerk shall disburse the money to the Division of Florida ~~Land~~
911 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes for deposit in
912 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
913 Mobile Homes Trust Fund.

914 Section 35. Subsection (4) of section 718.1255, Florida
915 Statutes, is amended to read:

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916 718.1255 Alternative dispute resolution; voluntary
917 mediation; mandatory nonbinding arbitration; legislative
918 findings.--

919 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
920 DISPUTES.--The Division of Florida ~~Land Sales~~, Condominiums,
921 Timeshares, and Mobile Homes of the Department of Business and
922 Professional Regulation shall employ full-time attorneys to act
923 as arbitrators to conduct the arbitration hearings provided by
924 this chapter. The division may also certify attorneys who are not
925 employed by the division to act as arbitrators to conduct the
926 arbitration hearings provided by this section. No person may be
927 employed by the department as a full-time arbitrator unless he or
928 she is a member in good standing of The Florida Bar. The
929 department shall adopt ~~promulgate~~ rules of procedure to govern
930 such arbitration hearings including mediation incident thereto.
931 The decision of an arbitrator shall be final; however, ~~such~~ a
932 decision shall not be deemed final agency action. Nothing in this
933 provision shall be construed to foreclose parties from proceeding
934 in a trial de novo unless the parties have agreed that the
935 arbitration is binding. If ~~such~~ judicial proceedings are
936 initiated, the final decision of the arbitrator shall be
937 admissible in evidence in the trial de novo.

938 (a) Prior to the institution of court litigation, a party
939 to a dispute shall petition the division for nonbinding
940 arbitration. The petition must be accompanied by a filing fee in
941 the amount of \$50. Filing fees collected under this section must
942 be used to defray the expenses of the alternative dispute
943 resolution program.

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

946 1. Advance written notice of the specific nature of the
947 dispute;

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

950 3. Notice of the intention to file an arbitration petition
951 or other legal action in the absence of a resolution of the
952 dispute.

953
954 Failure to include the allegations or proof of compliance with
955 these prerequisites requires dismissal of the petition without
956 prejudice.

957 (c) Upon receipt, the petition shall be promptly reviewed
958 by the division to determine the existence of a dispute and
959 compliance with the requirements of paragraphs (a) and (b). If
960 emergency relief is required and is not available through
961 arbitration, a motion to stay the arbitration may be filed. The
962 motion must be accompanied by a verified petition alleging facts
963 that, if proven, would support entry of a temporary injunction,
964 and if an appropriate motion and supporting papers are filed, the
965 division may abate the arbitration pending a court hearing and
966 disposition of a motion for temporary injunction.

967 (d) Upon determination by the division that a dispute
968 exists and that the petition substantially meets the requirements
969 of paragraphs (a) and (b) and any other applicable rules, a copy
970 of the petition shall ~~forthwith~~ be served by the division upon
971 all respondents.

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972 (e) ~~Either~~ Before or after the filing of the respondents'
973 answer to the petition, any party may request that the arbitrator
974 refer the case to mediation under this section and any rules
975 adopted by the division. Upon receipt of a request for mediation,
976 the division shall promptly contact the parties to determine if
977 there is agreement that mediation would be appropriate. If all
978 parties agree, the dispute must be referred to mediation.
979 Notwithstanding a lack of an agreement by all parties, the
980 arbitrator may refer a dispute to mediation at any time.

981 (f) Upon referral of a case to mediation, the parties must
982 select a mutually acceptable mediator. To assist in the
983 selection, the arbitrator shall provide the parties with a list
984 of both volunteer and paid mediators that have been certified by
985 the division under s. 718.501. If the parties are unable to agree
986 on a mediator within the time allowed by the arbitrator, the
987 arbitrator shall appoint a mediator from the list of certified
988 mediators. If a case is referred to mediation, the parties shall
989 attend a mediation conference, as scheduled by the parties and
990 the mediator. If any party fails to attend a duly noticed
991 mediation conference, without the permission or approval of the
992 arbitrator or mediator, the arbitrator must impose sanctions
993 against the party, including the striking of any pleadings filed,
994 the entry of an order of dismissal or default if appropriate, and
995 the award of costs and attorneys' fees incurred by the other
996 parties. Unless otherwise agreed to by the parties or as provided
997 by order of the arbitrator, a party is deemed to have appeared at
998 a mediation conference by the physical presence of the party or
999 its representative having full authority to settle without
1000 further consultation, provided that an association may comply by

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1001 | having one or more representatives present with full authority to
1002 | negotiate a settlement and recommend that the board of
1003 | administration ratify and approve such a settlement within 5 days
1004 | from the date of the mediation conference. The parties shall
1005 | share equally the expense of mediation, unless they agree
1006 | otherwise.

1007 | (g) The purpose of mediation as provided for by this
1008 | section is to present the parties with an opportunity to resolve
1009 | the underlying dispute in good faith, and with a minimum
1010 | expenditure of time and resources.

1011 | (h) Mediation proceedings must generally be conducted in
1012 | accordance with the Florida Rules of Civil Procedure, and these
1013 | proceedings are privileged and confidential to the same extent as
1014 | court-ordered mediation. Persons who are not parties to the
1015 | dispute are not allowed to attend the mediation conference
1016 | without the consent of all parties, with the exception of counsel
1017 | for the parties and corporate representatives designated to
1018 | appear for a party. If the mediator declares an impasse after a
1019 | mediation conference has been held, the arbitration proceeding
1020 | terminates, unless all parties agree in writing to continue the
1021 | arbitration proceeding, in which case the arbitrator's decision
1022 | shall be ~~either~~ binding or nonbinding, as agreed upon by the
1023 | parties; in the arbitration proceeding, the arbitrator shall not
1024 | consider any evidence relating to the unsuccessful mediation
1025 | except in a proceeding to impose sanctions for failure to appear
1026 | at the mediation conference. If the parties do not agree to
1027 | continue arbitration, the arbitrator shall enter an order of
1028 | dismissal, and either party may institute a suit in a court of
1029 | competent jurisdiction. The parties may seek to recover any costs

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1030 and attorneys' fees incurred in connection with arbitration and
1031 mediation proceedings under this section as part of the costs and
1032 fees that may be recovered by the prevailing party in any
1033 subsequent litigation.

1034 (i) Arbitration shall be conducted according to rules
1035 adopted ~~promulgated~~ by the division. The filing of a petition for
1036 arbitration shall toll the applicable statute of limitations.

1037 (j) At the request of any party to the arbitration, the
1038 ~~such~~ arbitrator shall issue subpoenas for the attendance of
1039 witnesses and the production of books, records, documents, and
1040 other evidence and any party on whose behalf a subpoena is issued
1041 may apply to the court for orders compelling such attendance and
1042 production. Subpoenas shall be served and shall be enforceable in
1043 the manner provided by the Florida Rules of Civil Procedure.
1044 Discovery may, in the discretion of the arbitrator, be permitted
1045 in the manner provided by the Florida Rules of Civil Procedure.
1046 Rules adopted by the division may authorize any reasonable
1047 sanctions except contempt for a violation of the arbitration
1048 procedural rules of the division or for the failure of a party to
1049 comply with a reasonable nonfinal order issued by an arbitrator
1050 which is not under judicial review.

1051 (k) The arbitration decision shall be presented to the
1052 parties in writing. An arbitration decision is final in those
1053 disputes in which the parties have agreed to be bound. An
1054 arbitration decision is also final if a complaint for a trial de
1055 novo is not filed in a court of competent jurisdiction in which
1056 the condominium is located within 30 days. The right to file for
1057 a trial de novo entitles the parties to file a complaint in the
1058 appropriate trial court for a judicial resolution of the dispute.

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1059 | The prevailing party in an arbitration proceeding shall be
1060 | awarded the costs of the arbitration and reasonable attorney's
1061 | fees in an amount determined by the arbitrator. Such an award
1062 | shall include the costs and reasonable attorney's fees incurred
1063 | in the arbitration proceeding as well as the costs and reasonable
1064 | attorney's fees incurred in preparing for and attending any
1065 | scheduled mediation.

1066 | (1) The party who files a complaint for a trial de novo
1067 | shall be assessed the other party's arbitration costs, court
1068 | costs, and other reasonable costs, including attorney's fees,
1069 | investigation expenses, and expenses for expert or other
1070 | testimony or evidence incurred after the arbitration hearing if
1071 | the judgment upon the trial de novo is not more favorable than
1072 | the arbitration decision. If the judgment is more favorable, the
1073 | party who filed a complaint for trial de novo shall be awarded
1074 | reasonable court costs and attorney's fees.

1075 | (m) Any party to an arbitration proceeding may enforce an
1076 | arbitration award by filing a petition in a court of competent
1077 | jurisdiction in which the condominium is located. A petition may
1078 | not be granted unless the time for appeal by the filing of a
1079 | complaint for trial de novo has expired. If a complaint for a
1080 | trial de novo has been filed, a petition may not be granted with
1081 | respect to an arbitration award that has been stayed. If the
1082 | petition for enforcement is granted, the petitioner shall recover
1083 | reasonable attorney's fees and costs incurred in enforcing the
1084 | arbitration award. A mediation settlement may also be enforced
1085 | through the county or circuit court, as applicable, and any costs
1086 | and fees incurred in the enforcement of a settlement agreement

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1087 reached at mediation must be awarded to the prevailing party in
1088 any enforcement action.

1089 Section 36. Section 718.501, Florida Statutes, is amended
1090 to read:

1091 718.501 Powers and duties of Division of Florida ~~Land~~
1092 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes.--

1093 (1) The Division of Florida ~~Land Sales,~~ Condominiums,
1094 Timeshares, and Mobile Homes of the Department of Business and
1095 Professional Regulation, referred to as the "division" in this
1096 part, ~~in addition to other powers and duties prescribed by~~
1097 ~~chapter 498,~~ has the power to enforce and ensure compliance with
1098 the provisions of this chapter and rules ~~promulgated pursuant~~
1099 ~~hereto~~ relating to the development, construction, sale, lease,
1100 ownership, operation, and management of residential condominium
1101 units. In performing its duties, the division has the following
1102 powers and duties:

1103 (a)1. The division may make necessary public or private
1104 investigations within or outside this state to determine whether
1105 any person has violated this chapter or any rule or order
1106 hereunder, to aid in the enforcement of this chapter, or to aid
1107 in the adoption of rules or forms hereunder.

1108 2. The division may submit any official written report,
1109 worksheet, or other related paper, or a duly certified copy
1110 thereof, compiled, prepared, drafted, or otherwise made by and
1111 duly authenticated by a financial examiner or analyst to be
1112 admitted as competent evidence in any hearing in which the
1113 financial examiner or analyst is available for cross-examination
1114 and attests under oath that such documents were prepared as a

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1115 result of an examination or inspection conducted pursuant to this
1116 chapter.

1117 (b) The division may require or permit any person to file a
1118 statement in writing, under oath or otherwise, as the division
1119 determines, as to the facts and circumstances concerning a matter
1120 to be investigated.

1121 (c) For the purpose of any investigation under this
1122 chapter, the division director or any officer or employee
1123 designated by the division director may administer oaths or
1124 affirmations, subpoena witnesses and compel their attendance,
1125 take evidence, and require the production of any matter which is
1126 relevant to the investigation, including the existence,
1127 description, nature, custody, condition, and location of any
1128 books, documents, or other tangible things and the identity and
1129 location of persons having knowledge of relevant facts or any
1130 other matter reasonably calculated to lead to the discovery of
1131 material evidence. Upon the failure by a person to obey a
1132 subpoena or to answer questions propounded by the investigating
1133 officer and upon reasonable notice to all persons affected
1134 thereby, the division may apply to the circuit court for an order
1135 compelling compliance.

1136 (d) Notwithstanding any remedies available to unit owners
1137 and associations, if the division has reasonable cause to believe
1138 that a violation of any provision of this chapter or related rule
1139 ~~promulgated pursuant hereto~~ has occurred, the division may
1140 institute enforcement proceedings in its own name against any
1141 developer, association, officer, or member of the board of
1142 administration, or its assignees or agents, as follows:

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1143 1. The division may permit a person whose conduct or
1144 actions may be under investigation to waive formal proceedings
1145 and enter into a consent proceeding whereby orders, rules, or
1146 letters of censure or warning, whether formal or informal, may be
1147 entered against the person.

1148 2. The division may issue an order requiring the developer,
1149 association, officer, or member of the board of administration,
1150 or its assignees or agents, to cease and desist from the unlawful
1151 practice and take such affirmative action as in the judgment of
1152 the division will carry out the purposes of this chapter. ~~Such~~
1153 ~~affirmative action may include, but is not limited to, an order~~
1154 ~~requiring a developer to pay moneys determined to be owed to a~~
1155 ~~condominium association.~~ If the division finds that a developer,
1156 association, officer, or member of the board of administration,
1157 or its assignees or agents, is violating or is about to violate
1158 any provision of this chapter, any rule adopted or order issued
1159 by the division, or any written agreement entered into with the
1160 division, and presents an immediate danger to the public
1161 requiring an immediate final order, it may issue an emergency
1162 cease and desist order reciting with particularity the facts
1163 underlying such findings. The emergency cease and desist order is
1164 effective for 90 days. If the division begins nonemergency cease
1165 and desist proceedings, the emergency cease and desist order
1166 remains effective until the conclusion of the proceedings under
1167 ss. 120.569 and 120.57.

1168 3. The division may bring an action in circuit court on
1169 behalf of a class of unit owners, lessees, or purchasers for
1170 declaratory relief, injunctive relief, or restitution.

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1171 4. The division may petition the court for the appointment
1172 of a receiver or conservator. If appointed, the receiver or
1173 conservator may take action to implement the the court order to
1174 ensure the performance of the order and to remedy any breach
1175 thereof. In addition to all other means provided by law for the
1176 enforcement of an injunction or temporary restraining order, the
1177 circuit court may impound or sequester the property of a party
1178 defendant, including books, papers, documents, and related
1179 records, and allow the examination and use of the property by the
1180 division and a court-appointed receiver or conservator.

