

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Bogdanoff offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

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

7 718.111 The association.--

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

256 (o) The provisions of this subsection shall not apply to
257 timeshare condominium associations. Insurance for timeshare
258 condominium associations shall be maintained pursuant to s.
259 721.165. Therefore, the Legislature requires a report to be
260 prepared by the Office of Insurance Regulation of the Department
261 of Financial Services for publication 18 months from the
262 effective date of this act, evaluating premium increases or
263 decreases for associations, unit owner premium increases or

023651

4/21/2008 3:15 PM

Amendment No.

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

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

023651

4/21/2008 3:15 PM

Amendment No.

292 ~~or the like, may include reasonable deductibles as determined by~~
293 ~~the board based upon available funds or predetermined assessment~~
294 ~~authority at the time that the insurance is obtained.~~

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

376 718.115 Common expenses and common surplus.--

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

442 718.117 Termination of condominium.--

443 (17) DISTRIBUTION.--

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

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

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

506 20.165 Department of Business and Professional
507 Regulation.--There is created a Department of Business and
508 Professional Regulation.

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

516 73.073 Eminent domain procedure with respect to
517 condominium common elements.--

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

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

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

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

535 (d) The appraisal value of the property.

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

023651

4/21/2008 3:15 PM

Amendment No.

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

543

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

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

551 190.009 Disclosure of public financing.--

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

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

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

562 192.037 Fee timeshare real property; taxes and
563 assessments; escrow.--

564 (6)

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

574 213.053 Confidentiality and information sharing.--

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

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

581
582 Disclosure of information under this subsection shall be
583 pursuant to a written agreement between the executive director
584 and the agency. Such agencies, governmental or nongovernmental,
585 shall be bound by the same requirements of confidentiality as
586 the Department of Revenue. Breach of confidentiality is a
587 misdemeanor of the first degree, punishable as provided by s.
588 775.082 or s. 775.083.

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

591 215.20 Certain income and certain trust funds to
592 contribute to the General Revenue Fund.--

593 (4) The income of a revenue nature deposited in the
594 following described trust funds, by whatever name designated, is
023651

4/21/2008 3:15 PM

Amendment No.

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

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

599 1. The Administrative Trust Fund.

600 2. The Alcoholic Beverage and Tobacco Trust Fund.

601 3. The Cigarette Tax Collection Trust Fund.

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

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

607 6. The Professional Regulation Trust Fund.

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

610

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

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

621 326.002 Definitions.--As used in ss. 326.001-326.006, the
622 term:

023651

4/21/2008 3:15 PM

Amendment No.

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

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

628 326.006 Powers and duties of division.--

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

680 380.05 Areas of critical state concern.--

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

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

701 380.06 Developments of regional impact.--

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

745 380.0651 Statewide guidelines and standards.--

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

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

788 381.0065 Onsite sewage treatment and disposal systems;
789 regulation.--

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

023651

4/21/2008 3:15 PM

Amendment No.

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

866 450.33 Duties of farm labor contractor.--Every farm labor
867 contractor must:

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

870 (8)~~(9)~~ Produce evidence to the department that each
871 vehicle he or she uses for the transportation of employees

023651

4/21/2008 3:15 PM

Amendment No.

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

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

884 | (10)~~(11)~~ Maintain accurate daily field records for each
885 | employee actually paid by the farm labor contractor reflecting
886 | the hours worked for the farm labor contractor and, if paid by
887 | unit, the number of units harvested and the amount paid per
888 | unit.

889 | (11)~~(12)~~ Clearly display on each vehicle used to transport
890 | migrant or seasonal farm workers a display sticker issued by the
891 | department, which states that the vehicle is authorized by the
892 | department to transport farm workers and the expiration date of
893 | the authorization.

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

896 | 455.203 Department; powers and duties.--The department,
897 | for the boards under its jurisdiction, shall:

898 | (10) Have authority to:

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

906 455.116 Regulation trust funds.--The following trust funds
907 shall be placed in the department:

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

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

912 455.217 Examinations.--This section shall be read in
913 conjunction with the appropriate practice act associated with
914 each regulated profession under this chapter.

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

023651

4/21/2008 3:15 PM

Amendment No.

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

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

1009 Section 22. Subsection (6) is added to section 455.2273,
1010 Florida Statutes, to read:

023651

4/21/2008 3:15 PM

Amendment No.

1011 455.2273 Disciplinary guidelines.--

1012 (6) Notwithstanding s. 455.017, this section applies to
1013 disciplinary guidelines adopted by all boards or divisions
1014 within the department.

1015 Section 23. Effective July 1, 2010, paragraph (d) of
1016 subsection (1) and paragraph (d) of subsection (2) of section
1017 468.841, Florida Statutes, are amended to read:

1018 468.841 Exemptions.--

1019 (1) The following persons are not required to comply with
1020 any provisions of this part relating to mold assessment:

1021 (d) Persons or business organizations acting within the
1022 scope of the respective licenses required under chapter 471,
1023 part I of chapter 481, chapter 482, ~~or~~ chapter 489, or part XV
1024 of this chapter, are acting on behalf of an insurer under part
1025 VI of chapter 626, or are persons in the manufactured housing
1026 industry who are licensed under chapter 320, except when any
1027 such persons or business organizations hold themselves out for
1028 hire to the public as a "certified mold assessor ~~remediator~~,"
1029 "registered mold assessor ~~remediator~~," "licensed mold assessor
1030 ~~remediator~~," "mold assessor ~~remediator~~," "professional mold
1031 assessor ~~remediator~~," or any combination thereof stating or
1032 implying licensure under this part.

1033 (2) The following persons are not required to comply with
1034 any provisions of this part relating to mold remediation:

1035 (d) Persons or business organizations that are acting
1036 within the scope of the respective licenses required under
1037 chapter 471, part I of chapter 481, chapter 482, ~~or~~ chapter 489,
1038 or part XV of this chapter, are acting on behalf of an insurer

023651

4/21/2008 3:15 PM

Amendment No.

1039 under part VI of chapter 626, or are persons in the manufactured
1040 housing industry who are licensed under chapter 320, except when
1041 any such persons or business organizations hold themselves out
1042 for hire to the public as a "certified mold remediator
1043 ~~assessor~~," "registered mold remediator ~~assessor~~," "licensed mold
1044 remediator ~~assessor~~," "mold remediator ~~assessor~~," "professional
1045 mold remediator ~~assessor~~," or any combination thereof stating or
1046 implying licensure under this part.

1047 Section 24. Paragraph (b) of subsection (2) of section
1048 475.17, Florida Statutes, is amended to read:

1049 475.17 Qualifications for practice.--

1050 (2)

1051 (b) A person may not be licensed as a real estate broker
1052 unless, in addition to the other requirements of law, the person
1053 has held:

1054 1. An active real estate sales associate's license for at
1055 least 24 ~~12~~ months during the preceding 5 years in the office of
1056 one or more real estate brokers licensed in this state or any
1057 other state, territory, or jurisdiction of the United States or
1058 in any foreign national jurisdiction;

1059 2. A current and valid real estate sales associate's
1060 license for at least 24 ~~12~~ months during the preceding 5 years
1061 in the employ of a governmental agency for a salary and
1062 performing the duties authorized in this part for real estate
1063 licensees; or

1064 3. A current and valid real estate broker's license for at
1065 least 24 ~~12~~ months during the preceding 5 years in any other

023651

4/21/2008 3:15 PM

Amendment No.

1066 state, territory, or jurisdiction of the United States or in any
1067 foreign national jurisdiction.

1068
1069 ~~This paragraph does not apply to a person employed as a real~~
1070 ~~estate investigator by the Division of Real Estate, provided the~~
1071 ~~person has been employed as a real estate investigator for at~~
1072 ~~least 24 months. The person must be currently employed as a real~~
1073 ~~estate investigator to sit for the real estate broker's~~
1074 ~~examination and have held a valid and current sales associate's~~
1075 ~~license for at least 12 months.~~

1076 Section 25. Subsection (9) of section 475.451, Florida
1077 Statutes, is amended to read:

1078 475.451 Schools teaching real estate practice.--

1079 ~~(9)(a) Each school permitholder of a proprietary real~~
1080 ~~estate school, each chief administrative person of such an~~
1081 ~~institution, or each course sponsor shall deliver to the~~
1082 ~~department, in a format acceptable to the department, a copy of~~
1083 ~~the classroom course roster of courses that require satisfactory~~
1084 ~~completion of an examination no later than 30 days beyond the~~
1085 ~~end of the calendar month in which the course was completed.~~

1086 ~~(b) The course roster shall consist of the institution or~~
1087 ~~school name and permit number, if applicable, the instructor's~~
1088 ~~name and permit number, if applicable, course title, beginning~~
1089 ~~and ending dates of the course, number of course hours, course~~
1090 ~~location, if applicable, each student's full name and license~~
1091 ~~number, if applicable, each student's mailing address, and the~~
1092 ~~numerical grade each student achieved. The course roster shall~~

023651

4/21/2008 3:15 PM

Amendment No.

1093 ~~also include the signature of the school permitholder, the chief~~
1094 ~~administrative person, or the course sponsor.~~

1095 Section 26. Section 475.455, Florida Statutes, is amended
1096 to read:

1097 475.455 Exchange of disciplinary information.--The
1098 commission shall inform the Division of Florida ~~Land Sales,~~
1099 Condominiums, Timeshares, and Mobile Homes of the Department of
1100 Business and Professional Regulation of any disciplinary action
1101 the commission has taken against any of its licensees. The
1102 division shall inform the commission of any disciplinary action
1103 the division has taken against any broker or sales associate
1104 registered with the division.

1105 Section 27. Subsection (6) of section 489.105, Florida
1106 Statutes, is amended to read:

1107 489.105 Definitions.--As used in this part:

1108 (6) "Contracting" means, except as exempted in this part,
1109 engaging in business as a contractor and includes, but is not
1110 limited to, performance of any of the acts as set forth in
1111 subsection (3) which define types of contractors. The attempted
1112 sale of contracting services and the negotiation or bid for a
1113 contract on these services also constitutes contracting. If the
1114 services offered require licensure or agent qualification, the
1115 offering, negotiation for a bid, or attempted sale of these
1116 services requires the corresponding licensure. However, the term
1117 "contracting" shall not extend to an individual, partnership,
1118 corporation, trust, or other legal entity that offers to sell or
1119 sells completed residences on property on which the individual
1120 or business entity has any legal or equitable interest, or to

023651

4/21/2008 3:15 PM

Amendment No.

1121 the individual or business entity that offers to sell or sells
1122 manufactured or factory-built buildings that will be completed
1123 on site on property on which either party to a contract has any
1124 legal or equitable interest, if the services of a qualified
1125 contractor certified or registered pursuant to the requirements
1126 of this chapter have been or will be retained for the purpose of
1127 constructing or completing such residences.

1128 Section 28. Section 489.511, Florida Statutes, is amended
1129 to read:

1130 489.511 Certification; application; examinations;
1131 endorsement.--

1132 (1) (a) Any person who is at least 18 years of age may take
1133 the certification examination.

1134 (b) Any person desiring to be certified as a contractor
1135 shall apply to the department in writing and must meet the
1136 following criteria: ~~to take the certification examination.~~

1137 ~~(2) (a) A person shall be entitled to take the~~
1138 ~~certification examination for the purpose of determining whether~~
1139 ~~he or she is qualified to engage in contracting throughout the~~
1140 ~~state as a contractor if the person:~~

1141 ~~1. Is at least 18 years of age;~~

1142 ~~1.2. Be ~~is~~ of good moral character;~~

1143 2. Pass the certification examination, achieving a passing
1144 grade as established by board rule; and

1145 3. ~~Meet~~ ~~Meets~~ eligibility requirements according to one of
1146 the following criteria:

1147 a. Has, within the 6 years immediately preceding the
1148 filing of the application, at least 3 years' proven management

023651

4/21/2008 3:15 PM

Amendment No.

1149 | experience in the trade or education equivalent thereto, or a
1150 | combination thereof, but not more than one-half of such
1151 | experience may be educational equivalent;

1152 | b. Has, within the 8 years immediately preceding the
1153 | filing of the application, at least 4 years' experience as a
1154 | supervisor or contractor in the trade for which he or she is
1155 | making application;

1156 | c. Has, within the 12 years immediately preceding the
1157 | filing of the application, at least 6 years of comprehensive
1158 | training, technical education, or supervisory experience
1159 | associated with an electrical or alarm system contracting
1160 | business, or at least 6 years of technical experience in
1161 | electrical or alarm system work with the Armed Forces or a
1162 | governmental entity;

1163 | d. Has, within the 12 years immediately preceding the
1164 | filing of the application, been licensed for 3 years as a
1165 | professional engineer who is qualified by education, training,
1166 | or experience to practice electrical engineering; or

1167 | e. Has any combination of qualifications under sub-
1168 | subparagraphs a.-c. totaling 6 years of experience.

1169 | (c)~~(b)~~ For purposes of this subsection, "supervisor" means
1170 | a person having the experience gained while having the general
1171 | duty of overseeing the technical duties of the trade, provided
1172 | that such experience is gained by a person who is able to
1173 | perform the technical duties of the trade without supervision.

1174 | (d)~~(e)~~ For purposes of this subsection, at least 40
1175 | percent of the work experience for an alarm system contractor I

023651

4/21/2008 3:15 PM

Amendment No.

1176 must be in the types of fire alarm systems typically used in a
1177 commercial setting.

1178 (2)-(3) The board may determine by rule the number of times
1179 per year the applicant may take the examination and after three
1180 unsuccessful attempts may ~~On or after October 1, 1998, every~~
1181 ~~applicant who is qualified shall be allowed to take the~~
1182 ~~examination three times, notwithstanding the number of times the~~
1183 ~~applicant has previously failed the examination. If an applicant~~
1184 ~~fails the examination three times after October 1, 1998, the~~
1185 ~~board shall~~ require the applicant to complete additional
1186 college-level or technical education courses in the areas of
1187 deficiency, as determined by the board, as a condition of future
1188 eligibility to take the examination. ~~The applicant must also~~
1189 ~~submit a new application that meets all certification~~
1190 ~~requirements at the time of its submission and must pay all~~
1191 ~~appropriate fees.~~

1192 (3)-(4)-(a) "Good moral character" means a personal history
1193 of honesty, fairness, and respect for the rights of others and
1194 for laws of this state and nation.

1195 (b) The board may determine that an individual applying
1196 for certification is ineligible ~~to take the examination~~ for
1197 failure to satisfy the requirement of good moral character only
1198 if:

1199 1. There is a substantial connection between the lack of
1200 good moral character of the individual and the professional
1201 responsibilities of a certified contractor; and

1202 2. The finding by the board of lack of good moral
1203 character is supported by clear and convincing evidence.

023651

4/21/2008 3:15 PM

Amendment No.

1204 (c) When an individual is found to be unqualified for
1205 certification ~~examination~~ because of a lack of good moral
1206 character, the board shall furnish such individual a statement
1207 containing the findings of the board, a complete record of the
1208 evidence upon which the determination was based, and a notice of
1209 the rights of the individual to a rehearing and appeal.

1210 ~~(4)(5)~~ The board shall, by rule, designate those types of
1211 specialty electrical or alarm system contractors who may be
1212 certified under this part. The limit of the scope of work and
1213 responsibility of a certified specialty contractor shall be
1214 established by board rule. A certified specialty contractor
1215 category exists as an optional statewide licensing category.
1216 Qualification for certification in a specialty category created
1217 by rule shall be the same as set forth in paragraph (1)(b)
1218 ~~(2)(a)~~. The existence of a specialty category created by rule
1219 does not itself create any licensing requirement; however,
1220 neither does its optional nature remove any licensure
1221 requirement established elsewhere in this part.

1222 ~~(5)(6)~~ The board shall certify as qualified for
1223 certification by endorsement any individual applying for
1224 certification who:

1225 (a) Meets the requirements for certification as set forth
1226 in this section; has passed a national, regional, state, or
1227 United States territorial licensing examination that is
1228 substantially equivalent to the examination required by this
1229 part; and has satisfied the requirements set forth in s.
1230 489.521; or

023651

4/21/2008 3:15 PM

Amendment No.

1231 (b) Holds a valid license to practice electrical or alarm
1232 system contracting issued by another state or territory of the
1233 United States, if the criteria for issuance of such license was
1234 substantially equivalent to the certification criteria that
1235 existed in this state at the time the certificate was issued.

1236 ~~(6)(7)~~ Upon the issuance of a certificate, any previously
1237 issued registered licenses for the classification in which the
1238 certification is issued are rendered void.

1239 Section 29. Paragraph (b) of subsection (1) of section
1240 489.515, Florida Statutes, is amended to read:

1241 489.515 Issuance of certificates; registrations.--

1242 (1)

1243 (b) The board shall certify as qualified for certification
1244 any person who satisfies the requirements of s. 489.511, ~~who~~
1245 ~~successfully passes the certification examination administered~~
1246 ~~by the department, achieving a passing grade as established by~~
1247 ~~board rule,~~ and who submits satisfactory evidence that he or she
1248 has obtained both workers' compensation insurance or an
1249 acceptable exemption certificate issued by the department and
1250 public liability and property damage insurance for the health,
1251 safety, and welfare of the public in amounts determined by rule
1252 of the board, and furnishes evidence of financial
1253 responsibility, credit, and business reputation of either
1254 himself or herself or the business organization he or she
1255 desires to qualify.

1256 Section 30. Section 494.008, Florida Statutes, is amended
1257 to read:

023651

4/21/2008 3:15 PM

Amendment No.

1258 494.008 Mortgages offered by land developers licensed
1259 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~
1260 requirements; prohibitions.--No mortgage loan which has a face
1261 amount of \$35,000 or less and is secured by vacant land
1262 ~~registered under the Florida Uniform Land Sales Practices Law,~~
1263 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial
1264 institution, by any person unless all of the following
1265 requirements are met:

1266 (1) Each mortgage securing a note or other obligation sold
1267 or offered for sale shall be eligible for a recordation as a
1268 first mortgage.

1269 (2) Each mortgage negotiated pursuant to this section must
1270 include a mortgagee's title insurance policy or an opinion of
1271 title, from an attorney who is licensed to practice law in this
1272 state, on each parcel of land which is described in the
1273 mortgage. The policy or opinion shall reflect that there are no
1274 other mortgages on the property. A notice stating the priority
1275 of the mortgage shall be placed on the face of each mortgage in
1276 an amount over \$35,000 issued pursuant to this section.

1277 (3) Contracts to purchase a mortgage loan shall contain,
1278 immediately above the purchaser's signature line, the statement
1279 in 10-point boldfaced type: "This mortgage is secured by vacant
1280 land subject to development at a future time." This statement
1281 shall also be typed or printed in 10-point type on the face of
1282 the note and mortgage sold.

1283 (4) The most recent assessment for tax purposes made by
1284 the county property appraiser of each parcel of land described
1285 in the mortgage shall be furnished to each mortgagee.

023651

4/21/2008 3:15 PM

Amendment No.

1286 (5) The mortgage broker shall record or cause to be
1287 recorded all mortgages or other similar documents prior to
1288 delivery of the note and mortgage to the mortgagee.

1289 (6) All funds received by the mortgage broker pursuant to
1290 this section shall promptly be deposited in the broker's trust
1291 account where they shall remain until the note and mortgage are
1292 fully executed and recorded.

1293 (7) Willful failure to comply with any of the above
1294 provisions shall subject the person to the penalties of s.
1295 494.05.

1296 Section 31. Section 498.009, Florida Statutes, is
1297 renumbered as section 718.50152, Florida Statutes.

1298 Section 32. Section 498.011, Florida Statutes, is
1299 renumbered as section 718.50153, Florida Statutes, and amended
1300 to read:

1301 718.50153 ~~498.011~~ Payment of per diem, mileage, and other
1302 expenses to division employees.--The amount of per diem and
1303 mileage and expense money paid to employees shall be as provided
1304 in s. 112.061, except that the division shall establish by rule
1305 the standards for reimbursement of actual verified expenses
1306 incurred in connection with an on-site review ~~inspection~~ or
1307 investigation ~~of subdivided lands~~.

1308 Section 33. Section 498.013, Florida Statutes, is
1309 renumbered as section 718.50154, Florida Statutes.

1310 Section 34. Section 498.057, Florida Statutes, is
1311 renumbered as section 718.50155, Florida Statutes, and amended,
1312 to read:

1313 718.50155 ~~498.057~~ Service of process.--

023651

4/21/2008 3:15 PM

Amendment No.

1314 (1) In addition to the methods of service provided for in
1315 the Florida Rules of Civil Procedure and the Florida Statutes,
1316 service may be made and ~~by delivering a copy of the process to~~
1317 ~~the director of the division, which~~ shall be binding upon the
1318 defendant or respondent if:

1319 (a) The division plaintiff, which is acting as the
1320 petitioner or plaintiff ~~may be the division~~, immediately sends a
1321 copy of the process and of the pleading by certified mail to the
1322 defendant or respondent at his or her last known address;7 and

1323 (b) The division plaintiff files an affidavit of
1324 compliance with this section on or before the return date of the
1325 process or within the time set by the court.

1326 (2) If any person, including any nonresident of this
1327 state, allegedly engages in conduct prohibited by this chapter,
1328 or any rule or order of the division, and has not filed a
1329 consent to service of process, and personal jurisdiction over
1330 him or her cannot otherwise be obtained in this state, the
1331 director shall be authorized to receive service of process in
1332 any noncriminal proceeding against that person or his or her
1333 successor which grows out of the conduct and which is brought by
1334 the division under this chapter or any rule or order of the
1335 division. The process shall have the same force and validity as
1336 if personally served. Notice shall be given as provided in
1337 subsection (1).

1338 Section 35. Sections 498.001, 498.003, 498.005, 498.007,
1339 498.017, 498.021, 498.022, 498.023, 498.024, 498.025, 498.027,
1340 498.028, 498.029, 498.031, 498.033, 498.035, 498.037, 498.039,

023651

4/21/2008 3:15 PM

Amendment No.

1341 498.041, 498.047, 498.049, 498.051, 498.053, 498.059, 498.061,
1342 and 498.063, Florida Statutes, are repealed.

1343 Section 36. Section 509.512, Florida Statutes, is amended
1344 to read:

1345 509.512 Timeshare plan developer and exchange company
1346 exemption.--Sections 509.501-509.511 do not apply to a developer
1347 of a timeshare plan or an exchange company approved by the
1348 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
1349 Mobile Homes pursuant to chapter 721, but only to the extent
1350 that the developer or exchange company engages in conduct
1351 regulated under chapter 721.

1352 Section 37. Subsection (2) of section 517.301, Florida
1353 Statutes, is amended to read:

1354 517.301 Fraudulent transactions; falsification or
1355 concealment of facts.--

1356 (2) For purposes of ss. 517.311 and 517.312 and this
1357 section, the term "investment" means any commitment of money or
1358 property principally induced by a representation that an
1359 economic benefit may be derived from such commitment, except
1360 that the term "~~investment~~" does not include a commitment of
1361 money or property for:

1362 (a) The purchase of a business opportunity, business
1363 enterprise, or real property through a person licensed under
1364 chapter 475 or registered under former chapter 498; or

1365 (b) The purchase of tangible personal property through a
1366 person not engaged in telephone solicitation, where said
1367 property is offered and sold in accordance with the following
1368 conditions:

023651

4/21/2008 3:15 PM

Amendment No.

1369 1. There are no specific representations or guarantees
1370 made by the offeror or seller as to the economic benefit to be
1371 derived from the purchase;

1372 2. The tangible property is delivered to the purchaser
1373 within 30 days after sale, except that such 30-day period may be
1374 extended by the office if market conditions so warrant; and

1375 3. The seller has offered the purchaser a full refund
1376 policy in writing, exercisable by the purchaser within 10 days
1377 of the date of delivery of such tangible personal property,
1378 except that the amount of such refund may not ~~in no event shall~~
1379 exceed the bid price in effect at the time the property is
1380 returned to the seller. If the applicable sellers' market is
1381 closed at the time the property is returned to the seller for a
1382 refund, the amount of such refund shall be based on the bid
1383 price for such property at the next opening of such market.

1384 Section 38. Subsection (4) of section 548.0065, Florida
1385 Statutes, is amended to read:

1386 548.0065 Amateur matches; sanctioning and supervision;
1387 health and safety standards; compliance checks; continuation,
1388 suspension, and revocation of sanctioning approval.--

1389 (4) Any member of the commission or the executive director
1390 of the commission may suspend the approval of an amateur
1391 sanctioning organization for failure to supervise amateur
1392 matches or to enforce the approved health and safety standards
1393 required under this chapter, provided that the suspension
1394 complies with the procedures for summary suspensions in s.
1395 120.60(6). At any amateur boxing, ~~or~~ kickboxing, or mixed
1396 martial arts contest, any member of the commission or a

023651

4/21/2008 3:15 PM

Amendment No.

1397 representative of the commission may immediately suspend one or
1398 more matches in an event whenever it appears that the match or
1399 matches violate the health and safety standards established by
1400 rule as required by this chapter. A law enforcement officer may
1401 assist any member of the commission or a representative of the
1402 commission to enforce an order to stop a contest if called upon
1403 to do so by a member of the commission or a representative of
1404 the commission.

1405 Section 39. Subsections (2), (3), and (4) of section
1406 548.008, Florida Statutes, are amended to read:

1407 548.008 Prohibited competitions.--

1408 ~~(2) No amateur mixed martial arts match may be held in~~
1409 ~~this state.~~

1410 (2)~~(3)~~ No professional match may be held in this state
1411 unless it meets the requirements for holding the match as
1412 provided in this chapter and the rules adopted by the
1413 commission.

1414 (3)~~(4)~~(a) Any person participating in a match prohibited
1415 under this section, knowing the match to be prohibited, commits
1416 a misdemeanor of the second degree, punishable as provided in s.
1417 775.082 or s. 775.083.

1418 (b) Any person holding, promoting, or sponsoring a match
1419 prohibited under this section commits a felony of the third
1420 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1421 775.084.

1422 Section 40. Subsection (1) of section 548.041, Florida
1423 Statutes, is amended to read:

1424 548.041 Age, condition, and suspension of participants.--
023651

4/21/2008 3:15 PM

Amendment No.

1425 (1) A person may ~~shall~~ not be licensed as a participant,
1426 and the license of a ~~any~~ participant shall be suspended or
1427 revoked, if such person:

1428 (a) Is under the age of 18;

1429 (b) Has participated in a match in this state which was
1430 not sanctioned by the commission or by a Native American
1431 commission properly constituted under federal law; ~~or~~

1432 (c) Does not meet certain health and medical examination
1433 conditions as required by rule of the commission; ~~or~~

1434 (d) Has not competed in a minimum number of amateur boxing
1435 events as determined by commission rule prior to licensure; or

1436 (e) Has not participated in a minimum number of amateur
1437 mixed martial arts events as determined by commission rule prior
1438 to licensure.

1439 Section 41. Subsection (1) of section 559.935, Florida
1440 Statutes, is amended to read:

1441 559.935 Exemptions.--

1442 (1) This part does not apply to:

1443 (a) A bona fide employee of a seller of travel who is
1444 engaged solely in the business of her or his employer;

1445 (b) Any direct common carrier of passengers or property
1446 regulated by an agency of the Federal Government or employees of
1447 such carrier when engaged solely in the transportation business
1448 of the carrier as identified in the carrier's certificate;

1449 (c) An intrastate common carrier of passengers or property
1450 selling only transportation as defined in the applicable state
1451 or local registration or certification, or employees of such

023651

4/21/2008 3:15 PM

Amendment No.

1452 carrier when engaged solely in the transportation business of
1453 the carrier;

1454 (d) Hotels, motels, or other places of public
1455 accommodation selling public accommodations, or employees of
1456 such hotels, motels, or other places of public accommodation,
1457 when engaged solely in making arrangements for lodging,
1458 accommodations, or sightseeing tours within the state, or taking
1459 reservations for the traveler with times, dates, locations, and
1460 accommodations certain at the time the reservations are made,
1461 provided that hotels and motels registered with the Department
1462 of Business and Professional Regulation pursuant to chapter 509
1463 are excluded from the provisions of this chapter;

1464 (e) Persons involved solely in the rental, leasing, or
1465 sale of residential property;

1466 (f) Persons involved solely in the rental, leasing, or
1467 sale of transportation vehicles;

1468 (g) Persons who make travel arrangements for themselves;
1469 for their employees or agents; for distributors, franchisees, or
1470 dealers of the persons' products or services; for entities which
1471 are financially related to the persons; or for the employees or
1472 agents of the distributor, franchisee, or dealer or financially
1473 related entity;

1474 (h) A developer of a timeshare plan or an exchange company
1475 approved by the Division of Florida ~~Land Sales~~, Condominiums,
1476 Timeshares, and Mobile Homes pursuant to chapter 721, but only
1477 to the extent that the developer or exchange company engages in
1478 conduct regulated under chapter 721; or

023651

4/21/2008 3:15 PM

Amendment No.

1479 (i) Persons or entities engaged solely in offering diving
1480 services, including classes and sales or rentals of equipment,
1481 when engaged in making any prearranged travel-related or
1482 tourist-related services in conjunction with a primarily dive-
1483 related event.

1484 Section 42. Subsection (17) of section 718.103, Florida
1485 Statutes, is amended to read:

1486 718.103 Definitions.--As used in this chapter, the term:

1487 (17) "Division" means the Division of Florida ~~Land Sales,~~
1488 Condominiums, Timeshares, and Mobile Homes of the Department of
1489 Business and Professional Regulation.

1490 Section 43. Paragraph (c) of subsection (4) of section
1491 718.105, Florida Statutes, is amended to read:

1492 718.105 Recording of declaration.--

1493 (4)

1494 (c) If the sum of money held by the clerk has not been
1495 paid to the developer or association as provided in paragraph
1496 (b) within ~~by~~ 3 years after the date the declaration was
1497 originally recorded, the clerk ~~in his or her discretion~~ may
1498 notify, in writing, the registered agent of the association that
1499 the sum is still available and the purpose for which it was
1500 deposited. If the association does not record the certificate
1501 within 90 days after the clerk has given the notice, the clerk
1502 may disburse the money to the developer. If the developer cannot
1503 be located, the clerk shall disburse the money to the Division
1504 of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile
1505 Homes for deposit in the Division of Florida ~~Land Sales,~~
1506 Condominiums, Timeshares, and Mobile Homes Trust Fund.

023651

4/21/2008 3:15 PM

Amendment No.

1507 Section 44. Subsection (4) of section 718.1255, Florida
1508 Statutes, is amended to read:

1509 718.1255 Alternative dispute resolution; voluntary
1510 mediation; mandatory nonbinding arbitration; legislative
1511 findings.--

1512 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
1513 DISPUTES.--The Division of Florida ~~Land Sales~~, Condominiums,
1514 Timeshares, and Mobile Homes of the Department of Business and
1515 Professional Regulation shall employ full-time attorneys to act
1516 as arbitrators to conduct the arbitration hearings provided by
1517 this chapter. The division may also certify attorneys who are
1518 not employed by the division to act as arbitrators to conduct
1519 the arbitration hearings provided by this section. No person may
1520 be employed by the department as a full-time arbitrator unless
1521 he or she is a member in good standing of The Florida Bar. The
1522 department shall adopt ~~promulgate~~ rules of procedure to govern
1523 such arbitration hearings including mediation incident thereto.
1524 The decision of an arbitrator shall be final; however, ~~such~~ a
1525 decision shall not be deemed final agency action. Nothing in
1526 this provision shall be construed to foreclose parties from
1527 proceeding in a trial de novo unless the parties have agreed
1528 that the arbitration is binding. If ~~such~~ judicial proceedings
1529 are initiated, the final decision of the arbitrator shall be
1530 admissible in evidence in the trial de novo.

1531 (a) Prior to the institution of court litigation, a party
1532 to a dispute shall petition the division for nonbinding
1533 arbitration. The petition must be accompanied by a filing fee in
1534 the amount of \$50. Filing fees collected under this section must

023651

4/21/2008 3:15 PM

Amendment No.

1535 be used to defray the expenses of the alternative dispute
1536 resolution program.

1537 (b) The petition must recite, and have attached thereto,
1538 supporting proof that the petitioner gave the respondents:

1539 1. Advance written notice of the specific nature of the
1540 dispute;

1541 2. A demand for relief, and a reasonable opportunity to
1542 comply or to provide the relief; and

1543 3. Notice of the intention to file an arbitration petition
1544 or other legal action in the absence of a resolution of the
1545 dispute.

1546
1547 Failure to include the allegations or proof of compliance with
1548 these prerequisites requires dismissal of the petition without
1549 prejudice.

1550 (c) Upon receipt, the petition shall be promptly reviewed
1551 by the division to determine the existence of a dispute and
1552 compliance with the requirements of paragraphs (a) and (b). If
1553 emergency relief is required and is not available through
1554 arbitration, a motion to stay the arbitration may be filed. The
1555 motion must be accompanied by a verified petition alleging facts
1556 that, if proven, would support entry of a temporary injunction,
1557 and if an appropriate motion and supporting papers are filed,
1558 the division may abate the arbitration pending a court hearing
1559 and disposition of a motion for temporary injunction.

1560 (d) Upon determination by the division that a dispute
1561 exists and that the petition substantially meets the
1562 requirements of paragraphs (a) and (b) and any other applicable

023651

4/21/2008 3:15 PM

Amendment No.

1563 rules, a copy of the petition shall ~~forthwith~~ be served by the
1564 division upon all respondents.

1565 (e) ~~Either~~ Before or after the filing of the respondents'
1566 answer to the petition, any party may request that the
1567 arbitrator refer the case to mediation under this section and
1568 any rules adopted by the division. Upon receipt of a request for
1569 mediation, the division shall promptly contact the parties to
1570 determine if there is agreement that mediation would be
1571 appropriate. If all parties agree, the dispute must be referred
1572 to mediation. Notwithstanding a lack of an agreement by all
1573 parties, the arbitrator may refer a dispute to mediation at any
1574 time.