1181 5. The division may apply to the circuit court for an order
1182 of restitution whereby the defendant in an action brought
1183 pursuant to subparagraph 4. shall be ordered to make restitution
1184 of those sums shown by the division to have been obtained by the
1185 defendant in violation of this chapter. Such restitution shall,
1186 at the option of the court, be payable to the conservator or
1187 receiver appointed pursuant to subparagraph 4. or directly to the
1188 persons whose funds or assets were obtained in violation of this
1189 chapter.

1190 6.4. The division may impose a civil penalty against a
1191 developer or association, or its assignee or agent, for any
1192 violation of this chapter or a rule adopted under this chapter
1193 ~~promulgated pursuant hereto~~. The division may impose a civil
1194 penalty individually against any officer or board member who
1195 willfully and knowingly violates a provision of this chapter,
1196 adopted a rule adopted pursuant hereto, or a final order of the
1197 division. The term "willfully and knowingly" means that the
1198 division informed the officer or board member that his or her
1199 action or intended action violates this chapter, a rule adopted

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1200 | under this chapter, or a final order of the division and that the
1201 | officer or board member refused to comply with the requirements
1202 | of this chapter, a rule adopted under this chapter, or a final
1203 | order of the division. The division, prior to initiating formal
1204 | agency action under chapter 120, shall afford the officer or
1205 | board member an opportunity to voluntarily comply with this
1206 | chapter, a rule adopted under this chapter, or a final order of
1207 | the division. An officer or board member who complies within 10
1208 | days is not subject to a civil penalty. A penalty may be imposed
1209 | on the basis of each day of continuing violation, but in no event
1210 | shall the penalty for any offense exceed \$5,000. By January 1,
1211 | 1998, the division shall adopt, by rule, penalty guidelines
1212 | applicable to possible violations or to categories of violations
1213 | of this chapter or rules adopted by the division. The guidelines
1214 | must specify a meaningful range of civil penalties for each such
1215 | violation of the statute and rules and must be based upon the
1216 | harm caused by the violation, the repetition of the violation,
1217 | and upon such other factors deemed relevant by the division. For
1218 | example, the division may consider whether the violations were
1219 | committed by a developer or owner-controlled association, the
1220 | size of the association, and other factors. The guidelines must
1221 | designate the possible mitigating or aggravating circumstances
1222 | that justify a departure from the range of penalties provided by
1223 | the rules. It is the legislative intent that minor violations be
1224 | distinguished from those which endanger the health, safety, or
1225 | welfare of the condominium residents or other persons and that
1226 | such guidelines provide reasonable and meaningful notice to the
1227 | public of likely penalties that may be imposed for proscribed
1228 | conduct. This subsection does not limit the ability of the

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1229 | division to informally dispose of administrative actions or
1230 | complaints by stipulation, agreed settlement, or consent order.
1231 | All amounts collected shall be deposited with the Chief Financial
1232 | Officer to the credit of the Division of Florida ~~Land Sales,~~
1233 | Condominiums, Timeshares, and Mobile Homes Trust Fund. If a
1234 | developer fails to pay the civil penalty, the division shall
1235 | ~~thereupon~~ issue an order directing that such developer cease and
1236 | desist from further operation until such time as the civil
1237 | penalty is paid or may pursue enforcement of the penalty in a
1238 | court of competent jurisdiction. If an association fails to pay
1239 | the civil penalty, the division shall ~~thereupon~~ pursue
1240 | enforcement in a court of competent jurisdiction, and the order
1241 | imposing the civil penalty or the cease and desist order will not
1242 | become effective until 20 days after the date of such order. Any
1243 | action commenced by the division shall be brought in the county
1244 | in which the division has its executive offices or in the county
1245 | where the violation occurred.

1246 | 7. In addition to subparagraph 6., the division may seek
1247 | the imposition of a civil penalty through the circuit court for
1248 | any violation for which the division may issue a notice to show
1249 | cause under paragraph (q). The civil penalty shall be at least
1250 | \$500 but no more than \$5,000 for each violation. The court may
1251 | also award to the prevailing party court costs and reasonable
1252 | attorney's fees and, if the division prevails, may also award
1253 | reasonable costs of investigation.

1254 | (e) The division may ~~is authorized to~~ prepare and
1255 | disseminate a prospectus and other information to assist
1256 | prospective owners, purchasers, lessees, and developers of

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1257 residential condominiums in assessing the rights, privileges, and
1258 duties pertaining thereto.

1259 (f) The division has authority to adopt rules pursuant to
1260 ss. 120.536(1) and 120.54 to implement and enforce the provisions
1261 of this chapter.

1262 (g) The division shall establish procedures for providing
1263 notice to an association when the division is considering the
1264 issuance of a declaratory statement with respect to the
1265 declaration of condominium or any related document governing in
1266 such condominium community.

1267 (h) The division shall furnish each association which pays
1268 the fees required by paragraph (2) (a) a copy of this act,
1269 subsequent changes to this act on an annual basis, an amended
1270 version of this act as it becomes available from the Secretary of
1271 State's office on a biennial basis, and the rules adopted
1272 ~~promulgated pursuant~~ thereto on an annual basis.

1273 (i) The division shall annually provide each association
1274 with a summary of declaratory statements and formal legal
1275 opinions relating to the operations of condominiums which were
1276 rendered by the division during the previous year.

1277 (j) The division shall provide training programs for
1278 condominium association board members and unit owners.

1279 (k) The division shall maintain a toll-free telephone
1280 number accessible to condominium unit owners.

1281 (l) The division shall develop a program to certify both
1282 volunteer and paid mediators to provide mediation of condominium
1283 disputes. The division shall provide, upon request, a list of
1284 such mediators to any association, unit owner, or other
1285 participant in arbitration proceedings under s. 718.1255

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1286 requesting a copy of the list. The division shall include on the
1287 list of volunteer mediators only the names of persons who have
1288 received at least 20 hours of training in mediation techniques or
1289 who have mediated at least 20 disputes. In order to become
1290 initially certified by the division, paid mediators must be
1291 certified by the Supreme Court to mediate court cases in ~~either~~
1292 county or circuit courts. However, the division may adopt, by
1293 rule, additional factors for the certification of paid mediators,
1294 which factors must be related to experience, education, or
1295 background. Any person initially certified as a paid mediator by
1296 the division must, in order to continue to be certified, comply
1297 with the factors or requirements imposed by rules adopted by the
1298 division.

1299 (m) When a complaint is made, the division shall conduct
1300 its inquiry with due regard to the interests of the affected
1301 parties. Within 30 days after receipt of a complaint, the
1302 division shall acknowledge the complaint in writing and notify
1303 the complainant whether the complaint is within the jurisdiction
1304 of the division and whether additional information is needed by
1305 the division from the complainant. The division shall conduct its
1306 investigation and shall, within 90 days after receipt of the
1307 original complaint or of timely requested additional information,
1308 take action upon the complaint. However, the failure to complete
1309 the investigation within 90 days does not prevent the division
1310 from continuing the investigation, accepting or considering
1311 evidence obtained or received after 90 days, or taking
1312 administrative action if reasonable cause exists to believe that
1313 a violation of this chapter or a rule of the division has
1314 occurred. If an investigation is not completed within the time

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1315 limits established in this paragraph, the division shall, on a
1316 monthly basis, notify the complainant in writing of the status of
1317 the investigation. When reporting its action to the complainant,
1318 the division shall inform the complainant of any right to a
1319 hearing pursuant to ss. 120.569 and 120.57.

1320 (n) The division may:

1321 1. Contract with agencies in this state or other
1322 jurisdictions to perform investigative functions; or

1323 2. Accept grants-in-aid from any source.

1324 (o) The division shall cooperate with similar agencies in
1325 other jurisdictions to establish uniform filing procedures and
1326 forms, public offering statements, advertising standards, and
1327 rules and common administrative practices.

1328 (p) The division shall consider notice to a developer to be
1329 complete when it is delivered to the developer's address
1330 currently on file with the division.

1331 (q) In addition to its enforcement authority, the division
1332 may issue a notice to show cause, which shall provide for a
1333 hearing, upon written request, in accordance with chapter 120.

1334 (2) (a) Effective January 1, 1992, Each condominium
1335 association which operates more than two units shall pay to the
1336 division an annual fee in the amount of \$4 for each residential
1337 unit in condominiums operated by the association. If the fee is
1338 not paid by March 1, ~~then~~ the association shall be assessed a
1339 penalty of 10 percent of the amount due, and the association will
1340 not have standing to maintain or defend any action in the courts
1341 of this state until the amount due, plus any penalty, is paid.

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1342 (b) All fees shall be deposited in the Division of Florida
1343 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund
1344 as provided by law.

1345 Section 37. Subsection (1) of section 718.5011, Florida
1346 Statutes, is amended to read:

1347 718.5011 Ombudsman; appointment; administration.--

1348 (1) There is created an Office of the Condominium
1349 Ombudsman, to be located for administrative purposes within the
1350 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
1351 Mobile Homes. The functions of the office shall be funded by the
1352 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
1353 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief of
1354 the division, and the office shall be set within the division in
1355 the same manner as any other bureau is staffed and funded.

1356 Section 38. Paragraph (a) of subsection (2) of section
1357 718.502, Florida Statutes, is amended to read:

1358 718.502 Filing prior to sale or lease.--

1359 (2)(a) Prior to filing as required by subsection (1), and
1360 prior to acquiring an ownership, leasehold, or contractual
1361 interest in the land upon which the condominium is to be
1362 developed, a developer shall not offer a contract for purchase of
1363 a unit or lease of a unit for more than 5 years. However, the
1364 developer may accept deposits for reservations upon the approval
1365 of a fully executed escrow agreement and reservation agreement
1366 form properly filed with the Division of Florida ~~Land Sales~~,
1367 Condominiums, Timeshares, and Mobile Homes. Each filing of a
1368 proposed reservation program shall be accompanied by a filing fee
1369 of \$250. Reservations shall not be taken on a proposed
1370 condominium unless the developer has an ownership, leasehold, or

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1371 contractual interest in the land upon which the condominium is to
1372 be developed. The division shall notify the developer within 20
1373 days of receipt of the reservation filing of any deficiencies
1374 contained therein. Such notification shall not preclude the
1375 determination of reservation filing deficiencies at a later date,
1376 nor shall it relieve the developer of any responsibility under
1377 the law. The escrow agreement and the reservation agreement form
1378 shall include a statement of the right of the prospective
1379 purchaser to an immediate unqualified refund of the reservation
1380 deposit moneys upon written request to the escrow agent by the
1381 prospective purchaser or the developer.

1382 Section 39. Section 718.504, Florida Statutes, is amended
1383 to read:

1384 718.504 Prospectus or offering circular.--Every developer
1385 of a residential condominium which contains more than 20
1386 residential units, or which is part of a group of residential
1387 condominiums which will be served by property to be used in
1388 common by unit owners of more than 20 residential units, shall
1389 prepare a prospectus or offering circular and file it with the
1390 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
1391 Mobile Homes prior to entering into an enforceable contract of
1392 purchase and sale of any unit or lease of a unit for more than 5
1393 years and shall furnish a copy of the prospectus or offering
1394 circular to each buyer. In addition to the prospectus or offering
1395 circular, each buyer shall be furnished a separate page entitled
1396 "Frequently Asked Questions and Answers," which shall be in
1397 accordance with a format approved by the division and a copy of
1398 the financial information required by s. 718.111. This page
1399 shall, in readable language, inform prospective purchasers

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1400 regarding their voting rights and unit use restrictions,
1401 including restrictions on the leasing of a unit; shall indicate
1402 whether and in what amount the unit owners or the association is
1403 obligated to pay rent or land use fees for recreational or other
1404 commonly used facilities; shall contain a statement identifying
1405 that amount of assessment which, pursuant to the budget, would be
1406 levied upon each unit type, exclusive of any special assessments,
1407 and which shall further identify the basis upon which assessments
1408 are levied, whether monthly, quarterly, or otherwise; shall state
1409 and identify any court cases in which the association is
1410 currently a party of record in which the association may face
1411 liability in excess of \$100,000; and which shall further state
1412 whether membership in a recreational facilities association is
1413 mandatory, and if so, shall identify the fees currently charged
1414 per unit type. The division shall by rule require such other
1415 disclosure as in its judgment will assist prospective purchasers.
1416 The prospectus or offering circular may include more than one
1417 condominium, although not all such units are being offered for
1418 sale as of the date of the prospectus or offering circular. The
1419 prospectus or offering circular must contain the following
1420 information:

- 1421 (1) The front cover or the first page must contain only:
- 1422 (a) The name of the condominium.
- 1423 (b) The following statements in conspicuous type:
- 1424 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
1425 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.
- 1426 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
1427 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
1428 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

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1429 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
1430 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
1431 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
1432 REPRESENTATIONS.

1433 (2) Summary: The next page must contain all statements
1434 required to be in conspicuous type in the prospectus or offering
1435 circular.

1436 (3) A separate index of the contents and exhibits of the
1437 prospectus.

1438 (4) Beginning on the first page of the text (not including
1439 the summary and index), a description of the condominium,
1440 including, but not limited to, the following information:

1441 (a) Its name and location.

1442 (b) A description of the condominium property, including,
1443 without limitation:

1444 1. The number of buildings, the number of units in each
1445 building, the number of bathrooms and bedrooms in each unit, and
1446 the total number of units, if the condominium is not a phase
1447 condominium, or the maximum number of buildings that may be
1448 contained within the condominium, the minimum and maximum numbers
1449 of units in each building, the minimum and maximum numbers of
1450 bathrooms and bedrooms that may be contained in each unit, and
1451 the maximum number of units that may be contained within the
1452 condominium, if the condominium is a phase condominium.

1453 2. The page in the condominium documents where a copy of
1454 the plot plan and survey of the condominium is located.

1455 3. The estimated latest date of completion of constructing,
1456 finishing, and equipping. In lieu of a date, the description
1457 shall include a statement that the estimated date of completion

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1458 of the condominium is in the purchase agreement and a reference
1459 to the article or paragraph containing that information.

1460 (c) The maximum number of units that will use facilities in
1461 common with the condominium. If the maximum number of units will
1462 vary, a description of the basis for variation and the minimum
1463 amount of dollars per unit to be spent for additional
1464 recreational facilities or enlargement of such facilities. If the
1465 addition or enlargement of facilities will result in a material
1466 increase of a unit owner's maintenance expense or rental expense,
1467 if any, the maximum increase and limitations thereon shall be
1468 stated.

1469 (5) (a) A statement in conspicuous type describing whether
1470 the condominium is created and being sold as fee simple interests
1471 or as leasehold interests. If the condominium is created or being
1472 sold on a leasehold, the location of the lease in the disclosure
1473 materials shall be stated.

1474 (b) If timeshare estates are or may be created with respect
1475 to any unit in the condominium, a statement in conspicuous type
1476 stating that timeshare estates are created and being sold in
1477 units in the condominium.

1478 (6) A description of the recreational and other commonly
1479 used facilities that will be used only by unit owners of the
1480 condominium, including, but not limited to, the following:

1481 (a) Each room and its intended purposes, location,
1482 approximate floor area, and capacity in numbers of people.

1483 (b) Each swimming pool, as to its general location,
1484 approximate size and depths, approximate deck size and capacity,
1485 and whether heated.

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1486 (c) Additional facilities, as to the number of each
1487 facility, its approximate location, approximate size, and
1488 approximate capacity.

1489 (d) A general description of the items of personal property
1490 and the approximate number of each item of personal property that
1491 the developer is committing to furnish for each room or other
1492 facility or, in the alternative, a representation as to the
1493 minimum amount of expenditure that will be made to purchase the
1494 personal property for the facility.

1495 (e) The estimated date when each room or other facility
1496 will be available for use by the unit owners.

1497 (f)1. An identification of each room or other facility to
1498 be used by unit owners that will not be owned by the unit owners
1499 or the association;

1500 2. A reference to the location in the disclosure materials
1501 of the lease or other agreements providing for the use of those
1502 facilities; and

1503 3. A description of the terms of the lease or other
1504 agreements, including the length of the term; the rent payable,
1505 directly or indirectly, by each unit owner, and the total rent
1506 payable to the lessor, stated in monthly and annual amounts for
1507 the entire term of the lease; and a description of any option to
1508 purchase the property leased under any such lease, including the
1509 time the option may be exercised, the purchase price or how it is
1510 to be determined, the manner of payment, and whether the option
1511 may be exercised for a unit owner's share or only as to the
1512 entire leased property.

1513 (g) A statement as to whether the developer may provide
1514 additional facilities not described above; their general

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1515 | locations and types; improvements or changes that may be made;
1516 | the approximate dollar amount to be expended; and the maximum
1517 | additional common expense or cost to the individual unit owners
1518 | that may be charged during the first annual period of operation
1519 | of the modified or added facilities.

1520

1521 | Descriptions as to locations, areas, capacities, numbers,
1522 | volumes, or sizes may be stated as approximations or minimums.

1523 | (7) A description of the recreational and other facilities
1524 | that will be used in common with other condominiums, community
1525 | associations, or planned developments which require the payment
1526 | of the maintenance and expenses of such facilities, ~~either~~
1527 | directly or indirectly, by the unit owners. The description shall
1528 | include, but not be limited to, the following:

1529 | (a) Each building and facility committed to be built.

1530 | (b) Facilities not committed to be built except under
1531 | certain conditions, and a statement of those conditions or
1532 | contingencies.

1533 | (c) As to each facility committed to be built, or which
1534 | will be committed to be built upon the happening of one of the
1535 | conditions in paragraph (b), a statement of whether it will be
1536 | owned by the unit owners having the use thereof or by an
1537 | association or other entity which will be controlled by them, or
1538 | others, and the location in the exhibits of the lease or other
1539 | document providing for use of those facilities.

1540 | (d) The year in which each facility will be available for
1541 | use by the unit owners or, in the alternative, the maximum number
1542 | of unit owners in the project at the time each of all of the
1543 | facilities is committed to be completed.

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1544 (e) A general description of the items of personal
1545 property, and the approximate number of each item of personal
1546 property, that the developer is committing to furnish for each
1547 room or other facility or, in the alternative, a representation
1548 as to the minimum amount of expenditure that will be made to
1549 purchase the personal property for the facility.

1550 (f) If there are leases, a description thereof, including
1551 the length of the term, the rent payable, and a description of
1552 any option to purchase.

1553
1554 Descriptions shall include location, areas, capacities, numbers,
1555 volumes, or sizes and may be stated as approximations or
1556 minimums.

1557 (8) Recreation lease or associated club membership:

1558 (a) If any recreational facilities or other facilities
1559 offered by the developer and available to, or to be used by, unit
1560 owners are to be leased or have club membership associated, the
1561 following statement in conspicuous type shall be included: THERE
1562 IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
1563 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
1564 CONDOMINIUM. There shall be a reference to the location in the
1565 disclosure materials where the recreation lease or club
1566 membership is described in detail.

1567 (b) If it is mandatory that unit owners pay a fee, rent,
1568 dues, or other charges under a recreational facilities lease or
1569 club membership for the use of facilities, there shall be in
1570 conspicuous type the applicable statement:

1571 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
1572 MANDATORY FOR UNIT OWNERS; or

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1573 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
1574 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

1575 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS
1576 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,
1577 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE
1578 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

1579 4. A similar statement of the nature of the organization or
1580 the manner in which the use rights are created, and that unit
1581 owners are required to pay.

1582

1583 Immediately following the applicable statement, the location in
1584 the disclosure materials where the development is described in
1585 detail shall be stated.

1586 (c) If the developer, or any other person other than the
1587 unit owners and other persons having use rights in the
1588 facilities, reserves, or is entitled to receive, any rent, fee,
1589 or other payment for the use of the facilities, then there shall
1590 be the following statement in conspicuous type: THE UNIT OWNERS
1591 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
1592 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately
1593 following this statement, the location in the disclosure
1594 materials where the rent or land use fees are described in detail
1595 shall be stated.

1596 (d) If, in any recreation format, whether leasehold, club,
1597 or other, any person other than the association has the right to
1598 a lien on the units to secure the payment of assessments, rent,
1599 or other exactions, there shall appear a statement in conspicuous
1600 type in substantially the following form:

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1601 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
1602 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
1603 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS
1604 MAY RESULT IN FORECLOSURE OF THE LIEN; or

1605 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
1606 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
1607 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
1608 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE
1609 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

1610

1611 Immediately following the applicable statement, the location in
1612 the disclosure materials where the lien or lien right is
1613 described in detail shall be stated.

1614 (9) If the developer or any other person has the right to
1615 increase or add to the recreational facilities at any time after
1616 the establishment of the condominium whose unit owners have use
1617 rights therein, without the consent of the unit owners or
1618 associations being required, there shall appear a statement in
1619 conspicuous type in substantially the following form:

1620 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
1621 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
1622 statement, the location in the disclosure materials where such
1623 reserved rights are described shall be stated.

1624 (10) A statement of whether the developer's plan includes a
1625 program of leasing units rather than selling them, or leasing
1626 units and selling them subject to such leases. If so, there shall
1627 be a description of the plan, including the number and
1628 identification of the units and the provisions and term of the

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1629 proposed leases, and a statement in boldfaced type that: THE
1630 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

1631 (11) The arrangements for management of the association and
1632 maintenance and operation of the condominium property and of
1633 other property that will serve the unit owners of the condominium
1634 property, and a description of the management contract and all
1635 other contracts for these purposes having a term in excess of 1
1636 year, including the following:

1637 (a) The names of contracting parties.

1638 (b) The term of the contract.

1639 (c) The nature of the services included.

1640 (d) The compensation, stated on a monthly and annual basis,
1641 and provisions for increases in the compensation.

1642 (e) A reference to the volumes and pages of the condominium
1643 documents and of the exhibits containing copies of such
1644 contracts.

1645
1646 Copies of all described contracts shall be attached as exhibits.
1647 If there is a contract for the management of the condominium
1648 property, then a statement in conspicuous type in substantially
1649 the following form shall appear, identifying the proposed or
1650 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE
1651 MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE CONTRACT
1652 MANAGER). Immediately following this statement, the location in
1653 the disclosure materials of the contract for management of the
1654 condominium property shall be stated.

1655 (12) If the developer or any other person or persons other
1656 than the unit owners has the right to retain control of the board
1657 of administration of the association for a period of time which

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1658 | can exceed 1 year after the closing of the sale of a majority of
1659 | the units in that condominium to persons other than successors or
1660 | alternate developers, then a statement in conspicuous type in
1661 | substantially the following form shall be included: THE DEVELOPER
1662 | (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE
1663 | ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.
1664 | Immediately following this statement, the location in the
1665 | disclosure materials where this right to control is described in
1666 | detail shall be stated.

1667 | (13) If there are any restrictions upon the sale, transfer,
1668 | conveyance, or leasing of a unit, then a statement in conspicuous
1669 | type in substantially the following form shall be included: THE
1670 | SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.
1671 | Immediately following this statement, the location in the
1672 | disclosure materials where the restriction, limitation, or
1673 | control on the sale, lease, or transfer of units is described in
1674 | detail shall be stated.

1675 | (14) If the condominium is part of a phase project, the
1676 | following information shall be stated:

1677 | (a) A statement in conspicuous type in substantially the
1678 | following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
1679 | UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
1680 | this statement, the location in the disclosure materials where
1681 | the phasing is described shall be stated.

1682 | (b) A summary of the provisions of the declaration which
1683 | provide for the phasing.

1684 | (c) A statement as to whether or not residential buildings
1685 | and units which are added to the condominium may be substantially
1686 | different from the residential buildings and units originally in

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1687 the condominium. If the added residential buildings and units may
1688 be substantially different, there shall be a general description
1689 of the extent to which such added residential buildings and units
1690 may differ, and a statement in conspicuous type in substantially
1691 the following form shall be included: BUILDINGS AND UNITS WHICH
1692 ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM
1693 THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately
1694 following this statement, the location in the disclosure
1695 materials where the extent to which added residential buildings
1696 and units may substantially differ is described shall be stated.

1697 (d) A statement of the maximum number of buildings
1698 containing units, the maximum and minimum numbers of units in
1699 each building, the maximum number of units, and the minimum and
1700 maximum square footage of the units that may be contained within
1701 each parcel of land which may be added to the condominium.

1702 (15) If a condominium created on or after July 1, 2000, is
1703 or may become part of a multicondominium, the following
1704 information must be provided:

1705 (a) A statement in conspicuous type in substantially the
1706 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
1707 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
1708 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
1709 this statement, the location in the prospectus or offering
1710 circular and its exhibits where the multicondominium aspects of
1711 the offering are described must be stated.

1712 (b) A summary of the provisions in the declaration,
1713 articles of incorporation, and bylaws which establish and provide
1714 for the operation of the multicondominium, including a statement
1715 as to whether unit owners in the condominium will have the right

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1716 to use recreational or other facilities located or planned to be
1717 located in other condominiums operated by the same association,
1718 and the manner of sharing the common expenses related to such
1719 facilities.

1720 (c) A statement of the minimum and maximum number of
1721 condominiums, and the minimum and maximum number of units in each
1722 of those condominiums, which will or may be operated by the
1723 association, and the latest date by which the exact number will
1724 be finally determined.

1725 (d) A statement as to whether any of the condominiums in
1726 the multicondominium may include units intended to be used for
1727 nonresidential purposes and the purpose or purposes permitted for
1728 such use.

1729 (e) A general description of the location and approximate
1730 acreage of any land on which any additional condominiums to be
1731 operated by the association may be located.

1732 (16) If the condominium is created by conversion of
1733 existing improvements, the following information shall be stated:

1734 (a) The information required by s. 718.616.

1735 (b) A caveat that there are no express warranties unless
1736 they are stated in writing by the developer.

1737 (17) A summary of the restrictions, if any, to be imposed
1738 on units concerning the use of any of the condominium property,
1739 including statements as to whether there are restrictions upon
1740 children and pets, and reference to the volumes and pages of the
1741 condominium documents where such restrictions are found, or if
1742 such restrictions are contained elsewhere, then a copy of the
1743 documents containing the restrictions shall be attached as an
1744 exhibit.

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1745 (18) If there is any land that is offered by the developer
1746 for use by the unit owners and that is neither owned by them nor
1747 leased to them, the association, or any entity controlled by unit
1748 owners and other persons having the use rights to such land, a
1749 statement shall be made as to how such land will serve the
1750 condominium. If any part of such land will serve the condominium,
1751 the statement shall describe the land and the nature and term of
1752 service, and the declaration or other instrument creating such
1753 servitude shall be included as an exhibit.

1754 (19) The manner in which utility and other services,
1755 including, but not limited to, sewage and waste disposal, water
1756 supply, and storm drainage, will be provided and the person or
1757 entity furnishing them.

1758 (20) An explanation of the manner in which the
1759 apportionment of common expenses and ownership of the common
1760 elements has been determined.

1761 (21) An estimated operating budget for the condominium and
1762 the association, and a schedule of the unit owner's expenses
1763 shall be attached as an exhibit and shall contain the following
1764 information:

1765 (a) The estimated monthly and annual expenses of the
1766 condominium and the association that are collected from unit
1767 owners by assessments.

1768 (b) The estimated monthly and annual expenses of each unit
1769 owner for a unit, other than common expenses paid by all unit
1770 owners, payable by the unit owner to persons or entities other
1771 than the association, as well as to the association, including
1772 fees assessed pursuant to s. 718.113(1) for maintenance of
1773 limited common elements where such costs are shared only by those

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1774 entitled to use the limited common element, and the total
1775 estimated monthly and annual expense. There may be excluded from
1776 this estimate expenses which are not provided for or contemplated
1777 by the condominium documents, including, but not limited to, the
1778 costs of private telephone; maintenance of the interior of
1779 condominium units, which is not the obligation of the
1780 association; maid or janitorial services privately contracted for
1781 by the unit owners; utility bills billed directly to each unit
1782 owner for utility services to his or her unit; insurance premiums
1783 other than those incurred for policies obtained by the
1784 condominium; and similar personal expenses of the unit owner. A
1785 unit owner's estimated payments for assessments shall also be
1786 stated in the estimated amounts for the times when they will be
1787 due.