1575 (f) Upon referral of a case to mediation, the parties must
1576 select a mutually acceptable mediator. To assist in the
1577 selection, the arbitrator shall provide the parties with a list
1578 of both volunteer and paid mediators that have been certified by
1579 the division under s. 718.501. If the parties are unable to
1580 agree on a mediator within the time allowed by the arbitrator,
1581 the arbitrator shall appoint a mediator from the list of
1582 certified mediators. If a case is referred to mediation, the
1583 parties shall attend a mediation conference, as scheduled by the
1584 parties and the mediator. If any party fails to attend a duly
1585 noticed mediation conference, without the permission or approval
1586 of the arbitrator or mediator, the arbitrator must impose
1587 sanctions against the party, including the striking of any
1588 pleadings filed, the entry of an order of dismissal or default
1589 if appropriate, and the award of costs and attorneys' fees
1590 incurred by the other parties. Unless otherwise agreed to by the

023651

4/21/2008 3:15 PM

Amendment No.

1591 parties or as provided by order of the arbitrator, a party is
1592 deemed to have appeared at a mediation conference by the
1593 physical presence of the party or its representative having full
1594 authority to settle without further consultation, provided that
1595 an association may comply by having one or more representatives
1596 present with full authority to negotiate a settlement and
1597 recommend that the board of administration ratify and approve
1598 such a settlement within 5 days from the date of the mediation
1599 conference. The parties shall share equally the expense of
1600 mediation, unless they agree otherwise.

1601 (g) The purpose of mediation as provided for by this
1602 section is to present the parties with an opportunity to resolve
1603 the underlying dispute in good faith, and with a minimum
1604 expenditure of time and resources.

1605 (h) Mediation proceedings must generally be conducted in
1606 accordance with the Florida Rules of Civil Procedure, and these
1607 proceedings are privileged and confidential to the same extent
1608 as court-ordered mediation. Persons who are not parties to the
1609 dispute are not allowed to attend the mediation conference
1610 without the consent of all parties, with the exception of
1611 counsel for the parties and corporate representatives designated
1612 to appear for a party. If the mediator declares an impasse after
1613 a mediation conference has been held, the arbitration proceeding
1614 terminates, unless all parties agree in writing to continue the
1615 arbitration proceeding, in which case the arbitrator's decision
1616 shall be ~~either~~ binding or nonbinding, as agreed upon by the
1617 parties; in the arbitration proceeding, the arbitrator shall not
1618 consider any evidence relating to the unsuccessful mediation

023651

4/21/2008 3:15 PM

Amendment No.

1619 except in a proceeding to impose sanctions for failure to appear
1620 at the mediation conference. If the parties do not agree to
1621 continue arbitration, the arbitrator shall enter an order of
1622 dismissal, and either party may institute a suit in a court of
1623 competent jurisdiction. The parties may seek to recover any
1624 costs and attorneys' fees incurred in connection with
1625 arbitration and mediation proceedings under this section as part
1626 of the costs and fees that may be recovered by the prevailing
1627 party in any subsequent litigation.

1628 (i) Arbitration shall be conducted according to rules
1629 adopted ~~promulgated~~ by the division. The filing of a petition
1630 for arbitration shall toll the applicable statute of
1631 limitations.

1632 (j) At the request of any party to the arbitration, the
1633 ~~such~~ arbitrator shall issue subpoenas for the attendance of
1634 witnesses and the production of books, records, documents, and
1635 other evidence and any party on whose behalf a subpoena is
1636 issued may apply to the court for orders compelling such
1637 attendance and production. Subpoenas shall be served and shall
1638 be enforceable in the manner provided by the Florida Rules of
1639 Civil Procedure. Discovery may, in the discretion of the
1640 arbitrator, be permitted in the manner provided by the Florida
1641 Rules of Civil Procedure. Rules adopted by the division may
1642 authorize any reasonable sanctions except contempt for a
1643 violation of the arbitration procedural rules of the division or
1644 for the failure of a party to comply with a reasonable nonfinal
1645 order issued by an arbitrator which is not under judicial
1646 review.

023651

4/21/2008 3:15 PM

Amendment No.

1647 (k) The arbitration decision shall be presented to the
1648 parties in writing. An arbitration decision is final in those
1649 disputes in which the parties have agreed to be bound. An
1650 arbitration decision is also final if a complaint for a trial de
1651 novo is not filed in a court of competent jurisdiction in which
1652 the condominium is located within 30 days. The right to file for
1653 a trial de novo entitles the parties to file a complaint in the
1654 appropriate trial court for a judicial resolution of the
1655 dispute. The prevailing party in an arbitration proceeding shall
1656 be awarded the costs of the arbitration and reasonable
1657 attorney's fees in an amount determined by the arbitrator. Such
1658 an award shall include the costs and reasonable attorney's fees
1659 incurred in the arbitration proceeding as well as the costs and
1660 reasonable attorney's fees incurred in preparing for and
1661 attending any scheduled mediation.

1662 (l) The party who files a complaint for a trial de novo
1663 shall be assessed the other party's arbitration costs, court
1664 costs, and other reasonable costs, including attorney's fees,
1665 investigation expenses, and expenses for expert or other
1666 testimony or evidence incurred after the arbitration hearing if
1667 the judgment upon the trial de novo is not more favorable than
1668 the arbitration decision. If the judgment is more favorable, the
1669 party who filed a complaint for trial de novo shall be awarded
1670 reasonable court costs and attorney's fees.

1671 (m) Any party to an arbitration proceeding may enforce an
1672 arbitration award by filing a petition in a court of competent
1673 jurisdiction in which the condominium is located. A petition may
1674 not be granted unless the time for appeal by the filing of a

023651

4/21/2008 3:15 PM

Amendment No.

1675 complaint for trial de novo has expired. If a complaint for a
1676 trial de novo has been filed, a petition may not be granted with
1677 respect to an arbitration award that has been stayed. If the
1678 petition for enforcement is granted, the petitioner shall
1679 recover reasonable attorney's fees and costs incurred in
1680 enforcing the arbitration award. A mediation settlement may also
1681 be enforced through the county or circuit court, as applicable,
1682 and any costs and fees incurred in the enforcement of a
1683 settlement agreement reached at mediation must be awarded to the
1684 prevailing party in any enforcement action.

1685 Section 45. Section 718.501, Florida Statutes, is amended
1686 to read:

1687 718.501 Powers and duties of Division of Florida ~~Land~~
1688 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

1689 (1) The Division of Florida ~~Land Sales~~, Condominiums,
1690 Timeshares, and Mobile Homes of the Department of Business and
1691 Professional Regulation, referred to as the "division" in this
1692 part, ~~in addition to other powers and duties prescribed by~~
1693 ~~chapter 498~~, has the power to enforce and ensure compliance with
1694 the provisions of this chapter and rules ~~promulgated pursuant~~
1695 ~~hereto~~ relating to the development, construction, sale, lease,
1696 ownership, operation, and management of residential condominium
1697 units. In performing its duties, the division has the following
1698 powers and duties:

1699 (a)1. The division may make necessary public or private
1700 investigations within or outside this state to determine whether
1701 any person has violated this chapter or any rule or order

023651

4/21/2008 3:15 PM

Amendment No.

1702 hereunder, to aid in the enforcement of this chapter, or to aid
1703 in the adoption of rules or forms hereunder.

1704 2. The division may submit any official written report,
1705 worksheet, or other related paper, or a duly certified copy
1706 thereof, compiled, prepared, drafted, or otherwise made by and
1707 duly authenticated by a financial examiner or analyst to be
1708 admitted as competent evidence in any hearing in which the
1709 financial examiner or analyst is available for cross-examination
1710 and attests under oath that such documents were prepared as a
1711 result of an examination or inspection conducted pursuant to
1712 this chapter.

1713 (b) The division may require or permit any person to file
1714 a statement in writing, under oath or otherwise, as the division
1715 determines, as to the facts and circumstances concerning a
1716 matter to be investigated.

1717 (c) For the purpose of any investigation under this
1718 chapter, the division director or any officer or employee
1719 designated by the division director may administer oaths or
1720 affirmations, subpoena witnesses and compel their attendance,
1721 take evidence, and require the production of any matter which is
1722 relevant to the investigation, including the existence,
1723 description, nature, custody, condition, and location of any
1724 books, documents, or other tangible things and the identity and
1725 location of persons having knowledge of relevant facts or any
1726 other matter reasonably calculated to lead to the discovery of
1727 material evidence. Upon the failure by a person to obey a
1728 subpoena or to answer questions propounded by the investigating
1729 officer and upon reasonable notice to all persons affected

023651

4/21/2008 3:15 PM

Amendment No.

1730 thereby, the division may apply to the circuit court for an
1731 order compelling compliance.

1732 (d) Notwithstanding any remedies available to unit owners
1733 and associations, if the division has reasonable cause to
1734 believe that a violation of any provision of this chapter or
1735 related rule promulgated pursuant hereto has occurred, the
1736 division may institute enforcement proceedings in its own name
1737 against any developer, association, officer, or member of the
1738 board of administration, or its assignees or agents, as follows:

1739 1. The division may permit a person whose conduct or
1740 actions may be under investigation to waive formal proceedings
1741 and enter into a consent proceeding whereby orders, rules, or
1742 letters of censure or warning, whether formal or informal, may
1743 be entered against the person.

1744 2. The division may issue an order requiring the
1745 developer, association, officer, or member of the board of
1746 administration, or its assignees or agents, to cease and desist
1747 from the unlawful practice and take such affirmative action as
1748 in the judgment of the division will carry out the purposes of
1749 this chapter. ~~Such affirmative action may include, but is not~~
1750 ~~limited to, an order requiring a developer to pay moneys~~
1751 ~~determined to be owed to a condominium association. If the~~
1752 division finds that a developer, association, officer, or member
1753 of the board of administration, or its assignees or agents, is
1754 violating or is about to violate any provision of this chapter,
1755 any rule adopted or order issued by the division, or any written
1756 agreement entered into with the division, and presents an
1757 immediate danger to the public requiring an immediate final

023651

4/21/2008 3:15 PM

Amendment No.

1758 order, it may issue an emergency cease and desist order reciting
1759 with particularity the facts underlying such findings. The
1760 emergency cease and desist order is effective for 90 days. If
1761 the division begins nonemergency cease and desist proceedings,
1762 the emergency cease and desist order remains effective until the
1763 conclusion of the proceedings under ss. 120.569 and 120.57.

1764 3. The division may bring an action in circuit court on
1765 behalf of a class of unit owners, lessees, or purchasers for
1766 declaratory relief, injunctive relief, or restitution.

1767 4. The division may petition the court for the appointment
1768 of a receiver or conservator. If appointed, the receiver or
1769 conservator may take action to implement the court order to
1770 ensure the performance of the order and to remedy any breach
1771 thereof. In addition to all other means provided by law for the
1772 enforcement of an injunction or temporary restraining order, the
1773 circuit court may impound or sequester the property of a party
1774 defendant, including books, papers, documents, and related
1775 records, and allow the examination and use of the property by
1776 the division and a court-appointed receiver or conservator.

1777 5. The division may apply to the circuit court for an
1778 order of restitution whereby the defendant in an action brought
1779 pursuant to subparagraph 4. shall be ordered to make restitution
1780 of those sums shown by the division to have been obtained by the
1781 defendant in violation of this chapter. Such restitution shall,
1782 at the option of the court, be payable to the conservator or
1783 receiver appointed pursuant to subparagraph 4. or directly to
1784 the persons whose funds or assets were obtained in violation of
1785 this chapter.

023651

4/21/2008 3:15 PM

Amendment No.

1786 ~~6.4~~ The division may impose a civil penalty against a
1787 developer or association, or its assignee or agent, for any
1788 violation of this chapter or a rule adopted under this chapter
1789 ~~promulgated pursuant hereto~~. The division may impose a civil
1790 penalty individually against any officer or board member who
1791 willfully and knowingly violates a provision of this chapter,
1792 adopted a rule ~~adopted pursuant hereto~~, or a final order of the
1793 division. The term "willfully and knowingly" means that the
1794 division informed the officer or board member that his or her
1795 action or intended action violates this chapter, a rule adopted
1796 under this chapter, or a final order of the division and that
1797 the officer or board member refused to comply with the
1798 requirements of this chapter, a rule adopted under this chapter,
1799 or a final order of the division. The division, prior to
1800 initiating formal agency action under chapter 120, shall afford
1801 the officer or board member an opportunity to voluntarily comply
1802 with this chapter, a rule adopted under this chapter, or a final
1803 order of the division. An officer or board member who complies
1804 within 10 days is not subject to a civil penalty. A penalty may
1805 be imposed on the basis of each day of continuing violation, but
1806 in no event shall the penalty for any offense exceed \$5,000. By
1807 January 1, 1998, the division shall adopt, by rule, penalty
1808 guidelines applicable to possible violations or to categories of
1809 violations of this chapter or rules adopted by the division. The
1810 guidelines must specify a meaningful range of civil penalties
1811 for each such violation of the statute and rules and must be
1812 based upon the harm caused by the violation, the repetition of
1813 the violation, and upon such other factors deemed relevant by

023651

4/21/2008 3:15 PM

Amendment No.

1814 the division. For example, the division may consider whether the
1815 violations were committed by a developer or owner-controlled
1816 association, the size of the association, and other factors. The
1817 guidelines must designate the possible mitigating or aggravating
1818 circumstances that justify a departure from the range of
1819 penalties provided by the rules. It is the legislative intent
1820 that minor violations be distinguished from those which endanger
1821 the health, safety, or welfare of the condominium residents or
1822 other persons and that such guidelines provide reasonable and
1823 meaningful notice to the public of likely penalties that may be
1824 imposed for proscribed conduct. This subsection does not limit
1825 the ability of the division to informally dispose of
1826 administrative actions or complaints by stipulation, agreed
1827 settlement, or consent order. All amounts collected shall be
1828 deposited with the Chief Financial Officer to the credit of the
1829 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
1830 Mobile Homes Trust Fund. If a developer fails to pay the civil
1831 penalty, the division shall ~~thereupon~~ issue an order directing
1832 that such developer cease and desist from further operation
1833 until such time as the civil penalty is paid or may pursue
1834 enforcement of the penalty in a court of competent jurisdiction.
1835 If an association fails to pay the civil penalty, the division
1836 shall ~~thereupon~~ pursue enforcement in a court of competent
1837 jurisdiction, and the order imposing the civil penalty or the
1838 cease and desist order will not become effective until 20 days
1839 after the date of such order. Any action commenced by the
1840 division shall be brought in the county in which the division

023651

4/21/2008 3:15 PM

Amendment No.

1841 has its executive offices or in the county where the violation
1842 occurred.

1843 7. In addition to subparagraph 6., the division may seek
1844 the imposition of a civil penalty through the circuit court for
1845 any violation for which the division may issue a notice to show
1846 cause under paragraph (q). The civil penalty shall be at least
1847 \$500 but no more than \$5,000 for each violation. The court may
1848 also award to the prevailing party court costs and reasonable
1849 attorney's fees and, if the division prevails, may also award
1850 reasonable costs of investigation.

1851 (e) The division may ~~is authorized to~~ prepare and
1852 disseminate a prospectus and other information to assist
1853 prospective owners, purchasers, lessees, and developers of
1854 residential condominiums in assessing the rights, privileges,
1855 and duties pertaining thereto.

1856 (f) The division has authority to adopt rules pursuant to
1857 ss. 120.536(1) and 120.54 to implement and enforce the
1858 provisions of this chapter.

1859 (g) The division shall establish procedures for providing
1860 notice to an association when the division is considering the
1861 issuance of a declaratory statement with respect to the
1862 declaration of condominium or any related document governing in
1863 such condominium community.

1864 (h) The division shall furnish each association which pays
1865 the fees required by paragraph (2)(a) a copy of this act,
1866 subsequent changes to this act on an annual basis, an amended
1867 version of this act as it becomes available from the Secretary

023651

4/21/2008 3:15 PM

Amendment No.

1868 of State's office on a biennial basis, and the rules adopted
1869 ~~promulgated pursuant~~ thereto on an annual basis.

1870 (i) The division shall annually provide each association
1871 with a summary of declaratory statements and formal legal
1872 opinions relating to the operations of condominiums which were
1873 rendered by the division during the previous year.

1874 (j) The division shall provide training programs for
1875 condominium association board members and unit owners.

1876 (k) The division shall maintain a toll-free telephone
1877 number accessible to condominium unit owners.

1878 (l) The division shall develop a program to certify both
1879 volunteer and paid mediators to provide mediation of condominium
1880 disputes. The division shall provide, upon request, a list of
1881 such mediators to any association, unit owner, or other
1882 participant in arbitration proceedings under s. 718.1255
1883 requesting a copy of the list. The division shall include on the
1884 list of volunteer mediators only the names of persons who have
1885 received at least 20 hours of training in mediation techniques
1886 or who have mediated at least 20 disputes. In order to become
1887 initially certified by the division, paid mediators must be
1888 certified by the Supreme Court to mediate court cases in ~~either~~
1889 county or circuit courts. However, the division may adopt, by
1890 rule, additional factors for the certification of paid
1891 mediators, which factors must be related to experience,
1892 education, or background. Any person initially certified as a
1893 paid mediator by the division must, in order to continue to be
1894 certified, comply with the factors or requirements imposed by
1895 rules adopted by the division.

023651

4/21/2008 3:15 PM

Amendment No.