1788 (c) The estimated items of expenses of the condominium and
1789 the association, except as excluded under paragraph (b),
1790 including, but not limited to, the following items, which shall
1791 be stated ~~either~~ as an association expense collectible by
1792 assessments or as unit owners' expenses payable to persons other
1793 than the association:

- 1794 1. Expenses for the association and condominium:
 - 1795 a. Administration of the association.
 - 1796 b. Management fees.
 - 1797 c. Maintenance.
 - 1798 d. Rent for recreational and other commonly used
1799 facilities.
 - 1800 e. Taxes upon association property.
 - 1801 f. Taxes upon leased areas.
 - 1802 g. Insurance.

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- 1803 h. Security provisions.
- 1804 i. Other expenses.
- 1805 j. Operating capital.
- 1806 k. Reserves.
- 1807 1. Fees payable to the division.
- 1808 2. Expenses for a unit owner:
- 1809 a. Rent for the unit, if subject to a lease.
- 1810 b. Rent payable by the unit owner directly to the lessor or
- 1811 agent under any recreational lease or lease for the use of
- 1812 commonly used facilities, which use and payment is a mandatory
- 1813 condition of ownership and is not included in the common expense
- 1814 or assessments for common maintenance paid by the unit owners to
- 1815 the association.
- 1816 (d) The following statement in conspicuous type: THE BUDGET
- 1817 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
- 1818 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
- 1819 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
- 1820 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
- 1821 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
- 1822 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE
- 1823 OFFERING.
- 1824 (e) Each budget for an association prepared by a developer
- 1825 consistent with this subsection shall be prepared in good faith
- 1826 and shall reflect accurate estimated amounts for the required
- 1827 items in paragraph (c) at the time of the filing of the offering
- 1828 circular with the division, and subsequent increased amounts of
- 1829 any item included in the association's estimated budget that are
- 1830 beyond the control of the developer shall not be considered an
- 1831 amendment that would give rise to rescission rights set forth in

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1832 s. 718.503(1)(a) or (b), nor shall such increases modify, void,
1833 or otherwise affect any guarantee of the developer contained in
1834 the offering circular or any purchase contract. It is the intent
1835 of this paragraph to clarify existing law.

1836 (f) The estimated amounts shall be stated for a period of
1837 at least 12 months and may distinguish between the period prior
1838 to the time unit owners other than the developer elect a majority
1839 of the board of administration and the period after that date.

1840 (22) A schedule of estimated closing expenses to be paid by
1841 a buyer or lessee of a unit and a statement of whether title
1842 opinion or title insurance policy is available to the buyer and,
1843 if so, at whose expense.

1844 (23) The identity of the developer and the chief operating
1845 officer or principal directing the creation and sale of the
1846 condominium and a statement of its and his or her experience in
1847 this field.

1848 (24) Copies of the following, to the extent they are
1849 applicable, shall be included as exhibits:

1850 (a) The declaration of condominium, or the proposed
1851 declaration if the declaration has not been recorded.

1852 (b) The articles of incorporation creating the association.

1853 (c) The bylaws of the association.

1854 (d) The ground lease or other underlying lease of the
1855 condominium.

1856 (e) The management agreement and all maintenance and other
1857 contracts for management of the association and operation of the
1858 condominium and facilities used by the unit owners having a
1859 service term in excess of 1 year.

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1860 (f) The estimated operating budget for the condominium and
1861 the required schedule of unit owners' expenses.

1862 (g) A copy of the floor plan of the unit and the plot plan
1863 showing the location of the residential buildings and the
1864 recreation and other common areas.

1865 (h) The lease of recreational and other facilities that
1866 will be used only by unit owners of the subject condominium.

1867 (i) The lease of facilities used by owners and others.

1868 (j) The form of unit lease, if the offer is of a leasehold.

1869 (k) A declaration of servitude of properties serving the
1870 condominium but not owned by unit owners or leased to them or the
1871 association.

1872 (l) The statement of condition of the existing building or
1873 buildings, if the offering is of units in an operation being
1874 converted to condominium ownership.

1875 (m) The statement of inspection for termite damage and
1876 treatment of the existing improvements, if the condominium is a
1877 conversion.

1878 (n) The form of agreement for sale or lease of units.

1879 (o) A copy of the agreement for escrow of payments made to
1880 the developer prior to closing.

1881 (p) A copy of the documents containing any restrictions on
1882 use of the property required by subsection (17).

1883 (25) Any prospectus or offering circular complying, prior
1884 to the effective date of this act, with the provisions of former
1885 ss. 711.69 and 711.802 may continue to be used without amendment
1886 or may be amended to comply with ~~the provisions of~~ this chapter.

1887 (26) A brief narrative description of the location and
1888 effect of all existing and intended easements located or to be

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1889 | located on the condominium property other than those described in
1890 | the declaration.

1891 | (27) If the developer is required by state or local
1892 | authorities to obtain acceptance or approval of any dock or
1893 | marina facilities intended to serve the condominium, a copy of
1894 | any such acceptance or approval acquired by the time of filing
1895 | with the division under s. 718.502(1) or a statement that such
1896 | acceptance or approval has not been acquired or received.

1897 | (28) Evidence demonstrating that the developer has an
1898 | ownership, leasehold, or contractual interest in the land upon
1899 | which the condominium is to be developed.

1900 | Section 40. Section 718.508, Florida Statutes, is amended
1901 | to read:

1902 | 718.508 Regulation by Division of Hotels and
1903 | Restaurants.--In addition to the authority, regulation, or
1904 | control exercised by the Division of Florida ~~Land Sales,~~
1905 | Condominiums, Timeshares, and Mobile Homes pursuant to this act
1906 | with respect to condominiums, buildings included in a condominium
1907 | property are ~~shall be~~ subject to the authority, regulation, or
1908 | control of the Division of Hotels and Restaurants of the
1909 | Department of Business and Professional Regulation, to the extent
1910 | provided ~~for~~ in chapter 399.

1911 | Section 41. Section 718.509, Florida Statutes, is amended,
1912 | to read:

1913 | 718.509 Division of Florida ~~Land Sales,~~ Condominiums,
1914 | Timeshares, and Mobile Homes Trust Fund.--

1915 | (1) There is created within the State Treasury the Division
1916 | of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund

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1917 to be used for the administration and operation of this chapter
1918 and chapters 718, 719, 721, and 723 by the division.

1919 (2) All moneys collected by the division from fees, fines,
1920 or penalties or from costs awarded to the division by a court or
1921 administrative final order shall be paid into the Division of
1922 Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.
1923 The Legislature shall appropriate funds from the trust fund
1924 sufficient to carry out the provisions of this chapter and the
1925 provisions of law with respect to each category of business
1926 covered by the trust fund. The division shall maintain separate
1927 revenue accounts in the trust fund for each business regulated by
1928 the division. The division shall provide for the proportionate
1929 allocation among the accounts of expenses incurred by the
1930 division in the performance of its duties with respect to each
1931 business. As part of its normal budgetary process, the division
1932 shall prepare an annual report of revenues and allocated expenses
1933 related to the operation of each business which may be used to
1934 determine fees charged by the division. This subsection shall
1935 operate pursuant to s. 215.20. All funds collected by the
1936 division and any amount paid for a fee or penalty under this
1937 chapter shall be deposited in the State Treasury to the credit of
1938 the Division of Florida Land Sales, Condominiums, and Mobile
1939 Homes Trust Fund created by s. 498.019.

1940 Section 42. Paragraph (a) of subsection (2) of section
1941 718.608, Florida Statutes, is amended to read:

1942 718.608 Notice of intended conversion; time of delivery;
1943 content.--

1944 (2) (a) Each notice of intended conversion shall be dated
1945 and in writing. The notice shall contain the following statement,

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1946 with the phrases of the following statement which appear in upper
1947 case printed in conspicuous type:

1948

1949 These apartments are being converted to condominium by
1950 (name of developer) , the developer.

1951 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
1952 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
1953 AGREEMENT AS FOLLOWS:

1954 a. If you have continuously been a resident of these
1955 apartments during the last 180 days and your rental agreement
1956 expires during the next 270 days, you may extend your rental
1957 agreement for up to 270 days after the date of this notice.

1958 b. If you have not been a continuous resident of these
1959 apartments for the last 180 days and your rental agreement
1960 expires during the next 180 days, you may extend your rental
1961 agreement for up to 180 days after the date of this notice.

1962 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
1963 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
1964 DATE OF THIS NOTICE.

1965 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
1966 you may extend your rental agreement for up to 45 days after the
1967 date of this notice while you decide whether to extend your
1968 rental agreement as explained above. To do so, you must notify
1969 the developer in writing. You will then have the full 45 days to
1970 decide whether to extend your rental agreement as explained
1971 above.

1972 3. During the extension of your rental agreement you will
1973 be charged the same rent that you are now paying.

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1974 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
1975 OF THE RENTAL AGREEMENT AS FOLLOWS:

1976 a. If your rental agreement began or was extended or
1977 renewed after May 1, 1980, and your rental agreement, including
1978 extensions and renewals, has an unexpired term of 180 days or
1979 less, you may cancel your rental agreement upon 30 days' written
1980 notice and move. Also, upon 30 days' written notice, you may
1981 cancel any extension of the rental agreement.

1982 b. If your rental agreement was not begun or was not
1983 extended or renewed after May 1, 1980, you may not cancel the
1984 rental agreement without the consent of the developer. If your
1985 rental agreement, including extensions and renewals, has an
1986 unexpired term of 180 days or less, you may, however, upon 30
1987 days' written notice cancel any extension of the rental
1988 agreement.

1989 5. All notices must be given in writing and sent by mail,
1990 return receipt requested, or delivered in person to the developer
1991 at this address: (name and address of developer) .

1992 6. If you have continuously been a resident of these
1993 apartments during the last 180 days:

1994 a. You have the right to purchase your apartment and will
1995 have 45 days to decide whether to purchase. If you do not buy the
1996 unit at that price and the unit is later offered at a lower
1997 price, you will have the opportunity to buy the unit at the lower
1998 price. However, in all events your right to purchase the unit
1999 ends when the rental agreement or any extension of the rental
2000 agreement ends or when you waive this right in writing.

2001 b. Within 90 days you will be provided purchase information
2002 relating to your apartment, including the price of your unit and

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2003 | the condition of the building. If you do not receive this
2004 | information within 90 days, your rental agreement and any
2005 | extension will be extended 1 day for each day over 90 days until
2006 | you are given the purchase information. If you do not want this
2007 | rental agreement extension, you must notify the developer in
2008 | writing.

2009 | 7. If you have any questions regarding this conversion or
2010 | the Condominium Act, you may contact the developer or the state
2011 | agency which regulates condominiums: The Division of Florida ~~Land~~
2012 | ~~Sales~~, Condominiums, Timeshares, and Mobile Homes, (Tallahassee
2013 | address and telephone number of division) .

2014 | Section 43. Subsection (17) of section 719.103, Florida
2015 | Statutes, is amended to read:

2016 | 719.103 Definitions.--As used in this chapter:

2017 | (17) "Division" means the Division of Florida ~~Land Sales~~,
2018 | Condominiums, Timeshares, and Mobile Homes of the Department of
2019 | Business and Professional Regulation.

2020 | Section 44. Section 719.1255, Florida Statutes, is amended
2021 | to read:

2022 | 719.1255 Alternative resolution of disputes.--The Division
2023 | of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes
2024 | of the Department of Business and Professional Regulation shall
2025 | provide for alternative dispute resolution in accordance with s.
2026 | 718.1255.

2027 | Section 45. Section 719.501, Florida Statutes, is amended
2028 | to read:

2029 | 719.501 Powers and duties of Division of Florida ~~Land~~
2030 | ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

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2031 (1) The Division of Florida ~~Land Sales,~~ Condominiums,
2032 Timeshares, and Mobile Homes of the Department of Business and
2033 Professional Regulation, referred to as the "division" in this
2034 part, in addition to other powers and duties prescribed by
2035 chapter 718 ~~498,~~ has the power to enforce and ensure compliance
2036 with ~~the provisions of~~ this chapter and adopted rules ~~promulgated~~
2037 ~~pursuant hereto~~ relating to the development, construction, sale,
2038 lease, ownership, operation, and management of residential
2039 cooperative units. In performing its duties, the division shall
2040 have the following powers and duties:

2041 (a) The division may make necessary public or private
2042 investigations within or outside this state to determine whether
2043 any person has violated this chapter or any rule or order
2044 hereunder, to aid in the enforcement of this chapter, or to aid
2045 in the adoption of rules or forms hereunder.

2046 (b) The division may require or permit any person to file a
2047 statement in writing, under oath or otherwise, as the division
2048 determines, as to the facts and circumstances concerning a matter
2049 to be investigated.

2050 (c) For the purpose of any investigation under this
2051 chapter, the division director or any officer or employee
2052 designated by the division director may administer oaths or
2053 affirmations, subpoena witnesses and compel their attendance,
2054 take evidence, and require the production of any matter which is
2055 relevant to the investigation, including the existence,
2056 description, nature, custody, condition, and location of any
2057 books, documents, or other tangible things and the identity and
2058 location of persons having knowledge of relevant facts or any
2059 other matter reasonably calculated to lead to the discovery of

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2060 material evidence. Upon failure by a person to obey a subpoena or
2061 to answer questions propounded by the investigating officer and
2062 upon reasonable notice to all persons affected thereby, the
2063 division may apply to the circuit court for an order compelling
2064 compliance.