1896 (m) When a complaint is made, the division shall conduct
1897 its inquiry with due regard to the interests of the affected
1898 parties. Within 30 days after receipt of a complaint, the
1899 division shall acknowledge the complaint in writing and notify
1900 the complainant whether the complaint is within the jurisdiction
1901 of the division and whether additional information is needed by
1902 the division from the complainant. The division shall conduct
1903 its investigation and shall, within 90 days after receipt of the
1904 original complaint or of timely requested additional
1905 information, take action upon the complaint. However, the
1906 failure to complete the investigation within 90 days does not
1907 prevent the division from continuing the investigation,
1908 accepting or considering evidence obtained or received after 90
1909 days, or taking administrative action if reasonable cause exists
1910 to believe that a violation of this chapter or a rule of the
1911 division has occurred. If an investigation is not completed
1912 within the time limits established in this paragraph, the
1913 division shall, on a monthly basis, notify the complainant in
1914 writing of the status of the investigation. When reporting its
1915 action to the complainant, the division shall inform the
1916 complainant of any right to a hearing pursuant to ss. 120.569
1917 and 120.57.

1918 (n) The division may:

1919 1. Contract with agencies in this state or other
1920 jurisdictions to perform investigative functions; or

1921 2. Accept grants-in-aid from any source.

1922 (o) The division shall cooperate with similar agencies in
1923 other jurisdictions to establish uniform filing procedures and

023651

4/21/2008 3:15 PM

Amendment No.

1924 forms, public offering statements, advertising standards, and
1925 rules and common administrative practices.

1926 (p) The division shall consider notice to a developer to
1927 be complete when it is delivered to the developer's address
1928 currently on file with the division.

1929 (q) In addition to its enforcement authority, the division
1930 may issue a notice to show cause, which shall provide for a
1931 hearing, upon written request, in accordance with chapter 120.

1932 (2) (a) Effective January 1, 1992, Each condominium
1933 association which operates more than two units shall pay to the
1934 division an annual fee in the amount of \$4 for each residential
1935 unit in condominiums operated by the association. If the fee is
1936 not paid by March 1, ~~then~~ the association shall be assessed a
1937 penalty of 10 percent of the amount due, and the association
1938 will not have standing to maintain or defend any action in the
1939 courts of this state until the amount due, plus any penalty, is
1940 paid.

1941 (b) All fees shall be deposited in the Division of Florida
1942 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust
1943 Fund as provided by law.

1944 Section 46. Subsection (1) of section 718.5011, Florida
1945 Statutes, is amended to read:

1946 718.5011 Ombudsman; appointment; administration.--

1947 (1) There is created an Office of the Condominium
1948 Ombudsman, to be located for administrative purposes within the
1949 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
1950 Mobile Homes. The functions of the office shall be funded by the
1951 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and

023651

4/21/2008 3:15 PM

Amendment No.

1952 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief
1953 of the division, and the office shall be set within the division
1954 in the same manner as any other bureau is staffed and funded.

1955 Section 47. Paragraph (a) of subsection (2) of section
1956 718.502, Florida Statutes, is amended to read:

1957 718.502 Filing prior to sale or lease.--

1958 (2)(a) Prior to filing as required by subsection (1), and
1959 prior to acquiring an ownership, leasehold, or contractual
1960 interest in the land upon which the condominium is to be
1961 developed, a developer shall not offer a contract for purchase
1962 of a unit or lease of a unit for more than 5 years. However, the
1963 developer may accept deposits for reservations upon the approval
1964 of a fully executed escrow agreement and reservation agreement
1965 form properly filed with the Division of Florida ~~Land Sales,~~
1966 Condominiums, Timeshares, and Mobile Homes. Each filing of a
1967 proposed reservation program shall be accompanied by a filing
1968 fee of \$250. Reservations shall not be taken on a proposed
1969 condominium unless the developer has an ownership, leasehold, or
1970 contractual interest in the land upon which the condominium is
1971 to be developed. The division shall notify the developer within
1972 20 days of receipt of the reservation filing of any deficiencies
1973 contained therein. Such notification shall not preclude the
1974 determination of reservation filing deficiencies at a later
1975 date, nor shall it relieve the developer of any responsibility
1976 under the law. The escrow agreement and the reservation
1977 agreement form shall include a statement of the right of the
1978 prospective purchaser to an immediate unqualified refund of the

023651

4/21/2008 3:15 PM

Amendment No.

1979 reservation deposit moneys upon written request to the escrow
1980 agent by the prospective purchaser or the developer.

1981 Section 48. Section 718.504, Florida Statutes, is amended
1982 to read:

1983 718.504 Prospectus or offering circular.--Every developer
1984 of a residential condominium which contains more than 20
1985 residential units, or which is part of a group of residential
1986 condominiums which will be served by property to be used in
1987 common by unit owners of more than 20 residential units, shall
1988 prepare a prospectus or offering circular and file it with the
1989 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
1990 Mobile Homes prior to entering into an enforceable contract of
1991 purchase and sale of any unit or lease of a unit for more than 5
1992 years and shall furnish a copy of the prospectus or offering
1993 circular to each buyer. In addition to the prospectus or
1994 offering circular, each buyer shall be furnished a separate page
1995 entitled "Frequently Asked Questions and Answers," which shall
1996 be in accordance with a format approved by the division and a
1997 copy of the financial information required by s. 718.111. This
1998 page shall, in readable language, inform prospective purchasers
1999 regarding their voting rights and unit use restrictions,
2000 including restrictions on the leasing of a unit; shall indicate
2001 whether and in what amount the unit owners or the association is
2002 obligated to pay rent or land use fees for recreational or other
2003 commonly used facilities; shall contain a statement identifying
2004 that amount of assessment which, pursuant to the budget, would
2005 be levied upon each unit type, exclusive of any special
2006 assessments, and which shall further identify the basis upon

023651

4/21/2008 3:15 PM

Amendment No.

2007 which assessments are levied, whether monthly, quarterly, or
2008 otherwise; shall state and identify any court cases in which the
2009 association is currently a party of record in which the
2010 association may face liability in excess of \$100,000; and which
2011 shall further state whether membership in a recreational
2012 facilities association is mandatory, and if so, shall identify
2013 the fees currently charged per unit type. The division shall by
2014 rule require such other disclosure as in its judgment will
2015 assist prospective purchasers. The prospectus or offering
2016 circular may include more than one condominium, although not all
2017 such units are being offered for sale as of the date of the
2018 prospectus or offering circular. The prospectus or offering
2019 circular must contain the following information:

2020 (1) The front cover or the first page must contain only:

2021 (a) The name of the condominium.

2022 (b) The following statements in conspicuous type:

2023 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
2024 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2025 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
2026 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
2027 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
2028 MATERIALS.

2029 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
2030 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
2031 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
2032 REPRESENTATIONS.

023651

4/21/2008 3:15 PM

Amendment No.

2033 (2) Summary: The next page must contain all statements
2034 required to be in conspicuous type in the prospectus or offering
2035 circular.

2036 (3) A separate index of the contents and exhibits of the
2037 prospectus.

2038 (4) Beginning on the first page of the text (not including
2039 the summary and index), a description of the condominium,
2040 including, but not limited to, the following information:

2041 (a) Its name and location.

2042 (b) A description of the condominium property, including,
2043 without limitation:

2044 1. The number of buildings, the number of units in each
2045 building, the number of bathrooms and bedrooms in each unit, and
2046 the total number of units, if the condominium is not a phase
2047 condominium, or the maximum number of buildings that may be
2048 contained within the condominium, the minimum and maximum
2049 numbers of units in each building, the minimum and maximum
2050 numbers of bathrooms and bedrooms that may be contained in each
2051 unit, and the maximum number of units that may be contained
2052 within the condominium, if the condominium is a phase
2053 condominium.

2054 2. The page in the condominium documents where a copy of
2055 the plot plan and survey of the condominium is located.

2056 3. The estimated latest date of completion of
2057 constructing, finishing, and equipping. In lieu of a date, the
2058 description shall include a statement that the estimated date of
2059 completion of the condominium is in the purchase agreement and a

023651

4/21/2008 3:15 PM

Amendment No.

2060 reference to the article or paragraph containing that
2061 information.

2062 (c) The maximum number of units that will use facilities
2063 in common with the condominium. If the maximum number of units
2064 will vary, a description of the basis for variation and the
2065 minimum amount of dollars per unit to be spent for additional
2066 recreational facilities or enlargement of such facilities. If
2067 the addition or enlargement of facilities will result in a
2068 material increase of a unit owner's maintenance expense or
2069 rental expense, if any, the maximum increase and limitations
2070 thereon shall be stated.

2071 (5) (a) A statement in conspicuous type describing whether
2072 the condominium is created and being sold as fee simple
2073 interests or as leasehold interests. If the condominium is
2074 created or being sold on a leasehold, the location of the lease
2075 in the disclosure materials shall be stated.

2076 (b) If timeshare estates are or may be created with
2077 respect to any unit in the condominium, a statement in
2078 conspicuous type stating that timeshare estates are created and
2079 being sold in units in the condominium.

2080 (6) A description of the recreational and other commonly
2081 used facilities that will be used only by unit owners of the
2082 condominium, including, but not limited to, the following:

2083 (a) Each room and its intended purposes, location,
2084 approximate floor area, and capacity in numbers of people.

2085 (b) Each swimming pool, as to its general location,
2086 approximate size and depths, approximate deck size and capacity,
2087 and whether heated.

023651

4/21/2008 3:15 PM

Amendment No.

2088 (c) Additional facilities, as to the number of each
2089 facility, its approximate location, approximate size, and
2090 approximate capacity.

2091 (d) A general description of the items of personal
2092 property and the approximate number of each item of personal
2093 property that the developer is committing to furnish for each
2094 room or other facility or, in the alternative, a representation
2095 as to the minimum amount of expenditure that will be made to
2096 purchase the personal property for the facility.

2097 (e) The estimated date when each room or other facility
2098 will be available for use by the unit owners.

2099 (f)1. An identification of each room or other facility to
2100 be used by unit owners that will not be owned by the unit owners
2101 or the association;

2102 2. A reference to the location in the disclosure materials
2103 of the lease or other agreements providing for the use of those
2104 facilities; and

2105 3. A description of the terms of the lease or other
2106 agreements, including the length of the term; the rent payable,
2107 directly or indirectly, by each unit owner, and the total rent
2108 payable to the lessor, stated in monthly and annual amounts for
2109 the entire term of the lease; and a description of any option to
2110 purchase the property leased under any such lease, including the
2111 time the option may be exercised, the purchase price or how it
2112 is to be determined, the manner of payment, and whether the
2113 option may be exercised for a unit owner's share or only as to
2114 the entire leased property.

023651

4/21/2008 3:15 PM

Amendment No.

2115 (g) A statement as to whether the developer may provide
2116 additional facilities not described above; their general
2117 locations and types; improvements or changes that may be made;
2118 the approximate dollar amount to be expended; and the maximum
2119 additional common expense or cost to the individual unit owners
2120 that may be charged during the first annual period of operation
2121 of the modified or added facilities.

2122
2123 Descriptions as to locations, areas, capacities, numbers,
2124 volumes, or sizes may be stated as approximations or minimums.

2125 (7) A description of the recreational and other facilities
2126 that will be used in common with other condominiums, community
2127 associations, or planned developments which require the payment
2128 of the maintenance and expenses of such facilities, ~~either~~
2129 directly or indirectly, by the unit owners. The description
2130 shall include, but not be limited to, the following:

2131 (a) Each building and facility committed to be built.

2132 (b) Facilities not committed to be built except under
2133 certain conditions, and a statement of those conditions or
2134 contingencies.

2135 (c) As to each facility committed to be built, or which
2136 will be committed to be built upon the happening of one of the
2137 conditions in paragraph (b), a statement of whether it will be
2138 owned by the unit owners having the use thereof or by an
2139 association or other entity which will be controlled by them, or
2140 others, and the location in the exhibits of the lease or other
2141 document providing for use of those facilities.

023651

4/21/2008 3:15 PM

Amendment No.

2142 (d) The year in which each facility will be available for
2143 use by the unit owners or, in the alternative, the maximum
2144 number of unit owners in the project at the time each of all of
2145 the facilities is committed to be completed.

2146 (e) A general description of the items of personal
2147 property, and the approximate number of each item of personal
2148 property, that the developer is committing to furnish for each
2149 room or other facility or, in the alternative, a representation
2150 as to the minimum amount of expenditure that will be made to
2151 purchase the personal property for the facility.

2152 (f) If there are leases, a description thereof, including
2153 the length of the term, the rent payable, and a description of
2154 any option to purchase.

2155
2156 Descriptions shall include location, areas, capacities, numbers,
2157 volumes, or sizes and may be stated as approximations or
2158 minimums.

2159 (8) Recreation lease or associated club membership:

2160 (a) If any recreational facilities or other facilities
2161 offered by the developer and available to, or to be used by,
2162 unit owners are to be leased or have club membership associated,
2163 the following statement in conspicuous type shall be included:
2164 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
2165 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
2166 CONDOMINIUM. There shall be a reference to the location in the
2167 disclosure materials where the recreation lease or club
2168 membership is described in detail.

023651

4/21/2008 3:15 PM

Amendment No.

2169 (b) If it is mandatory that unit owners pay a fee, rent,
2170 dues, or other charges under a recreational facilities lease or
2171 club membership for the use of facilities, there shall be in
2172 conspicuous type the applicable statement:

2173 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
2174 MANDATORY FOR UNIT OWNERS; or

2175 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
2176 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2177 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
2178 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
2179 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
2180 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2181 4. A similar statement of the nature of the organization
2182 or the manner in which the use rights are created, and that unit
2183 owners are required to pay.

2184
2185 Immediately following the applicable statement, the location in
2186 the disclosure materials where the development is described in
2187 detail shall be stated.

2188 (c) If the developer, or any other person other than the
2189 unit owners and other persons having use rights in the
2190 facilities, reserves, or is entitled to receive, any rent, fee,
2191 or other payment for the use of the facilities, then there shall
2192 be the following statement in conspicuous type: THE UNIT OWNERS
2193 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
2194 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately
2195 following this statement, the location in the disclosure

023651

4/21/2008 3:15 PM

Amendment No.

2196 materials where the rent or land use fees are described in
2197 detail shall be stated.

2198 (d) If, in any recreation format, whether leasehold, club,
2199 or other, any person other than the association has the right to
2200 a lien on the units to secure the payment of assessments, rent,
2201 or other exactions, there shall appear a statement in
2202 conspicuous type in substantially the following form:

2203 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2204 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
2205 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
2206 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2207 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
2208 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
2209 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
2210 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE
2211 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2212
2213 Immediately following the applicable statement, the location in
2214 the disclosure materials where the lien or lien right is
2215 described in detail shall be stated.

2216 (9) If the developer or any other person has the right to
2217 increase or add to the recreational facilities at any time after
2218 the establishment of the condominium whose unit owners have use
2219 rights therein, without the consent of the unit owners or
2220 associations being required, there shall appear a statement in
2221 conspicuous type in substantially the following form:

2222 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
2223 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this

023651

4/21/2008 3:15 PM

Amendment No.

2224 statement, the location in the disclosure materials where such
2225 reserved rights are described shall be stated.

2226 (10) A statement of whether the developer's plan includes
2227 a program of leasing units rather than selling them, or leasing
2228 units and selling them subject to such leases. If so, there
2229 shall be a description of the plan, including the number and
2230 identification of the units and the provisions and term of the
2231 proposed leases, and a statement in boldfaced type that: **THE**
2232 **UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

2233 (11) The arrangements for management of the association
2234 and maintenance and operation of the condominium property and of
2235 other property that will serve the unit owners of the
2236 condominium property, and a description of the management
2237 contract and all other contracts for these purposes having a
2238 term in excess of 1 year, including the following:

2239 (a) The names of contracting parties.

2240 (b) The term of the contract.

2241 (c) The nature of the services included.

2242 (d) The compensation, stated on a monthly and annual
2243 basis, and provisions for increases in the compensation.

2244 (e) A reference to the volumes and pages of the
2245 condominium documents and of the exhibits containing copies of
2246 such contracts.

2247
2248 Copies of all described contracts shall be attached as exhibits.
2249 If there is a contract for the management of the condominium
2250 property, then a statement in conspicuous type in substantially
2251 the following form shall appear, identifying the proposed or

023651

4/21/2008 3:15 PM

Amendment No.

2252 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
2253 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE
2254 CONTRACT MANAGER). Immediately following this statement, the
2255 location in the disclosure materials of the contract for
2256 management of the condominium property shall be stated.

2257 (12) If the developer or any other person or persons other
2258 than the unit owners has the right to retain control of the
2259 board of administration of the association for a period of time
2260 which can exceed 1 year after the closing of the sale of a
2261 majority of the units in that condominium to persons other than
2262 successors or alternate developers, then a statement in
2263 conspicuous type in substantially the following form shall be
2264 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
2265 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
2266 HAVE BEEN SOLD. Immediately following this statement, the
2267 location in the disclosure materials where this right to control
2268 is described in detail shall be stated.

2269 (13) If there are any restrictions upon the sale,
2270 transfer, conveyance, or leasing of a unit, then a statement in
2271 conspicuous type in substantially the following form shall be
2272 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
2273 CONTROLLED. Immediately following this statement, the location
2274 in the disclosure materials where the restriction, limitation,
2275 or control on the sale, lease, or transfer of units is described
2276 in detail shall be stated.

2277 (14) If the condominium is part of a phase project, the
2278 following information shall be stated:

023651

4/21/2008 3:15 PM

Amendment No.

2279 (a) A statement in conspicuous type in substantially the
2280 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
2281 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
2282 this statement, the location in the disclosure materials where
2283 the phasing is described shall be stated.

2284 (b) A summary of the provisions of the declaration which
2285 provide for the phasing.

2286 (c) A statement as to whether or not residential buildings
2287 and units which are added to the condominium may be
2288 substantially different from the residential buildings and units
2289 originally in the condominium. If the added residential
2290 buildings and units may be substantially different, there shall
2291 be a general description of the extent to which such added
2292 residential buildings and units may differ, and a statement in
2293 conspicuous type in substantially the following form shall be
2294 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM
2295 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
2296 UNITS IN THE CONDOMINIUM. Immediately following this statement,
2297 the location in the disclosure materials where the extent to
2298 which added residential buildings and units may substantially
2299 differ is described shall be stated.

2300 (d) A statement of the maximum number of buildings
2301 containing units, the maximum and minimum numbers of units in
2302 each building, the maximum number of units, and the minimum and
2303 maximum square footage of the units that may be contained within
2304 each parcel of land which may be added to the condominium.

023651

4/21/2008 3:15 PM

Amendment No.

2305 (15) If a condominium created on or after July 1, 2000, is
2306 or may become part of a multicondominium, the following
2307 information must be provided:

2308 (a) A statement in conspicuous type in substantially the
2309 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
2310 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
2311 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
2312 this statement, the location in the prospectus or offering
2313 circular and its exhibits where the multicondominium aspects of
2314 the offering are described must be stated.

2315 (b) A summary of the provisions in the declaration,
2316 articles of incorporation, and bylaws which establish and
2317 provide for the operation of the multicondominium, including a
2318 statement as to whether unit owners in the condominium will have
2319 the right to use recreational or other facilities located or
2320 planned to be located in other condominiums operated by the same
2321 association, and the manner of sharing the common expenses
2322 related to such facilities.

2323 (c) A statement of the minimum and maximum number of
2324 condominiums, and the minimum and maximum number of units in
2325 each of those condominiums, which will or may be operated by the
2326 association, and the latest date by which the exact number will
2327 be finally determined.

2328 (d) A statement as to whether any of the condominiums in
2329 the multicondominium may include units intended to be used for
2330 nonresidential purposes and the purpose or purposes permitted
2331 for such use.

023651

4/21/2008 3:15 PM

Amendment No.

2332 (e) A general description of the location and approximate
2333 acreage of any land on which any additional condominiums to be
2334 operated by the association may be located.

2335 (16) If the condominium is created by conversion of
2336 existing improvements, the following information shall be
2337 stated:

2338 (a) The information required by s. 718.616.

2339 (b) A caveat that there are no express warranties unless
2340 they are stated in writing by the developer.

2341 (17) A summary of the restrictions, if any, to be imposed
2342 on units concerning the use of any of the condominium property,
2343 including statements as to whether there are restrictions upon
2344 children and pets, and reference to the volumes and pages of the
2345 condominium documents where such restrictions are found, or if
2346 such restrictions are contained elsewhere, then a copy of the
2347 documents containing the restrictions shall be attached as an
2348 exhibit.

2349 (18) If there is any land that is offered by the developer
2350 for use by the unit owners and that is neither owned by them nor
2351 leased to them, the association, or any entity controlled by
2352 unit owners and other persons having the use rights to such
2353 land, a statement shall be made as to how such land will serve
2354 the condominium. If any part of such land will serve the
2355 condominium, the statement shall describe the land and the
2356 nature and term of service, and the declaration or other
2357 instrument creating such servitude shall be included as an
2358 exhibit.

023651

4/21/2008 3:15 PM

Amendment No.

2359 (19) The manner in which utility and other services,
2360 including, but not limited to, sewage and waste disposal, water
2361 supply, and storm drainage, will be provided and the person or
2362 entity furnishing them.

2363 (20) An explanation of the manner in which the
2364 apportionment of common expenses and ownership of the common
2365 elements has been determined.

2366 (21) An estimated operating budget for the condominium and
2367 the association, and a schedule of the unit owner's expenses
2368 shall be attached as an exhibit and shall contain the following
2369 information:

2370 (a) The estimated monthly and annual expenses of the
2371 condominium and the association that are collected from unit
2372 owners by assessments.

2373 (b) The estimated monthly and annual expenses of each unit
2374 owner for a unit, other than common expenses paid by all unit
2375 owners, payable by the unit owner to persons or entities other
2376 than the association, as well as to the association, including
2377 fees assessed pursuant to s. 718.113(1) for maintenance of
2378 limited common elements where such costs are shared only by
2379 those entitled to use the limited common element, and the total
2380 estimated monthly and annual expense. There may be excluded from
2381 this estimate expenses which are not provided for or
2382 contemplated by the condominium documents, including, but not
2383 limited to, the costs of private telephone; maintenance of the
2384 interior of condominium units, which is not the obligation of
2385 the association; maid or janitorial services privately
2386 contracted for by the unit owners; utility bills billed directly

023651

4/21/2008 3:15 PM

Amendment No.

2387 to each unit owner for utility services to his or her unit;
2388 insurance premiums other than those incurred for policies
2389 obtained by the condominium; and similar personal expenses of
2390 the unit owner. A unit owner's estimated payments for
2391 assessments shall also be stated in the estimated amounts for
2392 the times when they will be due.

2393 (c) The estimated items of expenses of the condominium and
2394 the association, except as excluded under paragraph (b),
2395 including, but not limited to, the following items, which shall
2396 be stated ~~either~~ as an association expense collectible by
2397 assessments or as unit owners' expenses payable to persons other
2398 than the association:

- 2399 1. Expenses for the association and condominium:
2400 a. Administration of the association.
2401 b. Management fees.
2402 c. Maintenance.
2403 d. Rent for recreational and other commonly used
2404 facilities.
2405 e. Taxes upon association property.
2406 f. Taxes upon leased areas.
2407 g. Insurance.
2408 h. Security provisions.
2409 i. Other expenses.
2410 j. Operating capital.
2411 k. Reserves.
2412 1. Fees payable to the division.
2413 2. Expenses for a unit owner:
2414 a. Rent for the unit, if subject to a lease.

023651

4/21/2008 3:15 PM

Amendment No.

2415 b. Rent payable by the unit owner directly to the lessor
2416 or agent under any recreational lease or lease for the use of
2417 commonly used facilities, which use and payment is a mandatory
2418 condition of ownership and is not included in the common expense
2419 or assessments for common maintenance paid by the unit owners to
2420 the association.

2421 (d) The following statement in conspicuous type: THE
2422 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
2423 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
2424 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
2425 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
2426 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
2427 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
2428 THE OFFERING.

2429 (e) Each budget for an association prepared by a developer
2430 consistent with this subsection shall be prepared in good faith
2431 and shall reflect accurate estimated amounts for the required
2432 items in paragraph (c) at the time of the filing of the offering
2433 circular with the division, and subsequent increased amounts of
2434 any item included in the association's estimated budget that are
2435 beyond the control of the developer shall not be considered an
2436 amendment that would give rise to rescission rights set forth in
2437 s. 718.503(1)(a) or (b), nor shall such increases modify, void,
2438 or otherwise affect any guarantee of the developer contained in
2439 the offering circular or any purchase contract. It is the intent
2440 of this paragraph to clarify existing law.

2441 (f) The estimated amounts shall be stated for a period of
2442 at least 12 months and may distinguish between the period prior
023651

4/21/2008 3:15 PM

Amendment No.

2443 to the time unit owners other than the developer elect a
2444 majority of the board of administration and the period after
2445 that date.

2446 (22) A schedule of estimated closing expenses to be paid
2447 by a buyer or lessee of a unit and a statement of whether title
2448 opinion or title insurance policy is available to the buyer and,
2449 if so, at whose expense.

2450 (23) The identity of the developer and the chief operating
2451 officer or principal directing the creation and sale of the
2452 condominium and a statement of its and his or her experience in
2453 this field.

2454 (24) Copies of the following, to the extent they are
2455 applicable, shall be included as exhibits:

2456 (a) The declaration of condominium, or the proposed
2457 declaration if the declaration has not been recorded.

2458 (b) The articles of incorporation creating the
2459 association.

2460 (c) The bylaws of the association.

2461 (d) The ground lease or other underlying lease of the
2462 condominium.

2463 (e) The management agreement and all maintenance and other
2464 contracts for management of the association and operation of the
2465 condominium and facilities used by the unit owners having a
2466 service term in excess of 1 year.

2467 (f) The estimated operating budget for the condominium and
2468 the required schedule of unit owners' expenses.

023651

4/21/2008 3:15 PM

Amendment No.

2469 (g) A copy of the floor plan of the unit and the plot plan
2470 showing the location of the residential buildings and the
2471 recreation and other common areas.

2472 (h) The lease of recreational and other facilities that
2473 will be used only by unit owners of the subject condominium.

2474 (i) The lease of facilities used by owners and others.

2475 (j) The form of unit lease, if the offer is of a
2476 leasehold.

2477 (k) A declaration of servitude of properties serving the
2478 condominium but not owned by unit owners or leased to them or
2479 the association.

2480 (l) The statement of condition of the existing building or
2481 buildings, if the offering is of units in an operation being
2482 converted to condominium ownership.

2483 (m) The statement of inspection for termite damage and
2484 treatment of the existing improvements, if the condominium is a
2485 conversion.

2486 (n) The form of agreement for sale or lease of units.

2487 (o) A copy of the agreement for escrow of payments made to
2488 the developer prior to closing.

2489 (p) A copy of the documents containing any restrictions on
2490 use of the property required by subsection (17).

2491 (25) Any prospectus or offering circular complying, prior
2492 to the effective date of this act, with the provisions of former
2493 ss. 711.69 and 711.802 may continue to be used without amendment
2494 or may be amended to comply with ~~the provisions of~~ this chapter.

2495 (26) A brief narrative description of the location and
2496 effect of all existing and intended easements located or to be

023651

4/21/2008 3:15 PM

Amendment No.

2497 located on the condominium property other than those described
2498 in the declaration.

2499 (27) If the developer is required by state or local
2500 authorities to obtain acceptance or approval of any dock or
2501 marina facilities intended to serve the condominium, a copy of
2502 any such acceptance or approval acquired by the time of filing
2503 with the division under s. 718.502(1) or a statement that such
2504 acceptance or approval has not been acquired or received.

2505 (28) Evidence demonstrating that the developer has an
2506 ownership, leasehold, or contractual interest in the land upon
2507 which the condominium is to be developed.

2508 Section 49. Section 718.508, Florida Statutes, is amended
2509 to read:

2510 718.508 Regulation by Division of Hotels and
2511 Restaurants.--In addition to the authority, regulation, or
2512 control exercised by the Division of Florida ~~Land Sales,~~
2513 Condominiums, Timeshares, and Mobile Homes pursuant to this act
2514 with respect to condominiums, buildings included in a
2515 condominium property are ~~shall be~~ subject to the authority,
2516 regulation, or control of the Division of Hotels and Restaurants
2517 of the Department of Business and Professional Regulation, to
2518 the extent provided ~~for~~ in chapter 399.

2519 Section 50. Section 718.509, Florida Statutes, is amended,
2520 and section 498.019, Florida Statutes, is transferred,
2521 renumbered as subsections (1) and (2) of that section, and
2522 amended to read:

2523 718.509 Division of Florida ~~Land Sales,~~ Condominiums,
2524 Timeshares, and Mobile Homes Trust Fund.--~~All funds collected by~~
023651

4/21/2008 3:15 PM

Amendment No.

2525 ~~the division and any amount paid for a fee or penalty under this~~
2526 ~~chapter shall be deposited in the State Treasury to the credit~~
2527 ~~of the Division of Florida Land Sales, Condominiums, and Mobile~~
2528 ~~Homes Trust Fund created by s. 498.019.~~

2529 ~~498.019 Division of Florida Land Sales, Condominiums, and~~
2530 ~~Mobile Homes Trust Fund.~~

2531 (1) There is created within the State Treasury the
2532 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
2533 Mobile Homes Trust Fund to be used for the administration and
2534 operation of this chapter and chapters 718, 719, 721, and 723 by
2535 the division.

2536 (2) All moneys collected by the division from fees, fines,
2537 or penalties or from costs awarded to the division by a court or
2538 administrative final order shall be paid into the Division of
2539 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes
2540 Trust Fund. The Legislature shall appropriate funds from this
2541 trust fund sufficient to carry out the provisions of this
2542 chapter and the provisions of law with respect to each category
2543 of business covered by the ~~this~~ trust fund. The division shall
2544 maintain separate revenue accounts in the trust fund for each of
2545 the businesses regulated by the division. The division shall
2546 provide for the proportionate allocation among the accounts of
2547 expenses incurred by the division in the performance of its
2548 duties with respect to each of these businesses. As part of its
2549 normal budgetary process, the division shall prepare an annual
2550 report of revenue and allocated expenses related to the
2551 operation of each of these businesses which may be used to

023651

4/21/2008 3:15 PM

Amendment No.

2552 determine fees charged by the division. This subsection shall
2553 operate pursuant to the provisions of s. 215.20.

2554 Section 51. Paragraph (a) of subsection (2) of section
2555 718.608, Florida Statutes, is amended to read:

2556 718.608 Notice of intended conversion; time of delivery;
2557 content.--

2558 (2)(a) Each notice of intended conversion shall be dated
2559 and in writing. The notice shall contain the following
2560 statement, with the phrases of the following statement which
2561 appear in upper case printed in conspicuous type:

2562
2563 These apartments are being converted to condominium by
2564 (name of developer) , the developer.

2565 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
2566 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
2567 AGREEMENT AS FOLLOWS:

2568 a. If you have continuously been a resident of these
2569 apartments during the last 180 days and your rental agreement
2570 expires during the next 270 days, you may extend your rental
2571 agreement for up to 270 days after the date of this notice.

2572 b. If you have not been a continuous resident of these
2573 apartments for the last 180 days and your rental agreement
2574 expires during the next 180 days, you may extend your rental
2575 agreement for up to 180 days after the date of this notice.

2576 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
2577 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
2578 DATE OF THIS NOTICE.

023651

4/21/2008 3:15 PM

Amendment No.

2579 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
2580 you may extend your rental agreement for up to 45 days after the
2581 date of this notice while you decide whether to extend your
2582 rental agreement as explained above. To do so, you must notify
2583 the developer in writing. You will then have the full 45 days to
2584 decide whether to extend your rental agreement as explained
2585 above.

2586 3. During the extension of your rental agreement you will
2587 be charged the same rent that you are now paying.

2588 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
2589 OF THE RENTAL AGREEMENT AS FOLLOWS:

2590 a. If your rental agreement began or was extended or
2591 renewed after May 1, 1980, and your rental agreement, including
2592 extensions and renewals, has an unexpired term of 180 days or
2593 less, you may cancel your rental agreement upon 30 days' written
2594 notice and move. Also, upon 30 days' written notice, you may
2595 cancel any extension of the rental agreement.

2596 b. If your rental agreement was not begun or was not
2597 extended or renewed after May 1, 1980, you may not cancel the
2598 rental agreement without the consent of the developer. If your
2599 rental agreement, including extensions and renewals, has an
2600 unexpired term of 180 days or less, you may, however, upon 30
2601 days' written notice cancel any extension of the rental
2602 agreement.

2603 5. All notices must be given in writing and sent by mail,
2604 return receipt requested, or delivered in person to the
2605 developer at this address: (name and address of developer) .

023651

4/21/2008 3:15 PM

Amendment No.

2606 6. If you have continuously been a resident of these
2607 apartments during the last 180 days:

2608 a. You have the right to purchase your apartment and will
2609 have 45 days to decide whether to purchase. If you do not buy
2610 the unit at that price and the unit is later offered at a lower
2611 price, you will have the opportunity to buy the unit at the
2612 lower price. However, in all events your right to purchase the
2613 unit ends when the rental agreement or any extension of the
2614 rental agreement ends or when you waive this right in writing.

2615 b. Within 90 days you will be provided purchase
2616 information relating to your apartment, including the price of
2617 your unit and the condition of the building. If you do not
2618 receive this information within 90 days, your rental agreement
2619 and any extension will be extended 1 day for each day over 90
2620 days until you are given the purchase information. If you do not
2621 want this rental agreement extension, you must notify the
2622 developer in writing.

2623 7. If you have any questions regarding this conversion or
2624 the Condominium Act, you may contact the developer or the state
2625 agency which regulates condominiums: The Division of Florida
2626 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,
2627 (Tallahassee address and telephone number of division) .

2628 Section 52. Subsection (17) of section 719.103, Florida
2629 Statutes, is amended to read:

2630 719.103 Definitions.--As used in this chapter:

2631 (17) "Division" means the Division of Florida ~~Land Sales~~,
2632 Condominiums, Timeshares, and Mobile Homes of the Department of
2633 Business and Professional Regulation.

023651

4/21/2008 3:15 PM

Amendment No.

2634 Section 53. Section 719.1255, Florida Statutes, is amended
2635 to read:

2636 719.1255 Alternative resolution of disputes.--The Division
2637 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile
2638 Homes of the Department of Business and Professional Regulation
2639 shall provide for alternative dispute resolution in accordance
2640 with s. 718.1255.