2065 (d) Notwithstanding any remedies available to unit owners
2066 and associations, if the division has reasonable cause to believe
2067 that a violation of any provision of this chapter or related rule
2068 ~~promulgated pursuant hereto~~ has occurred, the division may
2069 institute enforcement proceedings in its own name against a
2070 developer, association, officer, or member of the board, or its
2071 assignees or agents, as follows:

2072 1. The division may permit a person whose conduct or
2073 actions may be under investigation to waive formal proceedings
2074 and enter into a consent proceeding whereby orders, rules, or
2075 letters of censure or warning, whether formal or informal, may be
2076 entered against the person.

2077 2. The division may issue an order requiring the developer,
2078 association, officer, or member of the board, or its assignees or
2079 agents, to cease and desist from the unlawful practice and take
2080 such affirmative action as in the judgment of the division will
2081 carry out the purposes of this chapter. Such affirmative action
2082 may include, but is not limited to, an order requiring a
2083 developer to pay moneys determined to be owed to a condominium
2084 association.

2085 3. The division may bring an action in circuit court on
2086 behalf of a class of unit owners, lessees, or purchasers for
2087 declaratory relief, injunctive relief, or restitution.

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2088 4. The division may impose a civil penalty against a
2089 developer or association, or its assignees or agents, for any
2090 violation of this chapter or related a rule ~~promulgated pursuant~~
2091 ~~hereto~~. The division may impose a civil penalty individually
2092 against any officer or board member who willfully and knowingly
2093 violates a provision of this chapter, a rule adopted pursuant to
2094 this chapter, or a final order of the division. The term
2095 "willfully and knowingly" means that the division informed the
2096 officer or board member that his or her action or intended action
2097 violates this chapter, a rule adopted under this chapter, or a
2098 final order of the division, and that the officer or board member
2099 refused to comply with the requirements of this chapter, a rule
2100 adopted under this chapter, or a final order of the division. The
2101 division, prior to initiating formal agency action under chapter
2102 120, shall afford the officer or board member an opportunity to
2103 voluntarily comply with this chapter, a rule adopted under this
2104 chapter, or a final order of the division. An officer or board
2105 member who complies within 10 days is not subject to a civil
2106 penalty. A penalty may be imposed on the basis of each day of
2107 continuing violation, but in no event shall the penalty for any
2108 offense exceed \$5,000. By January 1, 1998, the division shall
2109 adopt, by rule, penalty guidelines applicable to possible
2110 violations or to categories of violations of this chapter or
2111 rules adopted by the division. The guidelines must specify a
2112 meaningful range of civil penalties for each such violation of
2113 the statute and rules and must be based upon the harm caused by
2114 the violation, the repetition of the violation, and upon such
2115 other factors deemed relevant by the division. For example, the
2116 division may consider whether the violations were committed by a

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2117 | developer or owner-controlled association, the size of the
2118 | association, and other factors. The guidelines must designate the
2119 | possible mitigating or aggravating circumstances that justify a
2120 | departure from the range of penalties provided by the rules. It
2121 | is the legislative intent that minor violations be distinguished
2122 | from those which endanger the health, safety, or welfare of the
2123 | cooperative residents or other persons and that such guidelines
2124 | provide reasonable and meaningful notice to the public of likely
2125 | penalties that may be imposed for proscribed conduct. This
2126 | subsection does not limit the ability of the division to
2127 | informally dispose of administrative actions or complaints by
2128 | stipulation, agreed settlement, or consent order. All amounts
2129 | collected shall be deposited with the Chief Financial Officer to
2130 | the credit of the Division of Florida ~~Land Sales,~~ Condominiums,
2131 | Timeshares, and Mobile Homes Trust Fund. If a developer fails to
2132 | pay the civil penalty, the division shall thereupon issue an
2133 | order directing that such developer cease and desist from further
2134 | operation until such time as the civil penalty is paid or may
2135 | pursue enforcement of the penalty in a court of competent
2136 | jurisdiction. If an association fails to pay the civil penalty,
2137 | the division shall thereupon pursue enforcement in a court of
2138 | competent jurisdiction, and the order imposing the civil penalty
2139 | or the cease and desist order shall not become effective until 20
2140 | days after the date of such order. Any action commenced by the
2141 | division shall be brought in the county in which the division has
2142 | its executive offices or in the county where the violation
2143 | occurred.

2144 | (e) The division may ~~is authorized to~~ prepare and
2145 | disseminate a prospectus and other information to assist

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2146 prospective owners, purchasers, lessees, and developers of
2147 residential cooperatives in assessing the rights, privileges, and
2148 duties pertaining thereto.

2149 (f) The division has authority to adopt rules pursuant to
2150 ss. 120.536(1) and 120.54 to implement and enforce the provisions
2151 of this chapter.

2152 (g) The division shall establish procedures for providing
2153 notice to an association when the division is considering the
2154 issuance of a declaratory statement with respect to the
2155 cooperative documents governing such cooperative community.

2156 (h) The division shall furnish each association which pays
2157 the fees required by paragraph (2) (a) a copy of this act,
2158 subsequent changes to this act on an annual basis, an amended
2159 version of this act as it becomes available from the Secretary of
2160 State's office on a biennial basis, and the rules adopted
2161 ~~promulgated pursuant~~ thereto on an annual basis.

2162 (i) The division shall annually provide each association
2163 with a summary of declaratory statements and formal legal
2164 opinions relating to the operations of cooperatives which were
2165 rendered by the division during the previous year.

2166 (j) The division shall adopt uniform accounting principles,
2167 policies, and standards to be used by all associations in the
2168 preparation and presentation of all financial statements required
2169 by this chapter. The principles, policies, and standards shall
2170 take into consideration the size of the association and the total
2171 revenue collected by the association.

2172 (k) The division shall provide training programs for
2173 cooperative association board members and unit owners.

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2174 (l) The division shall maintain a toll-free telephone
2175 number accessible to cooperative unit owners.

2176 (m) When a complaint is made to the division, the division
2177 shall conduct its inquiry with reasonable dispatch and with due
2178 regard to the interests of the affected parties. Within 30 days
2179 after receipt of a complaint, the division shall acknowledge the
2180 complaint in writing and notify the complainant whether the
2181 complaint is within the jurisdiction of the division and whether
2182 additional information is needed by the division from the
2183 complainant. The division shall conduct its investigation and
2184 shall, within 90 days after receipt of the original complaint or
2185 timely requested additional information, take action upon the
2186 complaint. However, the failure to complete the investigation
2187 within 90 days does not prevent the division from continuing the
2188 investigation, accepting or considering evidence obtained or
2189 received after 90 days, or taking administrative action if
2190 reasonable cause exists to believe that a violation of this
2191 chapter or a rule of the division has occurred. If an
2192 investigation is not completed within the time limits established
2193 in this paragraph, the division shall, on a monthly basis, notify
2194 the complainant in writing of the status of the investigation.
2195 When reporting its action to the complainant, the division shall
2196 inform the complainant of any right to a hearing pursuant to ss.
2197 120.569 and 120.57.

2198 (n) The division shall develop a program to certify both
2199 volunteer and paid mediators to provide mediation of cooperative
2200 disputes. The division shall provide, upon request, a list of
2201 such mediators to any association, unit owner, or other
2202 participant in arbitration proceedings under s. 718.1255

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2203 requesting a copy of the list. The division shall include on the
2204 list of voluntary mediators only persons who have received at
2205 least 20 hours of training in mediation techniques or have
2206 mediated at least 20 disputes. In order to become initially
2207 certified by the division, paid mediators must be certified by
2208 the Supreme Court to mediate court cases in ~~either~~ county or
2209 circuit courts. However, the division may adopt, by rule,
2210 additional factors for the certification of paid mediators, which
2211 factors must be related to experience, education, or background.
2212 Any person initially certified as a paid mediator by the division
2213 must, in order to continue to be certified, comply with the
2214 factors or requirements imposed by rules adopted by the division.

2215 (2) (a) Each cooperative association shall pay to the
2216 division, on or before January 1 of each year, an annual fee in
2217 the amount of \$4 for each residential unit in cooperatives
2218 operated by the association. If the fee is not paid by March 1,
2219 then the association shall be assessed a penalty of 10 percent of
2220 the amount due, and the association shall not have the standing
2221 to maintain or defend any action in the courts of this state
2222 until the amount due is paid.

2223 (b) All fees shall be deposited in the Division of Florida
2224 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust Fund
2225 as provided by law.

2226 Section 46. Paragraph (a) of subsection (2) of section
2227 719.502, Florida Statutes, is amended to read:

2228 719.502 Filing prior to sale or lease.--

2229 (2) (a) Prior to filing as required by subsection (1), and
2230 prior to acquiring an ownership, leasehold, or contractual
2231 interest in the land upon which the cooperative is to be

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2232 developed, a developer shall not offer a contract for purchase or
2233 lease of a unit for more than 5 years. However, the developer may
2234 accept deposits for reservations upon the approval of a fully
2235 executed escrow agreement and reservation agreement form properly
2236 filed with the Division of Florida ~~Land Sales~~, Condominiums,
2237 Timeshares, and Mobile Homes. Each filing of a proposed
2238 reservation program shall be accompanied by a filing fee of \$250.
2239 Reservations shall not be taken on a proposed cooperative unless
2240 the developer has an ownership, leasehold, or contractual
2241 interest in the land upon which the cooperative is to be
2242 developed. The division shall notify the developer within 20 days
2243 of receipt of the reservation filing of any deficiencies
2244 contained therein. Such notification shall not preclude the
2245 determination of reservation filing deficiencies at a later date,
2246 nor shall it relieve the developer of any responsibility under
2247 the law. The escrow agreement and the reservation agreement form
2248 shall include a statement of the right of the prospective
2249 purchaser to an immediate unqualified refund of the reservation
2250 deposit moneys upon written request to the escrow agent by the
2251 prospective purchaser or the developer.

2252 Section 47. Section 719.504, Florida Statutes, is amended
2253 to read:

2254 719.504 Prospectus or offering circular.--Every developer
2255 of a residential cooperative which contains more than 20
2256 residential units, or which is part of a group of residential
2257 cooperatives which will be served by property to be used in
2258 common by unit owners of more than 20 residential units, shall
2259 prepare a prospectus or offering circular and file it with the
2260 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and

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2261 Mobile Homes prior to entering into an enforceable contract of
2262 purchase and sale of any unit or lease of a unit for more than 5
2263 years and shall furnish a copy of the prospectus or offering
2264 circular to each buyer. In addition to the prospectus or offering
2265 circular, each buyer shall be furnished a separate page entitled
2266 "Frequently Asked Questions and Answers," which must be in
2267 accordance with a format approved by the division. This page
2268 must, in readable language: inform prospective purchasers
2269 regarding their voting rights and unit use restrictions,
2270 including restrictions on the leasing of a unit; indicate whether
2271 and in what amount the unit owners or the association is
2272 obligated to pay rent or land use fees for recreational or other
2273 commonly used facilities; contain a statement identifying that
2274 amount of assessment which, pursuant to the budget, would be
2275 levied upon each unit type, exclusive of any special assessments,
2276 and which identifies the basis upon which assessments are levied,
2277 whether monthly, quarterly, or otherwise; state and identify any
2278 court cases in which the association is currently a party of
2279 record in which the association may face liability in excess of
2280 \$100,000; and state whether membership in a recreational
2281 facilities association is mandatory and, if so, identify the fees
2282 currently charged per unit type. The division shall by rule
2283 require such other disclosure as in its judgment will assist
2284 prospective purchasers. The prospectus or offering circular may
2285 include more than one cooperative, although not all such units
2286 are being offered for sale as of the date of the prospectus or
2287 offering circular. The prospectus or offering circular must
2288 contain the following information:

2289 (1) The front cover or the first page must contain only:

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- 2290 (a) The name of the cooperative.
- 2291 (b) The following statements in conspicuous type:
- 2292 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
2293 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.
- 2294 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
2295 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
2296 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.
- 2297 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
2298 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
2299 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
2300 REPRESENTATIONS.
- 2301 (2) Summary: The next page must contain all statements
2302 required to be in conspicuous type in the prospectus or offering
2303 circular.
- 2304 (3) A separate index of the contents and exhibits of the
2305 prospectus.
- 2306 (4) Beginning on the first page of the text (not including
2307 the summary and index), a description of the cooperative,
2308 including, but not limited to, the following information:
- 2309 (a) Its name and location.
- 2310 (b) A description of the cooperative property, including,
2311 without limitation:
- 2312 1. The number of buildings, the number of units in each
2313 building, the number of bathrooms and bedrooms in each unit, and
2314 the total number of units, if the cooperative is not a phase
2315 cooperative; or, if the cooperative is a phase cooperative, the
2316 maximum number of buildings that may be contained within the
2317 cooperative, the minimum and maximum number of units in each
2318 building, the minimum and maximum number of bathrooms and

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2319 bedrooms that may be contained in each unit, and the maximum
2320 number of units that may be contained within the cooperative.

2321 2. The page in the cooperative documents where a copy of
2322 the survey and plot plan of the cooperative is located.

2323 3. The estimated latest date of completion of constructing,
2324 finishing, and equipping. In lieu of a date, a statement that the
2325 estimated date of completion of the cooperative is in the
2326 purchase agreement and a reference to the article or paragraph
2327 containing that information.

2328 (c) The maximum number of units that will use facilities in
2329 common with the cooperative. If the maximum number of units will
2330 vary, a description of the basis for variation and the minimum
2331 amount of dollars per unit to be spent for additional
2332 recreational facilities or enlargement of such facilities. If the
2333 addition or enlargement of facilities will result in a material
2334 increase of a unit owner's maintenance expense or rental expense,
2335 if any, the maximum increase and limitations thereon shall be
2336 stated.

2337 (5) (a) A statement in conspicuous type describing whether
2338 the cooperative is created and being sold as fee simple interests
2339 or as leasehold interests. If the cooperative is created or being
2340 sold on a leasehold, the location of the lease in the disclosure
2341 materials shall be stated.