2641 Section 54. Section 719.501, Florida Statutes, is amended
2642 to read:

2643 719.501 Powers and duties of Division of Florida ~~Land~~
2644 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

2645 (1) The Division of Florida ~~Land Sales~~, Condominiums,
2646 Timeshares, and Mobile Homes of the Department of Business and
2647 Professional Regulation, referred to as the "division" in this
2648 part, in addition to other powers and duties prescribed by
2649 chapter 718 498, has the power to enforce and ensure compliance
2650 with ~~the provisions of~~ this chapter and adopted rules
2651 ~~promulgated pursuant hereto~~ relating to the development,
2652 construction, sale, lease, ownership, operation, and management
2653 of residential cooperative units. In performing its duties, the
2654 division shall have the following powers and duties:

2655 (a) The division may make necessary public or private
2656 investigations within or outside this state to determine whether
2657 any person has violated this chapter or any rule or order
2658 hereunder, to aid in the enforcement of this chapter, or to aid
2659 in the adoption of rules or forms hereunder.

2660 (b) The division may require or permit any person to file
2661 a statement in writing, under oath or otherwise, as the division

023651

4/21/2008 3:15 PM

Amendment No.

2662 determines, as to the facts and circumstances concerning a
2663 matter to be investigated.

2664 (c) For the purpose of any investigation under this
2665 chapter, the division director or any officer or employee
2666 designated by the division director may administer oaths or
2667 affirmations, subpoena witnesses and compel their attendance,
2668 take evidence, and require the production of any matter which is
2669 relevant to the investigation, including the existence,
2670 description, nature, custody, condition, and location of any
2671 books, documents, or other tangible things and the identity and
2672 location of persons having knowledge of relevant facts or any
2673 other matter reasonably calculated to lead to the discovery of
2674 material evidence. Upon failure by a person to obey a subpoena
2675 or to answer questions propounded by the investigating officer
2676 and upon reasonable notice to all persons affected thereby, the
2677 division may apply to the circuit court for an order compelling
2678 compliance.

2679 (d) Notwithstanding any remedies available to unit owners
2680 and associations, if the division has reasonable cause to
2681 believe that a violation of any provision of this chapter or
2682 related rule ~~promulgated pursuant hereto~~ has occurred, the
2683 division may institute enforcement proceedings in its own name
2684 against a developer, association, officer, or member of the
2685 board, or its assignees or agents, as follows:

2686 1. The division may permit a person whose conduct or
2687 actions may be under investigation to waive formal proceedings
2688 and enter into a consent proceeding whereby orders, rules, or

023651

4/21/2008 3:15 PM

Amendment No.

2689 letters of censure or warning, whether formal or informal, may
2690 be entered against the person.

2691 2. The division may issue an order requiring the
2692 developer, association, officer, or member of the board, or its
2693 assignees or agents, to cease and desist from the unlawful
2694 practice and take such affirmative action as in the judgment of
2695 the division will carry out the purposes of this chapter. Such
2696 affirmative action may include, but is not limited to, an order
2697 requiring a developer to pay moneys determined to be owed to a
2698 condominium association.

2699 3. The division may bring an action in circuit court on
2700 behalf of a class of unit owners, lessees, or purchasers for
2701 declaratory relief, injunctive relief, or restitution.

2702 4. The division may impose a civil penalty against a
2703 developer or association, or its assignees or agents, for any
2704 violation of this chapter or related a rule ~~promulgated pursuant~~
2705 ~~hereto~~. The division may impose a civil penalty individually
2706 against any officer or board member who willfully and knowingly
2707 violates a provision of this chapter, a rule adopted pursuant to
2708 this chapter, or a final order of the division. The term
2709 "willfully and knowingly" means that the division informed the
2710 officer or board member that his or her action or intended
2711 action violates this chapter, a rule adopted under this chapter,
2712 or a final order of the division, and that the officer or board
2713 member refused to comply with the requirements of this chapter,
2714 a rule adopted under this chapter, or a final order of the
2715 division. The division, prior to initiating formal agency action
2716 under chapter 120, shall afford the officer or board member an

023651

4/21/2008 3:15 PM

Amendment No.

2717 opportunity to voluntarily comply with this chapter, a rule
2718 adopted under this chapter, or a final order of the division. An
2719 officer or board member who complies within 10 days is not
2720 subject to a civil penalty. A penalty may be imposed on the
2721 basis of each day of continuing violation, but in no event shall
2722 the penalty for any offense exceed \$5,000. By January 1, 1998,
2723 the division shall adopt, by rule, penalty guidelines applicable
2724 to possible violations or to categories of violations of this
2725 chapter or rules adopted by the division. The guidelines must
2726 specify a meaningful range of civil penalties for each such
2727 violation of the statute and rules and must be based upon the
2728 harm caused by the violation, the repetition of the violation,
2729 and upon such other factors deemed relevant by the division. For
2730 example, the division may consider whether the violations were
2731 committed by a developer or owner-controlled association, the
2732 size of the association, and other factors. The guidelines must
2733 designate the possible mitigating or aggravating circumstances
2734 that justify a departure from the range of penalties provided by
2735 the rules. It is the legislative intent that minor violations be
2736 distinguished from those which endanger the health, safety, or
2737 welfare of the cooperative residents or other persons and that
2738 such guidelines provide reasonable and meaningful notice to the
2739 public of likely penalties that may be imposed for proscribed
2740 conduct. This subsection does not limit the ability of the
2741 division to informally dispose of administrative actions or
2742 complaints by stipulation, agreed settlement, or consent order.
2743 All amounts collected shall be deposited with the Chief
2744 Financial Officer to the credit of the Division of Florida Land

023651

4/21/2008 3:15 PM

Amendment No.

2745 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If
2746 a developer fails to pay the civil penalty, the division shall
2747 thereupon issue an order directing that such developer cease and
2748 desist from further operation until such time as the civil
2749 penalty is paid or may pursue enforcement of the penalty in a
2750 court of competent jurisdiction. If an association fails to pay
2751 the civil penalty, the division shall thereupon pursue
2752 enforcement in a court of competent jurisdiction, and the order
2753 imposing the civil penalty or the cease and desist order shall
2754 not become effective until 20 days after the date of such order.
2755 Any action commenced by the division shall be brought in the
2756 county in which the division has its executive offices or in the
2757 county where the violation occurred.

2758 (e) The division may ~~is authorized to~~ prepare and
2759 disseminate a prospectus and other information to assist
2760 prospective owners, purchasers, lessees, and developers of
2761 residential cooperatives in assessing the rights, privileges,
2762 and duties pertaining thereto.

2763 (f) The division has authority to adopt rules pursuant to
2764 ss. 120.536(1) and 120.54 to implement and enforce the
2765 provisions of this chapter.

2766 (g) The division shall establish procedures for providing
2767 notice to an association when the division is considering the
2768 issuance of a declaratory statement with respect to the
2769 cooperative documents governing such cooperative community.

2770 (h) The division shall furnish each association which pays
2771 the fees required by paragraph (2)(a) a copy of this act,
2772 subsequent changes to this act on an annual basis, an amended

023651

4/21/2008 3:15 PM

Amendment No.

2773 version of this act as it becomes available from the Secretary
2774 of State's office on a biennial basis, and the rules adopted
2775 ~~promulgated pursuant~~ thereto on an annual basis.

2776 (i) The division shall annually provide each association
2777 with a summary of declaratory statements and formal legal
2778 opinions relating to the operations of cooperatives which were
2779 rendered by the division during the previous year.

2780 (j) The division shall adopt uniform accounting
2781 principles, policies, and standards to be used by all
2782 associations in the preparation and presentation of all
2783 financial statements required by this chapter. The principles,
2784 policies, and standards shall take into consideration the size
2785 of the association and the total revenue collected by the
2786 association.

2787 (k) The division shall provide training programs for
2788 cooperative association board members and unit owners.

2789 (l) The division shall maintain a toll-free telephone
2790 number accessible to cooperative unit owners.

2791 (m) When a complaint is made to the division, the division
2792 shall conduct its inquiry with reasonable dispatch and with due
2793 regard to the interests of the affected parties. Within 30 days
2794 after receipt of a complaint, the division shall acknowledge the
2795 complaint in writing and notify the complainant whether the
2796 complaint is within the jurisdiction of the division and whether
2797 additional information is needed by the division from the
2798 complainant. The division shall conduct its investigation and
2799 shall, within 90 days after receipt of the original complaint or
2800 timely requested additional information, take action upon the

023651

4/21/2008 3:15 PM

Amendment No.

2801 complaint. However, the failure to complete the investigation
2802 within 90 days does not prevent the division from continuing the
2803 investigation, accepting or considering evidence obtained or
2804 received after 90 days, or taking administrative action if
2805 reasonable cause exists to believe that a violation of this
2806 chapter or a rule of the division has occurred. If an
2807 investigation is not completed within the time limits
2808 established in this paragraph, the division shall, on a monthly
2809 basis, notify the complainant in writing of the status of the
2810 investigation. When reporting its action to the complainant, the
2811 division shall inform the complainant of any right to a hearing
2812 pursuant to ss. 120.569 and 120.57.

2813 (n) The division shall develop a program to certify both
2814 volunteer and paid mediators to provide mediation of cooperative
2815 disputes. The division shall provide, upon request, a list of
2816 such mediators to any association, unit owner, or other
2817 participant in arbitration proceedings under s. 718.1255
2818 requesting a copy of the list. The division shall include on the
2819 list of voluntary mediators only persons who have received at
2820 least 20 hours of training in mediation techniques or have
2821 mediated at least 20 disputes. In order to become initially
2822 certified by the division, paid mediators must be certified by
2823 the Supreme Court to mediate court cases in ~~either~~ county or
2824 circuit courts. However, the division may adopt, by rule,
2825 additional factors for the certification of paid mediators,
2826 which factors must be related to experience, education, or
2827 background. Any person initially certified as a paid mediator by
2828 the division must, in order to continue to be certified, comply

023651

4/21/2008 3:15 PM

Amendment No.

2829 with the factors or requirements imposed by rules adopted by the
2830 division.

2831 (2) (a) Each cooperative association shall pay to the
2832 division, on or before January 1 of each year, an annual fee in
2833 the amount of \$4 for each residential unit in cooperatives
2834 operated by the association. If the fee is not paid by March 1,
2835 then the association shall be assessed a penalty of 10 percent
2836 of the amount due, and the association shall not have the
2837 standing to maintain or defend any action in the courts of this
2838 state until the amount due is paid.

2839 (b) All fees shall be deposited in the Division of Florida
2840 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust
2841 Fund as provided by law.

2842 Section 55. Paragraph (a) of subsection (2) of section
2843 719.502, Florida Statutes, is amended to read:

2844 719.502 Filing prior to sale or lease.--

2845 (2) (a) Prior to filing as required by subsection (1), and
2846 prior to acquiring an ownership, leasehold, or contractual
2847 interest in the land upon which the cooperative is to be
2848 developed, a developer shall not offer a contract for purchase
2849 or lease of a unit for more than 5 years. However, the developer
2850 may accept deposits for reservations upon the approval of a
2851 fully executed escrow agreement and reservation agreement form
2852 properly filed with the Division of Florida ~~Land Sales,~~
2853 Condominiums, Timeshares, and Mobile Homes. Each filing of a
2854 proposed reservation program shall be accompanied by a filing
2855 fee of \$250. Reservations shall not be taken on a proposed
2856 cooperative unless the developer has an ownership, leasehold, or

023651

4/21/2008 3:15 PM

Amendment No.

2857 contractual interest in the land upon which the cooperative is
2858 to be developed. The division shall notify the developer within
2859 20 days of receipt of the reservation filing of any deficiencies
2860 contained therein. Such notification shall not preclude the
2861 determination of reservation filing deficiencies at a later
2862 date, nor shall it relieve the developer of any responsibility
2863 under the law. The escrow agreement and the reservation
2864 agreement form shall include a statement of the right of the
2865 prospective purchaser to an immediate unqualified refund of the
2866 reservation deposit moneys upon written request to the escrow
2867 agent by the prospective purchaser or the developer.

2868 Section 56. Section 719.504, Florida Statutes, is amended
2869 to read:

2870 719.504 Prospectus or offering circular.--Every developer
2871 of a residential cooperative which contains more than 20
2872 residential units, or which is part of a group of residential
2873 cooperatives which will be served by property to be used in
2874 common by unit owners of more than 20 residential units, shall
2875 prepare a prospectus or offering circular and file it with the
2876 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
2877 Mobile Homes prior to entering into an enforceable contract of
2878 purchase and sale of any unit or lease of a unit for more than 5
2879 years and shall furnish a copy of the prospectus or offering
2880 circular to each buyer. In addition to the prospectus or
2881 offering circular, each buyer shall be furnished a separate page
2882 entitled "Frequently Asked Questions and Answers," which must be
2883 in accordance with a format approved by the division. This page
2884 must, in readable language: inform prospective purchasers

023651

4/21/2008 3:15 PM

Amendment No.

2885 regarding their voting rights and unit use restrictions,
2886 including restrictions on the leasing of a unit; indicate
2887 whether and in what amount the unit owners or the association is
2888 obligated to pay rent or land use fees for recreational or other
2889 commonly used facilities; contain a statement identifying that
2890 amount of assessment which, pursuant to the budget, would be
2891 levied upon each unit type, exclusive of any special
2892 assessments, and which identifies the basis upon which
2893 assessments are levied, whether monthly, quarterly, or
2894 otherwise; state and identify any court cases in which the
2895 association is currently a party of record in which the
2896 association may face liability in excess of \$100,000; and state
2897 whether membership in a recreational facilities association is
2898 mandatory and, if so, identify the fees currently charged per
2899 unit type. The division shall by rule require such other
2900 disclosure as in its judgment will assist prospective
2901 purchasers. The prospectus or offering circular may include more
2902 than one cooperative, although not all such units are being
2903 offered for sale as of the date of the prospectus or offering
2904 circular. The prospectus or offering circular must contain the
2905 following information:

2906 (1) The front cover or the first page must contain only:

2907 (a) The name of the cooperative.

2908 (b) The following statements in conspicuous type:

2909 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
2910 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2911 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
2912 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
023651

4/21/2008 3:15 PM

Amendment No.

2913 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
2914 MATERIALS.

2915 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
2916 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
2917 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
2918 REPRESENTATIONS.

2919 (2) Summary: The next page must contain all statements
2920 required to be in conspicuous type in the prospectus or offering
2921 circular.

2922 (3) A separate index of the contents and exhibits of the
2923 prospectus.

2924 (4) Beginning on the first page of the text (not including
2925 the summary and index), a description of the cooperative,
2926 including, but not limited to, the following information:

2927 (a) Its name and location.

2928 (b) A description of the cooperative property, including,
2929 without limitation:

2930 1. The number of buildings, the number of units in each
2931 building, the number of bathrooms and bedrooms in each unit, and
2932 the total number of units, if the cooperative is not a phase
2933 cooperative; or, if the cooperative is a phase cooperative, the
2934 maximum number of buildings that may be contained within the
2935 cooperative, the minimum and maximum number of units in each
2936 building, the minimum and maximum number of bathrooms and
2937 bedrooms that may be contained in each unit, and the maximum
2938 number of units that may be contained within the cooperative.

2939 2. The page in the cooperative documents where a copy of
2940 the survey and plot plan of the cooperative is located.

023651

4/21/2008 3:15 PM

Amendment No.

2941 3. The estimated latest date of completion of
2942 constructing, finishing, and equipping. In lieu of a date, a
2943 statement that the estimated date of completion of the
2944 cooperative is in the purchase agreement and a reference to the
2945 article or paragraph containing that information.

2946 (c) The maximum number of units that will use facilities
2947 in common with the cooperative. If the maximum number of units
2948 will vary, a description of the basis for variation and the
2949 minimum amount of dollars per unit to be spent for additional
2950 recreational facilities or enlargement of such facilities. If
2951 the addition or enlargement of facilities will result in a
2952 material increase of a unit owner's maintenance expense or
2953 rental expense, if any, the maximum increase and limitations
2954 thereon shall be stated.

2955 (5) (a) A statement in conspicuous type describing whether
2956 the cooperative is created and being sold as fee simple
2957 interests or as leasehold interests. If the cooperative is
2958 created or being sold on a leasehold, the location of the lease
2959 in the disclosure materials shall be stated.

2960 (b) If timeshare estates are or may be created with
2961 respect to any unit in the cooperative, a statement in
2962 conspicuous type stating that timeshare estates are created and
2963 being sold in such specified units in the cooperative.

2964 (6) A description of the recreational and other common
2965 areas that will be used only by unit owners of the cooperative,
2966 including, but not limited to, the following:

2967 (a) Each room and its intended purposes, location,
2968 approximate floor area, and capacity in numbers of people.

023651

4/21/2008 3:15 PM

Amendment No.

2969 (b) Each swimming pool, as to its general location,
2970 approximate size and depths, approximate deck size and capacity,
2971 and whether heated.

2972 (c) Additional facilities, as to the number of each
2973 facility, its approximate location, approximate size, and
2974 approximate capacity.

2975 (d) A general description of the items of personal
2976 property and the approximate number of each item of personal
2977 property that the developer is committing to furnish for each
2978 room or other facility or, in the alternative, a representation
2979 as to the minimum amount of expenditure that will be made to
2980 purchase the personal property for the facility.

2981 (e) The estimated date when each room or other facility
2982 will be available for use by the unit owners.