2342 (b) If timeshare estates are or may be created with respect
2343 to any unit in the cooperative, a statement in conspicuous type
2344 stating that timeshare estates are created and being sold in such
2345 specified units in the cooperative.

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2346 (6) A description of the recreational and other common
2347 areas that will be used only by unit owners of the cooperative,
2348 including, but not limited to, the following:

2349 (a) Each room and its intended purposes, location,
2350 approximate floor area, and capacity in numbers of people.

2351 (b) Each swimming pool, as to its general location,
2352 approximate size and depths, approximate deck size and capacity,
2353 and whether heated.

2354 (c) Additional facilities, as to the number of each
2355 facility, its approximate location, approximate size, and
2356 approximate capacity.

2357 (d) A general description of the items of personal property
2358 and the approximate number of each item of personal property that
2359 the developer is committing to furnish for each room or other
2360 facility or, in the alternative, a representation as to the
2361 minimum amount of expenditure that will be made to purchase the
2362 personal property for the facility.

2363 (e) The estimated date when each room or other facility
2364 will be available for use by the unit owners.

2365 (f)1. An identification of each room or other facility to
2366 be used by unit owners that will not be owned by the unit owners
2367 or the association;

2368 2. A reference to the location in the disclosure materials
2369 of the lease or other agreements providing for the use of those
2370 facilities; and

2371 3. A description of the terms of the lease or other
2372 agreements, including the length of the term; the rent payable,
2373 directly or indirectly, by each unit owner, and the total rent
2374 payable to the lessor, stated in monthly and annual amounts for

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2375 | the entire term of the lease; and a description of any option to
2376 | purchase the property leased under any such lease, including the
2377 | time the option may be exercised, the purchase price or how it is
2378 | to be determined, the manner of payment, and whether the option
2379 | may be exercised for a unit owner's share or only as to the
2380 | entire leased property.

2381 | (g) A statement as to whether the developer may provide
2382 | additional facilities not described above, their general
2383 | locations and types, improvements or changes that may be made,
2384 | the approximate dollar amount to be expended, and the maximum
2385 | additional common expense or cost to the individual unit owners
2386 | that may be charged during the first annual period of operation
2387 | of the modified or added facilities.

2388 |
2389 | Descriptions as to locations, areas, capacities, numbers,
2390 | volumes, or sizes may be stated as approximations or minimums.

2391 | (7) A description of the recreational and other facilities
2392 | that will be used in common with other cooperatives, community
2393 | associations, or planned developments which require the payment
2394 | of the maintenance and expenses of such facilities, ~~either~~
2395 | directly or indirectly, by the unit owners. The description shall
2396 | include, but not be limited to, the following:

2397 | (a) Each building and facility committed to be built.

2398 | (b) Facilities not committed to be built except under
2399 | certain conditions, and a statement of those conditions or
2400 | contingencies.

2401 | (c) As to each facility committed to be built, or which
2402 | will be committed to be built upon the happening of one of the
2403 | conditions in paragraph (b), a statement of whether it will be

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2404 owned by the unit owners having the use thereof or by an
2405 association or other entity which will be controlled by them, or
2406 others, and the location in the exhibits of the lease or other
2407 document providing for use of those facilities.

2408 (d) The year in which each facility will be available for
2409 use by the unit owners or, in the alternative, the maximum number
2410 of unit owners in the project at the time each of all of the
2411 facilities is committed to be completed.

2412 (e) A general description of the items of personal
2413 property, and the approximate number of each item of personal
2414 property, that the developer is committing to furnish for each
2415 room or other facility or, in the alternative, a representation
2416 as to the minimum amount of expenditure that will be made to
2417 purchase the personal property for the facility.

2418 (f) If there are leases, a description thereof, including
2419 the length of the term, the rent payable, and a description of
2420 any option to purchase.

2421
2422 Descriptions shall include location, areas, capacities, numbers,
2423 volumes, or sizes and may be stated as approximations or
2424 minimums.

2425 (8) Recreation lease or associated club membership:

2426 (a) If any recreational facilities or other common areas
2427 offered by the developer and available to, or to be used by, unit
2428 owners are to be leased or have club membership associated, the
2429 following statement in conspicuous type shall be included: THERE
2430 IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
2431 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
2432 COOPERATIVE. There shall be a reference to the location in the

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2433 disclosure materials where the recreation lease or club
2434 membership is described in detail.

2435 (b) If it is mandatory that unit owners pay a fee, rent,
2436 dues, or other charges under a recreational facilities lease or
2437 club membership for the use of facilities, there shall be in
2438 conspicuous type the applicable statement:

2439 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
2440 MANDATORY FOR UNIT OWNERS; or

2441 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
2442 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2443 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS
2444 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,
2445 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE
2446 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2447 4. A similar statement of the nature of the organization or
2448 manner in which the use rights are created, and that unit owners
2449 are required to pay.

2450
2451 Immediately following the applicable statement, the location in
2452 the disclosure materials where the development is described in
2453 detail shall be stated.

2454 (c) If the developer, or any other person other than the
2455 unit owners and other persons having use rights in the
2456 facilities, reserves, or is entitled to receive, any rent, fee,
2457 or other payment for the use of the facilities, then there shall
2458 be the following statement in conspicuous type: THE UNIT OWNERS
2459 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
2460 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this

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2461 | statement, the location in the disclosure materials where the
2462 | rent or land use fees are described in detail shall be stated.

2463 | (d) If, in any recreation format, whether leasehold, club,
2464 | or other, any person other than the association has the right to
2465 | a lien on the units to secure the payment of assessments, rent,
2466 | or other exactions, there shall appear a statement in conspicuous
2467 | type in substantially the following form:

2468 | 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2469 | SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
2470 | RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS
2471 | MAY RESULT IN FORECLOSURE OF THE LIEN; or

2472 | 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2473 | SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
2474 | FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
2475 | OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE
2476 | PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2477 |
2478 | Immediately following the applicable statement, the location in
2479 | the disclosure materials where the lien or lien right is
2480 | described in detail shall be stated.

2481 | (9) If the developer or any other person has the right to
2482 | increase or add to the recreational facilities at any time after
2483 | the establishment of the cooperative whose unit owners have use
2484 | rights therein, without the consent of the unit owners or
2485 | associations being required, there shall appear a statement in
2486 | conspicuous type in substantially the following form:
2487 | RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
2488 | OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this

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2489 statement, the location in the disclosure materials where such
2490 reserved rights are described shall be stated.

2491 (10) A statement of whether the developer's plan includes a
2492 program of leasing units rather than selling them, or leasing
2493 units and selling them subject to such leases. If so, there shall
2494 be a description of the plan, including the number and
2495 identification of the units and the provisions and term of the
2496 proposed leases, and a statement in boldfaced type that: THE
2497 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2498 (11) The arrangements for management of the association and
2499 maintenance and operation of the cooperative property and of
2500 other property that will serve the unit owners of the cooperative
2501 property, and a description of the management contract and all
2502 other contracts for these purposes having a term in excess of 1
2503 year, including the following:

2504 (a) The names of contracting parties.

2505 (b) The term of the contract.

2506 (c) The nature of the services included.

2507 (d) The compensation, stated on a monthly and annual basis,
2508 and provisions for increases in the compensation.

2509 (e) A reference to the volumes and pages of the cooperative
2510 documents and of the exhibits containing copies of such
2511 contracts.

2512

2513 Copies of all described contracts shall be attached as exhibits.

2514 If there is a contract for the management of the cooperative
2515 property, then a statement in conspicuous type in substantially
2516 the following form shall appear, identifying the proposed or
2517 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE

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2518 MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE CONTRACT
2519 MANAGER). Immediately following this statement, the location in
2520 the disclosure materials of the contract for management of the
2521 cooperative property shall be stated.

2522 (12) If the developer or any other person or persons other
2523 than the unit owners has the right to retain control of the board
2524 of administration of the association for a period of time which
2525 can exceed 1 year after the closing of the sale of a majority of
2526 the units in that cooperative to persons other than successors or
2527 alternate developers, then a statement in conspicuous type in
2528 substantially the following form shall be included: THE DEVELOPER
2529 (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE
2530 ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD.
2531 Immediately following this statement, the location in the
2532 disclosure materials where this right to control is described in
2533 detail shall be stated.

2534 (13) If there are any restrictions upon the sale, transfer,
2535 conveyance, or leasing of a unit, then a statement in conspicuous
2536 type in substantially the following form shall be included: THE
2537 SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED.
2538 Immediately following this statement, the location in the
2539 disclosure materials where the restriction, limitation, or
2540 control on the sale, lease, or transfer of units is described in
2541 detail shall be stated.

2542 (14) If the cooperative is part of a phase project, the
2543 following shall be stated:

2544 (a) A statement in conspicuous type in substantially the
2545 following form shall be included: THIS IS A PHASE COOPERATIVE.
2546 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.

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2547 Immediately following this statement, the location in the
2548 disclosure materials where the phasing is described shall be
2549 stated.

2550 (b) A summary of the provisions of the declaration
2551 providing for the phasing.

2552 (c) A statement as to whether or not residential buildings
2553 and units which are added to the cooperative may be substantially
2554 different from the residential buildings and units originally in
2555 the cooperative, and, if the added residential buildings and
2556 units may be substantially different, there shall be a general
2557 description of the extent to which such added residential
2558 buildings and units may differ, and a statement in conspicuous
2559 type in substantially the following form shall be included:
2560 BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE MAY BE
2561 SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE
2562 COOPERATIVE. Immediately following this statement, the location
2563 in the disclosure materials where the extent to which added
2564 residential buildings and units may substantially differ is
2565 described shall be stated.

2566 (d) A statement of the maximum number of buildings
2567 containing units, the maximum and minimum number of units in each
2568 building, the maximum number of units, and the minimum and
2569 maximum square footage of the units that may be contained within
2570 each parcel of land which may be added to the cooperative.

2571 (15) If the cooperative is created by conversion of
2572 existing improvements, the following information shall be stated:

2573 (a) The information required by s. 719.616.

2574 (b) A caveat that there are no express warranties unless
2575 they are stated in writing by the developer.

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2576 (16) A summary of the restrictions, if any, to be imposed
2577 on units concerning the use of any of the cooperative property,
2578 including statements as to whether there are restrictions upon
2579 children and pets, and reference to the volumes and pages of the
2580 cooperative documents where such restrictions are found, or if
2581 such restrictions are contained elsewhere, then a copy of the
2582 documents containing the restrictions shall be attached as an
2583 exhibit.

2584 (17) If there is any land that is offered by the developer
2585 for use by the unit owners and that is neither owned by them nor
2586 leased to them, the association, or any entity controlled by unit
2587 owners and other persons having the use rights to such land, a
2588 statement shall be made as to how such land will serve the
2589 cooperative. If any part of such land will serve the cooperative,
2590 the statement shall describe the land and the nature and term of
2591 service, and the cooperative documents or other instrument
2592 creating such servitude shall be included as an exhibit.

2593 (18) The manner in which utility and other services,
2594 including, but not limited to, sewage and waste disposal, water
2595 supply, and storm drainage, will be provided and the person or
2596 entity furnishing them.

2597 (19) An explanation of the manner in which the
2598 apportionment of common expenses and ownership of the common
2599 areas have been determined.

2600 (20) An estimated operating budget for the cooperative and
2601 the association, and a schedule of the unit owner's expenses
2602 shall be attached as an exhibit and shall contain the following
2603 information:

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2604 (a) The estimated monthly and annual expenses of the
2605 cooperative and the association that are collected from unit
2606 owners by assessments.

2607 (b) The estimated monthly and annual expenses of each unit
2608 owner for a unit, other than assessments payable to the
2609 association, payable by the unit owner to persons or entities
2610 other than the association, and the total estimated monthly and
2611 annual expense. There may be excluded from this estimate expenses
2612 that are personal to unit owners, which are not uniformly
2613 incurred by all unit owners, or which are not provided for or
2614 contemplated by the cooperative documents, including, but not
2615 limited to, the costs of private telephone; maintenance of the
2616 interior of cooperative units, which is not the obligation of the
2617 association; maid or janitorial services privately contracted for
2618 by the unit owners; utility bills billed directly to each unit
2619 owner for utility services to his or her unit; insurance premiums
2620 other than those incurred for policies obtained by the
2621 cooperative; and similar personal expenses of the unit owner. A
2622 unit owner's estimated payments for assessments shall also be
2623 stated in the estimated amounts for the times when they will be
2624 due.

2625 (c) The estimated items of expenses of the cooperative and
2626 the association, except as excluded under paragraph (b),
2627 including, but not limited to, the following items, which shall
2628 be stated ~~either~~ as an association expense collectible by
2629 assessments or as unit owners' expenses payable to persons other
2630 than the association:

- 2631 1. Expenses for the association and cooperative:
2632 a. Administration of the association.

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- 2633 b. Management fees.
- 2634 c. Maintenance.
- 2635 d. Rent for recreational and other commonly used areas.
- 2636 e. Taxes upon association property.
- 2637 f. Taxes upon leased areas.
- 2638 g. Insurance.
- 2639 h. Security provisions.
- 2640 i. Other expenses.
- 2641 j. Operating capital.
- 2642 k. Reserves.
- 2643 1. Fee payable to the division.
- 2644 2. Expenses for a unit owner:
- 2645 a. Rent for the unit, if subject to a lease.
- 2646 b. Rent payable by the unit owner directly to the lessor or
- 2647 agent under any recreational lease or lease for the use of
- 2648 commonly used areas, which use and payment are a mandatory
- 2649 condition of ownership and are not included in the common expense
- 2650 or assessments for common maintenance paid by the unit owners to
- 2651 the association.
- 2652 (d) The following statement in conspicuous type: THE BUDGET
- 2653 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
- 2654 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
- 2655 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
- 2656 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
- 2657 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
- 2658 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE
- 2659 OFFERING.
- 2660 (e) Each budget for an association prepared by a developer
- 2661 consistent with this subsection shall be prepared in good faith

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2662 and shall reflect accurate estimated amounts for the required
2663 items in paragraph (c) at the time of the filing of the offering
2664 circular with the division, and subsequent increased amounts of
2665 any item included in the association's estimated budget that are
2666 beyond the control of the developer shall not be considered an
2667 amendment that would give rise to rescission rights set forth in
2668 s. 719.503(1) (a) or (b), nor shall such increases modify, void,
2669 or otherwise affect any guarantee of the developer contained in
2670 the offering circular or any purchase contract. It is the intent
2671 of this paragraph to clarify existing law.