2983 (f)1. An identification of each room or other facility to
2984 be used by unit owners that will not be owned by the unit owners
2985 or the association;

2986 2. A reference to the location in the disclosure materials
2987 of the lease or other agreements providing for the use of those
2988 facilities; and

2989 3. A description of the terms of the lease or other
2990 agreements, including the length of the term; the rent payable,
2991 directly or indirectly, by each unit owner, and the total rent
2992 payable to the lessor, stated in monthly and annual amounts for
2993 the entire term of the lease; and a description of any option to
2994 purchase the property leased under any such lease, including the
2995 time the option may be exercised, the purchase price or how it
2996 is to be determined, the manner of payment, and whether the

023651

4/21/2008 3:15 PM

Amendment No.

2997 option may be exercised for a unit owner's share or only as to
2998 the entire leased property.

2999 (g) A statement as to whether the developer may provide
3000 additional facilities not described above, their general
3001 locations and types, improvements or changes that may be made,
3002 the approximate dollar amount to be expended, and the maximum
3003 additional common expense or cost to the individual unit owners
3004 that may be charged during the first annual period of operation
3005 of the modified or added facilities.

3006
3007 Descriptions as to locations, areas, capacities, numbers,
3008 volumes, or sizes may be stated as approximations or minimums.

3009 (7) A description of the recreational and other facilities
3010 that will be used in common with other cooperatives, community
3011 associations, or planned developments which require the payment
3012 of the maintenance and expenses of such facilities, ~~either~~
3013 directly or indirectly, by the unit owners. The description
3014 shall include, but not be limited to, the following:

3015 (a) Each building and facility committed to be built.

3016 (b) Facilities not committed to be built except under
3017 certain conditions, and a statement of those conditions or
3018 contingencies.

3019 (c) As to each facility committed to be built, or which
3020 will be committed to be built upon the happening of one of the
3021 conditions in paragraph (b), a statement of whether it will be
3022 owned by the unit owners having the use thereof or by an
3023 association or other entity which will be controlled by them, or

023651

4/21/2008 3:15 PM

Amendment No.

3024 others, and the location in the exhibits of the lease or other
3025 document providing for use of those facilities.

3026 (d) The year in which each facility will be available for
3027 use by the unit owners or, in the alternative, the maximum
3028 number of unit owners in the project at the time each of all of
3029 the facilities is committed to be completed.

3030 (e) A general description of the items of personal
3031 property, and the approximate number of each item of personal
3032 property, that the developer is committing to furnish for each
3033 room or other facility or, in the alternative, a representation
3034 as to the minimum amount of expenditure that will be made to
3035 purchase the personal property for the facility.

3036 (f) If there are leases, a description thereof, including
3037 the length of the term, the rent payable, and a description of
3038 any option to purchase.

3039
3040 Descriptions shall include location, areas, capacities, numbers,
3041 volumes, or sizes and may be stated as approximations or
3042 minimums.

3043 (8) Recreation lease or associated club membership:

3044 (a) If any recreational facilities or other common areas
3045 offered by the developer and available to, or to be used by,
3046 unit owners are to be leased or have club membership associated,
3047 the following statement in conspicuous type shall be included:
3048 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
3049 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
3050 COOPERATIVE. There shall be a reference to the location in the

023651

4/21/2008 3:15 PM

Amendment No.

3051 disclosure materials where the recreation lease or club
3052 membership is described in detail.

3053 (b) If it is mandatory that unit owners pay a fee, rent,
3054 dues, or other charges under a recreational facilities lease or
3055 club membership for the use of facilities, there shall be in
3056 conspicuous type the applicable statement:

3057 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
3058 MANDATORY FOR UNIT OWNERS; or

3059 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
3060 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3061 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
3062 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
3063 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
3064 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

3065 4. A similar statement of the nature of the organization
3066 or manner in which the use rights are created, and that unit
3067 owners are required to pay.

3068
3069 Immediately following the applicable statement, the location in
3070 the disclosure materials where the development is described in
3071 detail shall be stated.

3072 (c) If the developer, or any other person other than the
3073 unit owners and other persons having use rights in the
3074 facilities, reserves, or is entitled to receive, any rent, fee,
3075 or other payment for the use of the facilities, then there shall
3076 be the following statement in conspicuous type: THE UNIT OWNERS
3077 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
3078 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this

023651

4/21/2008 3:15 PM

Amendment No.

3079 statement, the location in the disclosure materials where the
3080 rent or land use fees are described in detail shall be stated.

3081 (d) If, in any recreation format, whether leasehold, club,
3082 or other, any person other than the association has the right to
3083 a lien on the units to secure the payment of assessments, rent,
3084 or other exactions, there shall appear a statement in
3085 conspicuous type in substantially the following form:

3086 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
3087 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
3088 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
3089 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

3090 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
3091 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
3092 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
3093 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE
3094 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

3095
3096 Immediately following the applicable statement, the location in
3097 the disclosure materials where the lien or lien right is
3098 described in detail shall be stated.

3099 (9) If the developer or any other person has the right to
3100 increase or add to the recreational facilities at any time after
3101 the establishment of the cooperative whose unit owners have use
3102 rights therein, without the consent of the unit owners or
3103 associations being required, there shall appear a statement in
3104 conspicuous type in substantially the following form:

3105 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
3106 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this

023651

4/21/2008 3:15 PM

Amendment No.

3107 statement, the location in the disclosure materials where such
3108 reserved rights are described shall be stated.

3109 (10) A statement of whether the developer's plan includes
3110 a program of leasing units rather than selling them, or leasing
3111 units and selling them subject to such leases. If so, there
3112 shall be a description of the plan, including the number and
3113 identification of the units and the provisions and term of the
3114 proposed leases, and a statement in boldfaced type that: **THE**
3115 **UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

3116 (11) The arrangements for management of the association
3117 and maintenance and operation of the cooperative property and of
3118 other property that will serve the unit owners of the
3119 cooperative property, and a description of the management
3120 contract and all other contracts for these purposes having a
3121 term in excess of 1 year, including the following:

3122 (a) The names of contracting parties.

3123 (b) The term of the contract.

3124 (c) The nature of the services included.

3125 (d) The compensation, stated on a monthly and annual
3126 basis, and provisions for increases in the compensation.

3127 (e) A reference to the volumes and pages of the
3128 cooperative documents and of the exhibits containing copies of
3129 such contracts.

3130
3131 Copies of all described contracts shall be attached as exhibits.

3132 If there is a contract for the management of the cooperative
3133 property, then a statement in conspicuous type in substantially
3134 the following form shall appear, identifying the proposed or

023651

4/21/2008 3:15 PM

Amendment No.

3135 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
3136 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE
3137 CONTRACT MANAGER). Immediately following this statement, the
3138 location in the disclosure materials of the contract for
3139 management of the cooperative property shall be stated.

3140 (12) If the developer or any other person or persons other
3141 than the unit owners has the right to retain control of the
3142 board of administration of the association for a period of time
3143 which can exceed 1 year after the closing of the sale of a
3144 majority of the units in that cooperative to persons other than
3145 successors or alternate developers, then a statement in
3146 conspicuous type in substantially the following form shall be
3147 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
3148 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
3149 HAVE BEEN SOLD. Immediately following this statement, the
3150 location in the disclosure materials where this right to control
3151 is described in detail shall be stated.

3152 (13) If there are any restrictions upon the sale,
3153 transfer, conveyance, or leasing of a unit, then a statement in
3154 conspicuous type in substantially the following form shall be
3155 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
3156 CONTROLLED. Immediately following this statement, the location
3157 in the disclosure materials where the restriction, limitation,
3158 or control on the sale, lease, or transfer of units is described
3159 in detail shall be stated.

3160 (14) If the cooperative is part of a phase project, the
3161 following shall be stated:

023651

4/21/2008 3:15 PM

Amendment No.

3162 (a) A statement in conspicuous type in substantially the
3163 following form shall be included: THIS IS A PHASE COOPERATIVE.
3164 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.
3165 Immediately following this statement, the location in the
3166 disclosure materials where the phasing is described shall be
3167 stated.

3168 (b) A summary of the provisions of the declaration
3169 providing for the phasing.

3170 (c) A statement as to whether or not residential buildings
3171 and units which are added to the cooperative may be
3172 substantially different from the residential buildings and units
3173 originally in the cooperative, and, if the added residential
3174 buildings and units may be substantially different, there shall
3175 be a general description of the extent to which such added
3176 residential buildings and units may differ, and a statement in
3177 conspicuous type in substantially the following form shall be
3178 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE
3179 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
3180 UNITS IN THE COOPERATIVE. Immediately following this statement,
3181 the location in the disclosure materials where the extent to
3182 which added residential buildings and units may substantially
3183 differ is described shall be stated.

3184 (d) A statement of the maximum number of buildings
3185 containing units, the maximum and minimum number of units in
3186 each building, the maximum number of units, and the minimum and
3187 maximum square footage of the units that may be contained within
3188 each parcel of land which may be added to the cooperative.

023651

4/21/2008 3:15 PM

Amendment No.

3189 (15) If the cooperative is created by conversion of
3190 existing improvements, the following information shall be
3191 stated:

3192 (a) The information required by s. 719.616.

3193 (b) A caveat that there are no express warranties unless
3194 they are stated in writing by the developer.

3195 (16) A summary of the restrictions, if any, to be imposed
3196 on units concerning the use of any of the cooperative property,
3197 including statements as to whether there are restrictions upon
3198 children and pets, and reference to the volumes and pages of the
3199 cooperative documents where such restrictions are found, or if
3200 such restrictions are contained elsewhere, then a copy of the
3201 documents containing the restrictions shall be attached as an
3202 exhibit.

3203 (17) If there is any land that is offered by the developer
3204 for use by the unit owners and that is neither owned by them nor
3205 leased to them, the association, or any entity controlled by
3206 unit owners and other persons having the use rights to such
3207 land, a statement shall be made as to how such land will serve
3208 the cooperative. If any part of such land will serve the
3209 cooperative, the statement shall describe the land and the
3210 nature and term of service, and the cooperative documents or
3211 other instrument creating such servitude shall be included as an
3212 exhibit.

3213 (18) The manner in which utility and other services,
3214 including, but not limited to, sewage and waste disposal, water
3215 supply, and storm drainage, will be provided and the person or
3216 entity furnishing them.

023651

4/21/2008 3:15 PM

Amendment No.

3217 (19) An explanation of the manner in which the
3218 apportionment of common expenses and ownership of the common
3219 areas have been determined.

3220 (20) An estimated operating budget for the cooperative and
3221 the association, and a schedule of the unit owner's expenses
3222 shall be attached as an exhibit and shall contain the following
3223 information:

3224 (a) The estimated monthly and annual expenses of the
3225 cooperative and the association that are collected from unit
3226 owners by assessments.

3227 (b) The estimated monthly and annual expenses of each unit
3228 owner for a unit, other than assessments payable to the
3229 association, payable by the unit owner to persons or entities
3230 other than the association, and the total estimated monthly and
3231 annual expense. There may be excluded from this estimate
3232 expenses that are personal to unit owners, which are not
3233 uniformly incurred by all unit owners, or which are not provided
3234 for or contemplated by the cooperative documents, including, but
3235 not limited to, the costs of private telephone; maintenance of
3236 the interior of cooperative units, which is not the obligation
3237 of the association; maid or janitorial services privately
3238 contracted for by the unit owners; utility bills billed directly
3239 to each unit owner for utility services to his or her unit;
3240 insurance premiums other than those incurred for policies
3241 obtained by the cooperative; and similar personal expenses of
3242 the unit owner. A unit owner's estimated payments for
3243 assessments shall also be stated in the estimated amounts for
3244 the times when they will be due.

023651

4/21/2008 3:15 PM

Amendment No.

3245 (c) The estimated items of expenses of the cooperative and
3246 the association, except as excluded under paragraph (b),
3247 including, but not limited to, the following items, which shall
3248 be stated ~~either~~ as an association expense collectible by
3249 assessments or as unit owners' expenses payable to persons other
3250 than the association:

- 3251 1. Expenses for the association and cooperative:
- 3252 a. Administration of the association.
 - 3253 b. Management fees.
 - 3254 c. Maintenance.
 - 3255 d. Rent for recreational and other commonly used areas.
 - 3256 e. Taxes upon association property.
 - 3257 f. Taxes upon leased areas.
 - 3258 g. Insurance.
 - 3259 h. Security provisions.
 - 3260 i. Other expenses.
 - 3261 j. Operating capital.
 - 3262 k. Reserves.
- 3263 1. Fee payable to the division.
- 3264 2. Expenses for a unit owner:
- 3265 a. Rent for the unit, if subject to a lease.
 - 3266 b. Rent payable by the unit owner directly to the lessor
3267 or agent under any recreational lease or lease for the use of
3268 commonly used areas, which use and payment are a mandatory
3269 condition of ownership and are not included in the common
3270 expense or assessments for common maintenance paid by the unit
3271 owners to the association.

023651

4/21/2008 3:15 PM

Amendment No.

3272 (d) The following statement in conspicuous type: THE
3273 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
3274 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
3275 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
3276 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
3277 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
3278 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
3279 THE OFFERING.

3280 (e) Each budget for an association prepared by a developer
3281 consistent with this subsection shall be prepared in good faith
3282 and shall reflect accurate estimated amounts for the required
3283 items in paragraph (c) at the time of the filing of the offering
3284 circular with the division, and subsequent increased amounts of
3285 any item included in the association's estimated budget that are
3286 beyond the control of the developer shall not be considered an
3287 amendment that would give rise to rescission rights set forth in
3288 s. 719.503(1)(a) or (b), nor shall such increases modify, void,
3289 or otherwise affect any guarantee of the developer contained in
3290 the offering circular or any purchase contract. It is the intent
3291 of this paragraph to clarify existing law.

3292 (f) The estimated amounts shall be stated for a period of
3293 at least 12 months and may distinguish between the period prior
3294 to the time unit owners other than the developer elect a
3295 majority of the board of administration and the period after
3296 that date.

3297 (21) A schedule of estimated closing expenses to be paid
3298 by a buyer or lessee of a unit and a statement of whether title

023651

4/21/2008 3:15 PM

Amendment No.

3299 opinion or title insurance policy is available to the buyer and,
3300 if so, at whose expense.

3301 (22) The identity of the developer and the chief operating
3302 officer or principal directing the creation and sale of the
3303 cooperative and a statement of its and his or her experience in
3304 this field.

3305 (23) Copies of the following, to the extent they are
3306 applicable, shall be included as exhibits:

3307 (a) The cooperative documents, or the proposed cooperative
3308 documents if the documents have not been recorded.

3309 (b) The articles of incorporation creating the
3310 association.

3311 (c) The bylaws of the association.

3312 (d) The ground lease or other underlying lease of the
3313 cooperative.

3314 (e) The management agreement and all maintenance and other
3315 contracts for management of the association and operation of the
3316 cooperative and facilities used by the unit owners having a
3317 service term in excess of 1 year.

3318 (f) The estimated operating budget for the cooperative and
3319 the required schedule of unit owners' expenses.

3320 (g) A copy of the floor plan of the unit and the plot plan
3321 showing the location of the residential buildings and the
3322 recreation and other common areas.

3323 (h) The lease of recreational and other facilities that
3324 will be used only by unit owners of the subject cooperative.

3325 (i) The lease of facilities used by owners and others.

023651

4/21/2008 3:15 PM

Amendment No.

3326 (j) The form of unit lease, if the offer is of a
3327 leasehold.

3328 (k) A declaration of servitude of properties serving the
3329 cooperative but not owned by unit owners or leased to them or
3330 the association.

3331 (l) The statement of condition of the existing building or
3332 buildings, if the offering is of units in an operation being
3333 converted to cooperative ownership.

3334 (m) The statement of inspection for termite damage and
3335 treatment of the existing improvements, if the cooperative is a
3336 conversion.

3337 (n) The form of agreement for sale or lease of units.

3338 (o) A copy of the agreement for escrow of payments made to
3339 the developer prior to closing.

3340 (p) A copy of the documents containing any restrictions on
3341 use of the property required by subsection (16).

3342 (24) Any prospectus or offering circular complying with
3343 the provisions of former ss. 711.69 and 711.802 may continue to
3344 be used without amendment, or may be amended to comply with ~~the~~
3345 ~~provisions~~ of this chapter.

3346 (25) A brief narrative description of the location and
3347 effect of all existing and intended easements located or to be
3348 located on the cooperative property other than those in the
3349 declaration.

3350 (26) If the developer is required by state or local
3351 authorities to obtain acceptance or approval of any dock or
3352 marina facility intended to serve the cooperative, a copy of
3353 such acceptance or approval acquired by the time of filing with

023651

4/21/2008 3:15 PM

Amendment No.

3354 the division pursuant to s. 719.502 or a statement that such
3355 acceptance has not been acquired or received.

3356 (27) Evidence demonstrating that the developer has an
3357 ownership, leasehold, or contractual interest in the land upon
3358 which the cooperative is to be developed.

3359 Section 57. Section 719.508, Florida Statutes, is amended
3360 to read:

3361 719.508 Regulation by Division of Hotels and
3362 Restaurants.--In addition to the authority, regulation, or
3363 control exercised by the Division of Florida ~~Land Sales,~~
3364 Condominiums, Timeshares, and Mobile Homes pursuant to this act
3365 with respect to cooperatives, buildings included in a
3366 cooperative property shall be subject to the authority,
3367 regulation, or control of the Division of Hotels and Restaurants
3368 of the Department of Business and Professional Regulation, to
3369 the extent provided ~~for~~ in chapters 399 and 509.