2672 (f) The estimated amounts shall be stated for a period of
2673 at least 12 months and may distinguish between the period prior
2674 to the time unit owners other than the developer elect a majority
2675 of the board of administration and the period after that date.

2676 (21) A schedule of estimated closing expenses to be paid by
2677 a buyer or lessee of a unit and a statement of whether title
2678 opinion or title insurance policy is available to the buyer and,
2679 if so, at whose expense.

2680 (22) The identity of the developer and the chief operating
2681 officer or principal directing the creation and sale of the
2682 cooperative and a statement of its and his or her experience in
2683 this field.

2684 (23) Copies of the following, to the extent they are
2685 applicable, shall be included as exhibits:

2686 (a) The cooperative documents, or the proposed cooperative
2687 documents if the documents have not been recorded.

2688 (b) The articles of incorporation creating the association.

2689 (c) The bylaws of the association.

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2690 (d) The ground lease or other underlying lease of the
2691 cooperative.

2692 (e) The management agreement and all maintenance and other
2693 contracts for management of the association and operation of the
2694 cooperative and facilities used by the unit owners having a
2695 service term in excess of 1 year.

2696 (f) The estimated operating budget for the cooperative and
2697 the required schedule of unit owners' expenses.

2698 (g) A copy of the floor plan of the unit and the plot plan
2699 showing the location of the residential buildings and the
2700 recreation and other common areas.

2701 (h) The lease of recreational and other facilities that
2702 will be used only by unit owners of the subject cooperative.

2703 (i) The lease of facilities used by owners and others.

2704 (j) The form of unit lease, if the offer is of a leasehold.

2705 (k) A declaration of servitude of properties serving the
2706 cooperative but not owned by unit owners or leased to them or the
2707 association.

2708 (l) The statement of condition of the existing building or
2709 buildings, if the offering is of units in an operation being
2710 converted to cooperative ownership.

2711 (m) The statement of inspection for termite damage and
2712 treatment of the existing improvements, if the cooperative is a
2713 conversion.

2714 (n) The form of agreement for sale or lease of units.

2715 (o) A copy of the agreement for escrow of payments made to
2716 the developer prior to closing.

2717 (p) A copy of the documents containing any restrictions on
2718 use of the property required by subsection (16).

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2719 (24) Any prospectus or offering circular complying with the
2720 provisions of former ss. 711.69 and 711.802 may continue to be
2721 used without amendment, or may be amended to comply with ~~the~~
2722 ~~provisions of~~ this chapter.

2723 (25) A brief narrative description of the location and
2724 effect of all existing and intended easements located or to be
2725 located on the cooperative property other than those in the
2726 declaration.

2727 (26) If the developer is required by state or local
2728 authorities to obtain acceptance or approval of any dock or
2729 marina facility intended to serve the cooperative, a copy of such
2730 acceptance or approval acquired by the time of filing with the
2731 division pursuant to s. 719.502 or a statement that such
2732 acceptance has not been acquired or received.

2733 (27) Evidence demonstrating that the developer has an
2734 ownership, leasehold, or contractual interest in the land upon
2735 which the cooperative is to be developed.

2736 Section 48. Section 719.508, Florida Statutes, is amended
2737 to read:

2738 719.508 Regulation by Division of Hotels and
2739 Restaurants.--In addition to the authority, regulation, or
2740 control exercised by the Division of Florida ~~Land Sales,~~
2741 Condominiums, Timeshares, and Mobile Homes pursuant to this act
2742 with respect to cooperatives, buildings included in a cooperative
2743 property shall be subject to the authority, regulation, or
2744 control of the Division of Hotels and Restaurants of the
2745 Department of Business and Professional Regulation, to the extent
2746 provided ~~for~~ in chapters 399 and 509.

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2747 Section 49. Paragraph (a) of subsection (2) of section
2748 719.608, Florida Statutes, is amended to read:

2749 719.608 Notice of intended conversion; time of delivery;
2750 content.--

2751 (2)(a) Each notice of intended conversion shall be dated
2752 and in writing. The notice shall contain the following statement,
2753 with the phrases of the following statement which appear in upper
2754 case printed in conspicuous type:

2755

2756 These apartments are being converted to cooperative by
2757 (name of developer) , the developer.

2758 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
2759 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
2760 AGREEMENT AS FOLLOWS:

2761 a. If you have continuously been a resident of these
2762 apartments during the last 180 days and your rental agreement
2763 expires during the next 270 days, you may extend your rental
2764 agreement for up to 270 days after the date of this notice.

2765 b. If you have not been a continuous resident of these
2766 apartments for the last 180 days and your rental agreement
2767 expires during the next 180 days, you may extend your rental
2768 agreement for up to 180 days after the date of this notice.

2769 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
2770 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
2771 DATE OF THIS NOTICE.

2772 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
2773 you may extend your rental agreement for up to 45 days after the
2774 date of this notice while you decide whether to extend your
2775 rental agreement as explained above. To do so, you must notify

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2776 the developer in writing. You will then have the full 45 days to
2777 decide whether to extend your rental agreement as explained
2778 above.

2779 3. During the extension of your rental agreement you will
2780 be charged the same rent that you are now paying.

2781 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
2782 OF THE RENTAL AGREEMENT AS FOLLOWS:

2783 a. If your rental agreement began or was extended or
2784 renewed after May 1, 1980, and your rental agreement, including
2785 extensions and renewals, has an unexpired term of 180 days or
2786 less, you may cancel your rental agreement upon 30 days' written
2787 notice and move. Also, upon 30 days' written notice, you may
2788 cancel any extension of the rental agreement.

2789 b. If your rental agreement was not begun or was not
2790 extended or renewed after May 1, 1980, you may not cancel the
2791 rental agreement without the consent of the developer. If your
2792 rental agreement, including extensions and renewals, has an
2793 unexpired term of 180 days or less, you may, however, upon 30
2794 days' written notice cancel any extension of the rental
2795 agreement.

2796 5. All notices must be given in writing and sent by mail,
2797 return receipt requested, or delivered in person to the developer
2798 at this address: (name and address of developer) .

2799 6. If you have continuously been a resident of these
2800 apartments during the last 180 days:

2801 a. You have the right to purchase your apartment and will
2802 have 45 days to decide whether to purchase. If you do not buy the
2803 unit at that price and the unit is later offered at a lower
2804 price, you will have the opportunity to buy the unit at the lower

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2805 price. However, in all events your right to purchase the unit
2806 ends when the rental agreement or any extension of the rental
2807 agreement ends or when you waive this right in writing.

2808 b. Within 90 days you will be provided purchase information
2809 relating to your apartment, including the price of your unit and
2810 the condition of the building. If you do not receive this
2811 information within 90 days, your rental agreement and any
2812 extension will be extended 1 day for each day over 90 days until
2813 you are given the purchase information. If you do not want this
2814 rental agreement extension, you must notify the developer in
2815 writing.

2816 7. If you have any questions regarding this conversion or
2817 the Cooperative Act, you may contact the developer or the state
2818 agency which regulates cooperatives: The Division of Florida ~~Land~~
2819 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes, (Tallahassee
2820 address and telephone number of division) .

2821 Section 50. Subsection (7) of section 720.301, Florida
2822 Statutes, is amended to read:

2823 720.301 Definitions.--As used in this chapter, the term:

2824 (7) "Division" means the Division of Florida ~~Land Sales~~,
2825 Condominiums, Timeshares, and Mobile Homes in the Department of
2826 Business and Professional Regulation.

2827 Section 51. Subsection (2) of section 720.401, Florida
2828 Statutes, is amended to read:

2829 720.401 Prospective purchasers subject to association
2830 membership requirement; disclosure required; covenants;
2831 assessments; contract cancellation.--

2832 (2) This section does not apply to any association
2833 regulated under chapter 718, chapter 719, chapter 721, or chapter

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2834 723 ~~or to a subdivider registered under chapter 498~~; and also
2835 does not apply if disclosure regarding the association is
2836 otherwise made in connection with the requirements of chapter
2837 718, chapter 719, chapter 721, or chapter 723.

2838 Section 52. Subsection (11) of section 721.05, Florida
2839 Statutes, is amended to read:

2840 721.05 Definitions.--As used in this chapter, the term:

2841 (11) "Division" means the Division of Florida ~~Land Sales,~~
2842 Condominiums, Timeshares, and Mobile Homes of the Department of
2843 Business and Professional Regulation.

2844 Section 53. Paragraph (d) of subsection (2) of section
2845 721.07, Florida Statutes, is amended to read:

2846 721.07 Public offering statement.--Prior to offering any
2847 timeshare plan, the developer must submit a filed public offering
2848 statement to the division for approval as prescribed by s.
2849 721.03, s. 721.55, or this section. Until the division approves
2850 such filing, any contract regarding the sale of that timeshare
2851 plan is subject to cancellation by the purchaser pursuant to s.
2852 721.10.

2853 (2)

2854 (d) A developer shall have the authority to deliver to
2855 purchasers any purchaser public offering statement that is not
2856 yet approved by the division, provided that the following shall
2857 apply:

2858 1. At the time the developer delivers an unapproved
2859 purchaser public offering statement to a purchaser pursuant to
2860 this paragraph, the developer shall deliver a fully completed and
2861 executed copy of the purchase contract required by s. 721.06 that
2862 contains the following statement in conspicuous type in

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2863 substantially the following form which shall replace the
2864 statements required by s. 721.06(1)(g):

2865

2866 The developer is delivering to you a public offering statement
2867 that has been filed with but not yet approved by the Division of
2868 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes.
2869 Any revisions to the unapproved public offering statement you
2870 have received must be delivered to you, but only if the revisions
2871 materially alter or modify the offering in a manner adverse to
2872 you. After the division approves the public offering statement,
2873 you will receive notice of the approval from the developer and
2874 the required revisions, if any.

2875

2876 Your statutory right to cancel this transaction without any
2877 penalty or obligation expires 10 calendar days after the date you
2878 signed your purchase contract or the date on which you receive
2879 the last of all documents required to be given to you pursuant to
2880 section 721.07(6), Florida Statutes, or 10 calendar days after
2881 you receive revisions required to be delivered to you, if any,
2882 whichever is later. If you decide to cancel this contract, you
2883 must notify the seller in writing of your intent to cancel. Your
2884 notice of cancellation shall be effective upon the date sent and
2885 shall be sent to (Name of Seller) at (Address of Seller) .
2886 Any attempt to obtain a waiver of your cancellation right is void
2887 and of no effect. While you may execute all closing documents in
2888 advance, the closing, as evidenced by delivery of the deed or
2889 other document, before expiration of your 10-day cancellation
2890 period, is prohibited.

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2892 2. After receipt of approval from the division and prior to
2893 closing, if any revisions made to the documents contained in the
2894 purchaser public offering statement materially alter or modify
2895 the offering in a manner adverse to a purchaser, the developer
2896 shall send the purchaser such revisions together with a notice
2897 containing a statement in conspicuous type in substantially the
2898 following form:

2899

2900 The unapproved public offering statement previously delivered to
2901 you, together with the enclosed revisions, has been approved by
2902 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
2903 Mobile Homes. Accordingly, your cancellation right expires 10
2904 calendar days after you sign your purchase contract or 10
2905 calendar days after you receive these revisions, whichever is
2906 later. If you have any questions regarding your cancellation
2907 rights, you may contact the division at [insert division's
2908 current address].

2909

2910 3. After receipt of approval from the division and prior to
2911 closing, if no revisions have been made to the documents
2912 contained in the unapproved purchaser public offering statement,
2913 or if such revisions do not materially alter or modify the
2914 offering in a manner adverse to a purchaser, the developer shall
2915 send the purchaser a notice containing a statement in conspicuous
2916 type in substantially the following form:

2917

2918 The unapproved public offering statement previously delivered to
2919 you has been approved by the Division of Florida ~~Land Sales,~~
2920 Condominiums, Timeshares, and Mobile Homes. Revisions made to the

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2921 unapproved public offering statement, if any, are ~~either~~ not
2922 required to be delivered to you or are not deemed by the
2923 developer, in its opinion, to materially alter or modify the
2924 offering in a manner that is adverse to you. Accordingly, your
2925 cancellation right expired 10 days after you signed your purchase
2926 contract. A complete copy of the approved public offering
2927 statement is available through the managing entity for inspection
2928 as part of the books and records of the plan. If you have any
2929 questions regarding your cancellation rights, you may contact the
2930 division at [insert division's current address].

2931 Section 54. Subsection (8) of section 721.08, Florida
2932 Statutes, is amended to read:

2933 721.08 Escrow accounts; nondisturbance instruments;
2934 alternate security arrangements; transfer of legal title.--

2935 (8) An escrow agent holding escrowed funds pursuant to this
2936 chapter that have not been claimed for a period of 5 years after
2937 the date of deposit shall make at least one reasonable attempt to
2938 deliver such unclaimed funds to the purchaser who submitted such
2939 funds to escrow. In making such attempt, an escrow agent is
2940 entitled to rely on a purchaser's last known address as set forth
2941 in the books and records of the escrow agent and is not required
2942 to conduct any further search for the purchaser. If an escrow
2943 agent's attempt to deliver unclaimed funds to any purchaser is
2944 unsuccessful, the escrow agent may deliver such unclaimed funds
2945 to the division and the division shall deposit such unclaimed
2946 funds in the Division of Florida ~~Land Sales~~, Condominiums,
2947 Timeshares, and Mobile Homes Trust Fund, 30 days after giving
2948 notice in a publication of general circulation in the county in
2949 which the timeshare property containing the purchaser's timeshare

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2950 interest is located. The purchaser may claim the same at any time
2951 prior to the delivery of such funds to the division. After
2952 delivery of such funds to the division, the purchaser shall have
2953 no more rights to the unclaimed funds. The escrow agent shall not
2954 be liable for any claims from any party arising out of the escrow
2955 agent's delivery of the unclaimed funds to the division pursuant
2956 to this section.

2957 Section 55. Section 721.26, Florida Statutes, is amended to
2958 read:

2959 721.26 Regulation by division.--The division has the power
2960 to enforce and ensure compliance with ~~the provisions of this~~
2961 chapter, except for parts III and IV, using the powers provided
2962 in this chapter, as well as the powers prescribed in chapters
2963 ~~498~~, 718~~7~~, and 719. In performing its duties, the division shall
2964 have the following powers and duties:

2965 (1) To aid in the enforcement of this chapter, or any
2966 division rule adopted or order ~~promulgated or~~ issued pursuant to
2967 this chapter, the division may make necessary public or private
2968 investigations within or outside this state to determine whether
2969 any person has violated or is about to violate this chapter, or
2970 any division rule adopted or order ~~promulgated or~~ issued pursuant
2971 to this chapter.

2972 (2) The division may require or permit any person to file a
2973 written statement under oath or otherwise, as the division
2974 determines, as to the facts and circumstances concerning a matter
2975 under investigation.

2976 (3) For the purpose of any investigation under this
2977 chapter, the director of the division or any officer or employee
2978 designated by the director may administer oaths or affirmations,

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2979 subpoena witnesses and compel their attendance, take evidence,
2980 and require the production of any matter which is relevant to the
2981 investigation, including the identity, existence, description,
2982 nature, custody, condition, and location of any books, documents,
2983 or other tangible things and the identity and location of persons
2984 having knowledge of relevant facts or any other matter reasonably
2985 calculated to lead to the discovery of material evidence. Failure
2986 to obey a subpoena or to answer questions propounded by the
2987 investigating officer and upon reasonable notice to all persons
2988 affected thereby shall be a violation of this chapter. In
2989 addition to the other enforcement powers authorized in this
2990 subsection, the division may, ~~at its discretion,~~ apply to the
2991 circuit court for an order compelling compliance.

2992 (4) The division may prepare and disseminate a prospectus
2993 and other information to assist prospective purchasers, sellers,
2994 and managing entities of timeshare plans in assessing the rights,
2995 privileges, and duties pertaining thereto.

2996 (5) Notwithstanding any remedies available to purchasers,
2997 if the division has reasonable cause to believe that a violation
2998 of this chapter, or of any division rule adopted or order
2999 ~~promulgated or~~ issued pursuant to this chapter, has occurred, the
3000 division may institute enforcement proceedings in its own name
3001 against any regulated party, as such term is defined in this
3002 subsection:

3003 (a)1. "Regulated party," for purposes of this section,
3004 means any developer, exchange company, seller, managing entity,
3005 owners' association, owners' association director, owners'
3006 association officer, manager, management firm, escrow agent,

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3007 trustee, any respective assignees or agents, or any other person
3008 having duties or obligations pursuant to this chapter.

3009 2. Any person who materially participates in any offer or
3010 disposition of any interest in, or the management or operation
3011 of, a timeshare plan in violation of this chapter or relevant
3012 rules involving fraud, deception, false pretenses,
3013 misrepresentation, or false advertising or the disbursement,
3014 concealment, or diversion of any funds or assets, which conduct
3015 adversely affects the interests of a purchaser, and which person
3016 directly or indirectly controls a regulated party or is a general
3017 partner, officer, director, agent, or employee of such regulated
3018 party, shall be jointly and severally liable under this
3019 subsection with such regulated party, unless such person did not
3020 know, and in the exercise of reasonable care could not have
3021 known, of the existence of the facts giving rise to the violation
3022 of this chapter. A right of contribution shall exist among
3023 jointly and severally liable persons pursuant to this paragraph.

3024 (b) The division may permit any person whose conduct or
3025 actions may be under investigation to waive formal proceedings
3026 and enter into a consent proceeding whereby an order, rule, or
3027 letter of censure or warning, whether formal or informal, may be
3028 entered against that person.

3029 (c) The division may issue an order requiring a regulated
3030 party to cease and desist from an unlawful practice under this
3031 chapter and take such affirmative action as in the judgment of
3032 the division will carry out the purposes of this chapter.

3033 (d)1. The division may bring an action in circuit court for
3034 declaratory or injunctive relief or for other appropriate relief,
3035 including restitution.

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3036 2. The division shall have broad authority and discretion
3037 to petition the circuit court to appoint a receiver with respect
3038 to any managing entity which fails to perform its duties and
3039 obligations under this chapter with respect to the operation of a
3040 timeshare plan. The circumstances giving rise to an appropriate
3041 petition for receivership under this subparagraph include, but
3042 are not limited to:

3043 a. Damage to or destruction of any of the accommodations or
3044 facilities of a timeshare plan, where the managing entity has
3045 failed to repair or reconstruct same.

3046 b. A breach of fiduciary duty by the managing entity,
3047 including, but not limited to, undisclosed self-dealing or
3048 failure to timely assess, collect, or disburse the common
3049 expenses of the timeshare plan.

3050 c. Failure of the managing entity to operate the timeshare
3051 plan in accordance with the timeshare instrument and this
3052 chapter.

3053
3054 If, under the circumstances, it appears that the events giving
3055 rise to the petition for receivership cannot be reasonably and
3056 timely corrected in a cost-effective manner consistent with the
3057 timeshare instrument, the receiver may petition the circuit court
3058 to implement such amendments or revisions to the timeshare
3059 instrument as may be necessary to enable the managing entity to
3060 resume effective operation of the timeshare plan, or to enter an
3061 order terminating the timeshare plan, or to enter such further
3062 orders regarding the disposition of the timeshare property as the
3063 court deems appropriate, including the disposition and sale of
3064 the timeshare property held by the owners' association or the

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3065 purchasers. In the event of a receiver's sale, all rights, title,
3066 and interest held by the owners' association or any purchaser
3067 shall be extinguished and title shall vest in the buyer. This
3068 provision applies to timeshare estates, personal property
3069 timeshare interests, and timeshare licenses. All reasonable costs
3070 and fees of the receiver relating to the receivership shall
3071 become common expenses of the timeshare plan upon order of the
3072 court.

3073 3. The division may revoke its approval of any filing for
3074 any timeshare plan for which a petition for receivership has been
3075 filed pursuant to this paragraph.

3076 (e)1. The division may impose a penalty against any
3077 regulated party for a violation of this chapter or any rule
3078 adopted thereunder. A penalty may be imposed on the basis of each
3079 day of continuing violation, but in no event may the penalty for
3080 any offense exceed \$10,000. All accounts collected shall be
3081 deposited with the Chief Financial Officer to the credit of the
3082 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
3083 Mobile Homes Trust Fund.

3084 2.a. If a regulated party fails to pay a penalty, the
3085 division shall thereupon issue an order directing that such
3086 regulated party cease and desist from further operation until
3087 such time as the penalty is paid; or the division may pursue
3088 enforcement of the penalty in a court of competent jurisdiction.

3089 b. If an owners' association or managing entity fails to
3090 pay a civil penalty, the division may pursue enforcement in a
3091 court of competent jurisdiction.

3092 (f) In order to permit the regulated party an opportunity
3093 ~~either~~ to appeal such decision administratively or to seek relief

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3094 | in a court of competent jurisdiction, the order imposing the
3095 | penalty or the cease and desist order shall not become effective
3096 | until 20 days after the date of such order.

3097 | (g) Any action commenced by the division shall be brought
3098 | in the county in which the division has its executive offices or
3099 | in the county where the violation occurred.

3100 | (h) Notice to any regulated party shall be complete when
3101 | delivered by United States mail, return receipt requested, to the
3102 | party's address currently on file with the division or to such
3103 | other address at which the division is able to locate the party.
3104 | Every regulated party has an affirmative duty to notify the
3105 | division of any change of address at least 5 business days prior
3106 | to such change.

3107 | (6) The division has authority to adopt rules pursuant to
3108 | ss. 120.536(1) and 120.54 to implement and enforce the provisions
3109 | of this chapter.

3110 | (7) (a) The use of any unfair or deceptive act or practice
3111 | by any person in connection with the sales or other operations of
3112 | an exchange program or timeshare plan is a violation of this
3113 | chapter.

3114 | (b) Any violation of the Florida Deceptive and Unfair Trade
3115 | Practices Act, ss. 501.201 et seq., relating to the creation,
3116 | promotion, sale, operation, or management of any timeshare plan
3117 | shall also be a violation of this chapter.

3118 | (c) The division may ~~is authorized to~~ institute proceedings
3119 | against any such person and take any appropriate action
3120 | authorized in this section in connection therewith,
3121 | notwithstanding any remedies available to purchasers.

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3122 (8) The failure of any person to comply with any order of
3123 the division is a violation of this chapter.

3124 Section 56. Section 721.28, Florida Statutes, is amended to
3125 read:

3126 721.28 Division of Florida ~~Land Sales~~, Condominiums,
3127 Timeshares, and Mobile Homes Trust Fund.--All funds collected by
3128 the division and any amounts paid as fees or penalties under this
3129 chapter shall be deposited in the State Treasury to the credit of
3130 the Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
3131 Mobile Homes Trust Fund created by s. 718.509 ~~498.019~~.

3132 Section 57. Paragraph (c) of subsection (1) of section
3133 721.301, Florida Statutes, is amended to read:

3134 721.301 Florida Timesharing, Vacation Club, and Hospitality
3135 Program.--

3136 (1)

3137 (c) The director may designate funds from the Division of
3138 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes
3139 Trust Fund, not to exceed \$50,000 annually, to support the
3140 projects and proposals undertaken pursuant to paragraph (b). All
3141 state trust funds to be expended pursuant to this section must be
3142 matched equally with private moneys and shall comprise no more
3143 than half of the total moneys expended annually.

3144 Section 58. Section 721.50, Florida Statutes, is amended to
3145 read:

3146 721.50 Short title.--This part may be cited as the
3147 "McAllister Act" in recognition and appreciation for the years of
3148 extraordinary and insightful contributions by Mr. Bryan C.
3149 McAllister, Examinations Supervisor of the former, Division of
3150 Florida Land Sales, Condominiums, and Mobile Homes.

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3151 Section 59. Subsection (1) of section 723.003, Florida
3152 Statutes, is amended to read:

3153 723.003 Definitions.--As used in this chapter, the
3154 following words and terms have the following meanings unless
3155 clearly indicated otherwise:

3156 (1) The term "division" means the Division of Florida ~~Land~~
3157 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the
3158 Department of Business and Professional Regulation.

3159 Section 60. Paragraph (e) of subsection (5) of section
3160 723.006, Florida Statutes, is amended to read:

3161 723.006 Powers and duties of division.--In performing its
3162 duties, the division has the following powers and duties:

3163 (5) Notwithstanding any remedies available to mobile home
3164 owners, mobile home park owners, and homeowners' associations, if
3165 the division has reasonable cause to believe that a violation of
3166 any provision of this chapter or related ~~any~~ rule ~~promulgated~~
3167 ~~pursuant hereto~~ has occurred, the division may institute
3168 enforcement proceedings in its own name against a developer,
3169 mobile home park owner, or homeowners' association, or its
3170 assignee or agent, as follows:

3171 (e)1. The division may impose a civil penalty against a
3172 mobile home park owner or homeowners' association, or its
3173 assignee or agent, for any violation of this chapter, a properly
3174 adopted ~~promulgated~~ park rule or regulation, or a rule adopted ~~or~~
3175 ~~regulation promulgated~~ pursuant hereto. A penalty may be imposed
3176 on the basis of each separate violation and, if the violation is
3177 a continuing one, for each day of continuing violation, but in no
3178 event may the penalty for each separate violation or for each day
3179 of continuing violation exceed \$5,000. All amounts collected

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3180 shall be deposited with the Chief Financial Officer to the credit
3181 of the Division of Florida ~~Land Sales~~, Condominiums, Timeshares,
3182 and Mobile Homes Trust Fund.

3183 2. If a violator fails to pay the civil penalty, the
3184 division shall thereupon issue an order directing that such
3185 violator cease and desist from further violation until such time
3186 as the civil penalty is paid or may pursue enforcement of the
3187 penalty in a court of competent jurisdiction. If a homeowners'
3188 association fails to pay the civil penalty, the division shall
3189 thereupon pursue enforcement in a court of competent
3190 jurisdiction, and the order imposing the civil penalty or the
3191 cease and desist order shall not become effective until 20 days
3192 after the date of such order. Any action commenced by the
3193 division shall be brought in the county in which the division has
3194 its executive offices or in which the violation occurred.

3195 Section 61. Section 723.009, Florida Statutes, is amended
3196 to read:

3197 723.009 Division of Florida ~~Land Sales~~, Condominiums,
3198 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the
3199 fees, penalties, and fines imposed pursuant to this chapter shall
3200 be deposited into the Division of Florida ~~Land Sales~~,
3201 Condominiums, Timeshares, and Mobile Homes Trust Fund created by
3202 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the
3203 Legislature pursuant to chapter 216, may be used to defray the
3204 expenses incurred by the division in administering the provisions
3205 of this chapter.

3206 Section 62. Paragraph (c) of subsection (2) of section
3207 723.0611, Florida Statutes, is amended to read:

3208 723.0611 Florida Mobile Home Relocation Corporation.--

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3209 (2)

3210 (c) The corporation shall, for purposes of s. 768.28, be

3211 considered an agency of the state. Agents or employees of the

3212 corporation, members of the board of directors of the

3213 corporation, or representatives of the Division of Florida ~~Land~~

3214 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be

3215 considered officers, employees, or agents of the state, and

3216 actions against them and the corporation shall be governed by s.

3217 768.28.

3218 Section 63. This act shall take effect July 1, 2008.