3370 Section 58. Paragraph (a) of subsection (2) of section
3371 719.608, Florida Statutes, is amended to read:

3372 719.608 Notice of intended conversion; time of delivery;
3373 content.--

3374 (2) (a) Each notice of intended conversion shall be dated
3375 and in writing. The notice shall contain the following
3376 statement, with the phrases of the following statement which
3377 appear in upper case printed in conspicuous type:

3378
3379 These apartments are being converted to cooperative by
3380 (name of developer) , the developer.

023651

4/21/2008 3:15 PM

Amendment No.

3381 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
3382 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
3383 AGREEMENT AS FOLLOWS:

3384 a. If you have continuously been a resident of these
3385 apartments during the last 180 days and your rental agreement
3386 expires during the next 270 days, you may extend your rental
3387 agreement for up to 270 days after the date of this notice.

3388 b. If you have not been a continuous resident of these
3389 apartments for the last 180 days and your rental agreement
3390 expires during the next 180 days, you may extend your rental
3391 agreement for up to 180 days after the date of this notice.

3392 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
3393 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
3394 DATE OF THIS NOTICE.

3395 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
3396 you may extend your rental agreement for up to 45 days after the
3397 date of this notice while you decide whether to extend your
3398 rental agreement as explained above. To do so, you must notify
3399 the developer in writing. You will then have the full 45 days to
3400 decide whether to extend your rental agreement as explained
3401 above.

3402 3. During the extension of your rental agreement you will
3403 be charged the same rent that you are now paying.

3404 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
3405 OF THE RENTAL AGREEMENT AS FOLLOWS:

3406 a. If your rental agreement began or was extended or
3407 renewed after May 1, 1980, and your rental agreement, including
3408 extensions and renewals, has an unexpired term of 180 days or

023651

4/21/2008 3:15 PM

Amendment No.

3409 less, you may cancel your rental agreement upon 30 days' written
3410 notice and move. Also, upon 30 days' written notice, you may
3411 cancel any extension of the rental agreement.

3412 b. If your rental agreement was not begun or was not
3413 extended or renewed after May 1, 1980, you may not cancel the
3414 rental agreement without the consent of the developer. If your
3415 rental agreement, including extensions and renewals, has an
3416 unexpired term of 180 days or less, you may, however, upon 30
3417 days' written notice cancel any extension of the rental
3418 agreement.

3419 5. All notices must be given in writing and sent by mail,
3420 return receipt requested, or delivered in person to the
3421 developer at this address: (name and address of developer) .

3422 6. If you have continuously been a resident of these
3423 apartments during the last 180 days:

3424 a. You have the right to purchase your apartment and will
3425 have 45 days to decide whether to purchase. If you do not buy
3426 the unit at that price and the unit is later offered at a lower
3427 price, you will have the opportunity to buy the unit at the
3428 lower price. However, in all events your right to purchase the
3429 unit ends when the rental agreement or any extension of the
3430 rental agreement ends or when you waive this right in writing.

3431 b. Within 90 days you will be provided purchase
3432 information relating to your apartment, including the price of
3433 your unit and the condition of the building. If you do not
3434 receive this information within 90 days, your rental agreement
3435 and any extension will be extended 1 day for each day over 90
3436 days until you are given the purchase information. If you do not

023651

4/21/2008 3:15 PM

Amendment No.

3437 want this rental agreement extension, you must notify the
3438 developer in writing.

3439 7. If you have any questions regarding this conversion or
3440 the Cooperative Act, you may contact the developer or the state
3441 agency which regulates cooperatives: The Division of Florida
3442 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,
3443 (Tallahassee address and telephone number of division) .

3444 Section 59. Subsection (7) of section 720.301, Florida
3445 Statutes, is amended to read:

3446 720.301 Definitions.--As used in this chapter, the term:

3447 (7) "Division" means the Division of Florida ~~Land Sales~~,
3448 Condominiums, Timeshares, and Mobile Homes in the Department of
3449 Business and Professional Regulation.

3450 Section 60. Subsection (2) of section 720.401, Florida
3451 Statutes, is amended to read:

3452 720.401 Prospective purchasers subject to association
3453 membership requirement; disclosure required; covenants;
3454 assessments; contract cancellation.--

3455 (2) This section does not apply to any association
3456 regulated under chapter 718, chapter 719, chapter 721, or
3457 chapter 723 ~~or to a subdivider registered under chapter 498~~; and
3458 also does not apply if disclosure regarding the association is
3459 otherwise made in connection with the requirements of chapter
3460 718, chapter 719, chapter 721, or chapter 723.

3461 Section 61. Paragraph (c) of subsection (1) of section
3462 721.03, Florida Statutes, is amended to read:

3463 721.03 Scope of chapter.--

023651

4/21/2008 3:15 PM

Amendment No.

3464 (1) This chapter applies to all timeshare plans consisting
3465 of more than seven timeshare periods over a period of at least 3
3466 years in which the accommodations and facilities, if any, are
3467 located within this state or offered within this state; provided
3468 that:

3469 (c) All timeshare accommodations or facilities which are
3470 located outside the state but offered for sale in this state
3471 shall be governed by the following:

3472 1. The offering for sale in this state of timeshare
3473 accommodations and facilities located outside the state is
3474 subject only to the provisions of ss. 721.01-721.12, 721.18,
3475 721.20, 721.21, 721.26, 721.28, and part II.

3476 2. The division shall not require a developer of timeshare
3477 accommodations or facilities located outside of this state to
3478 make changes in any timeshare instrument to conform to the
3479 provisions of s. 721.07 or s. 721.55. The division shall have
3480 the power to require disclosure of those provisions of the
3481 timeshare instrument that do not conform to s. 721.07 or s.
3482 721.55 as the director determines is necessary to fairly,
3483 meaningfully, and effectively disclose all aspects of the
3484 timeshare plan.

3485 3. Except as provided in this subparagraph, the division
3486 shall have no authority to determine whether any person has
3487 complied with another state's laws or to disapprove any filing
3488 out-of-state, timeshare instrument, or component site document,
3489 based solely upon the lack or degree of timeshare regulation in
3490 another state. The division may require a developer to obtain
3491 and provide to the division existing documentation relating to

023651

4/21/2008 3:15 PM

Amendment No.

3492 an out-of-state filing, timeshare instrument, or component site
3493 document and prove compliance of same with the laws of that
3494 state. In this regard, the division may accept any evidence of
3495 the approval or acceptance of any out-of-state filing, timeshare
3496 instrument, or component site document by another state in lieu
3497 of requiring a developer to file the out-of-state filing,
3498 timeshare instrument, or component site document with the
3499 division pursuant to this section, or the division may accept an
3500 opinion letter from an attorney or law firm opining as to the
3501 compliance of such out-of-state filing, timeshare instrument, or
3502 component site document with the laws of another state. The
3503 division may refuse to approve the inclusion of any out-of-state
3504 filing, timeshare instrument, or component site document as part
3505 of a public offering statement based upon the inability of the
3506 developer to establish the compliance of same with the laws of
3507 another state.

3508 4. The division is authorized to enter into an agreement
3509 with another state for the purpose of facilitating the
3510 processing of out-of-state timeshare instruments or other
3511 component site documents pursuant to this chapter and for the
3512 purpose of facilitating the referral of consumer complaints to
3513 the appropriate state.

3514 5. Notwithstanding any other provision of this paragraph,
3515 the offer, in this state, of an additional interest to existing
3516 purchasers in the same timeshare plan, the same nonspecific
3517 multisite timeshare plan, or the same component site of a
3518 multisite timeshare plan with accommodations and facilities
3519 located outside of this state shall not be subject to the

023651

4/21/2008 3:15 PM

Amendment No.

3520 provisions of this chapter if the offer complies with the
3521 provisions of s. 721.11(4).

3522 Section 62. Subsection (11) of section 721.05, Florida
3523 Statutes, is amended to read:

3524 721.05 Definitions.--As used in this chapter, the term:

3525 (11) "Division" means the Division of Florida ~~Land Sales,~~
3526 Condominiums, Timeshares, and Mobile Homes of the Department of
3527 Business and Professional Regulation.

3528 Section 63. Paragraph (d) of subsection (2) of section
3529 721.07, Florida Statutes, is amended to read:

3530 721.07 Public offering statement.--Prior to offering any
3531 timeshare plan, the developer must submit a filed public
3532 offering statement to the division for approval as prescribed by
3533 s. 721.03, s. 721.55, or this section. Until the division
3534 approves such filing, any contract regarding the sale of that
3535 timeshare plan is subject to cancellation by the purchaser
3536 pursuant to s. 721.10.

3537 (2)

3538 (d) A developer shall have the authority to deliver to
3539 purchasers any purchaser public offering statement that is not
3540 yet approved by the division, provided that the following shall
3541 apply:

3542 1. At the time the developer delivers an unapproved
3543 purchaser public offering statement to a purchaser pursuant to
3544 this paragraph, the developer shall deliver a fully completed
3545 and executed copy of the purchase contract required by s. 721.06
3546 that contains the following statement in conspicuous type in

023651

4/21/2008 3:15 PM

Amendment No.

3547 substantially the following form which shall replace the
3548 statements required by s. 721.06(1)(g):

3549
3550 The developer is delivering to you a public offering statement
3551 that has been filed with but not yet approved by the Division of
3552 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes.
3553 Any revisions to the unapproved public offering statement you
3554 have received must be delivered to you, but only if the
3555 revisions materially alter or modify the offering in a manner
3556 adverse to you. After the division approves the public offering
3557 statement, you will receive notice of the approval from the
3558 developer and the required revisions, if any.

3559
3560 Your statutory right to cancel this transaction without any
3561 penalty or obligation expires 10 calendar days after the date
3562 you signed your purchase contract or the date on which you
3563 receive the last of all documents required to be given to you
3564 pursuant to section 721.07(6), Florida Statutes, or 10 calendar
3565 days after you receive revisions required to be delivered to
3566 you, if any, whichever is later. If you decide to cancel this
3567 contract, you must notify the seller in writing of your intent
3568 to cancel. Your notice of cancellation shall be effective upon
3569 the date sent and shall be sent to (Name of Seller) at
3570 (Address of Seller) . Any attempt to obtain a waiver of your
3571 cancellation right is void and of no effect. While you may
3572 execute all closing documents in advance, the closing, as
3573 evidenced by delivery of the deed or other document, before
3574 expiration of your 10-day cancellation period, is prohibited.

023651

4/21/2008 3:15 PM

Amendment No.

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

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

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

023651
4/21/2008 3:15 PM

Amendment No.

3602 The unapproved public offering statement previously delivered to
3603 you has been approved by the Division of Florida ~~Land Sales,~~
3604 Condominiums, Timeshares, and Mobile Homes. Revisions made to
3605 the unapproved public offering statement, if any, are ~~either~~ not
3606 required to be delivered to you or are not deemed by the
3607 developer, in its opinion, to materially alter or modify the
3608 offering in a manner that is adverse to you. Accordingly, your
3609 cancellation right expired 10 days after you signed your
3610 purchase contract. A complete copy of the approved public
3611 offering statement is available through the managing entity for
3612 inspection as part of the books and records of the plan. If you
3613 have any questions regarding your cancellation rights, you may
3614 contact the division at [insert division's current address].

3615 Section 64. Subsection (8) of section 721.08, Florida
3616 Statutes, is amended to read:

3617 721.08 Escrow accounts; nondisturbance instruments;
3618 alternate security arrangements; transfer of legal title.--

3619 (8) An escrow agent holding escrowed funds pursuant to
3620 this chapter that have not been claimed for a period of 5 years
3621 after the date of deposit shall make at least one reasonable
3622 attempt to deliver such unclaimed funds to the purchaser who
3623 submitted such funds to escrow. In making such attempt, an
3624 escrow agent is entitled to rely on a purchaser's last known
3625 address as set forth in the books and records of the escrow
3626 agent and is not required to conduct any further search for the
3627 purchaser. If an escrow agent's attempt to deliver unclaimed
3628 funds to any purchaser is unsuccessful, the escrow agent may
3629 deliver such unclaimed funds to the division and the division

023651

4/21/2008 3:15 PM

Amendment No.

3630 shall deposit such unclaimed funds in the Division of Florida
3631 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust
3632 Fund, 30 days after giving notice in a publication of general
3633 circulation in the county in which the timeshare property
3634 containing the purchaser's timeshare interest is located. The
3635 purchaser may claim the same at any time prior to the delivery
3636 of such funds to the division. After delivery of such funds to
3637 the division, the purchaser shall have no more rights to the
3638 unclaimed funds. The escrow agent shall not be liable for any
3639 claims from any party arising out of the escrow agent's delivery
3640 of the unclaimed funds to the division pursuant to this section.

3641 Section 65. Section 721.26, Florida Statutes, is amended
3642 to read:

3643 721.26 Regulation by division.--The division has the power
3644 to enforce and ensure compliance with ~~the provisions of~~ this
3645 chapter, except for parts III and IV, using the powers provided
3646 in this chapter, as well as the powers prescribed in chapters
3647 ~~498~~, 718~~7~~, and 719. In performing its duties, the division shall
3648 have the following powers and duties:

3649 (1) To aid in the enforcement of this chapter, or any
3650 division rule adopted or order ~~promulgated or~~ issued pursuant to
3651 this chapter, the division may make necessary public or private
3652 investigations within or outside this state to determine whether
3653 any person has violated or is about to violate this chapter, or
3654 any division rule adopted or order ~~promulgated or~~ issued
3655 pursuant to this chapter.

3656 (2) The division may require or permit any person to file
3657 a written statement under oath or otherwise, as the division

023651

4/21/2008 3:15 PM

Amendment No.

3658 determines, as to the facts and circumstances concerning a
3659 matter under investigation.

3660 (3) For the purpose of any investigation under this
3661 chapter, the director of the division or any officer or employee
3662 designated by the director may administer oaths or affirmations,
3663 subpoena witnesses and compel their attendance, take evidence,
3664 and require the production of any matter which is relevant to
3665 the investigation, including the identity, existence,
3666 description, nature, custody, condition, and location of any
3667 books, documents, or other tangible things and the identity and
3668 location of persons having knowledge of relevant facts or any
3669 other matter reasonably calculated to lead to the discovery of
3670 material evidence. Failure to obey a subpoena or to answer
3671 questions propounded by the investigating officer and upon
3672 reasonable notice to all persons affected thereby shall be a
3673 violation of this chapter. In addition to the other enforcement
3674 powers authorized in this subsection, the division may, ~~at its~~
3675 ~~discretion,~~ apply to the circuit court for an order compelling
3676 compliance.

3677 (4) The division may prepare and disseminate a prospectus
3678 and other information to assist prospective purchasers, sellers,
3679 and managing entities of timeshare plans in assessing the
3680 rights, privileges, and duties pertaining thereto.

3681 (5) Notwithstanding any remedies available to purchasers,
3682 if the division has reasonable cause to believe that a violation
3683 of this chapter, or of any division rule adopted or order
3684 ~~promulgated or~~ issued pursuant to this chapter, has occurred,
3685 the division may institute enforcement proceedings in its own

023651

4/21/2008 3:15 PM

Amendment No.

3686 name against any regulated party, as such term is defined in
3687 this subsection:

3688 (a)1. "Regulated party," for purposes of this section,
3689 means any developer, exchange company, seller, managing entity,
3690 owners' association, owners' association director, owners'
3691 association officer, manager, management firm, escrow agent,
3692 trustee, any respective assignees or agents, or any other person
3693 having duties or obligations pursuant to this chapter.

3694 2. Any person who materially participates in any offer or
3695 disposition of any interest in, or the management or operation
3696 of, a timeshare plan in violation of this chapter or relevant
3697 rules involving fraud, deception, false pretenses,
3698 misrepresentation, or false advertising or the disbursement,
3699 concealment, or diversion of any funds or assets, which conduct
3700 adversely affects the interests of a purchaser, and which person
3701 directly or indirectly controls a regulated party or is a
3702 general partner, officer, director, agent, or employee of such
3703 regulated party, shall be jointly and severally liable under
3704 this subsection with such regulated party, unless such person
3705 did not know, and in the exercise of reasonable care could not
3706 have known, of the existence of the facts giving rise to the
3707 violation of this chapter. A right of contribution shall exist
3708 among jointly and severally liable persons pursuant to this
3709 paragraph.

3710 (b) The division may permit any person whose conduct or
3711 actions may be under investigation to waive formal proceedings
3712 and enter into a consent proceeding whereby an order, rule, or

023651

4/21/2008 3:15 PM

Amendment No.

3713 letter of censure or warning, whether formal or informal, may be
3714 entered against that person.

3715 (c) The division may issue an order requiring a regulated
3716 party to cease and desist from an unlawful practice under this
3717 chapter and take such affirmative action as in the judgment of
3718 the division will carry out the purposes of this chapter.

3719 (d)1. The division may bring an action in circuit court
3720 for declaratory or injunctive relief or for other appropriate
3721 relief, including restitution.

3722 2. The division shall have broad authority and discretion
3723 to petition the circuit court to appoint a receiver with respect
3724 to any managing entity which fails to perform its duties and
3725 obligations under this chapter with respect to the operation of
3726 a timeshare plan. The circumstances giving rise to an
3727 appropriate petition for receivership under this subparagraph
3728 include, but are not limited to:

3729 a. Damage to or destruction of any of the accommodations
3730 or facilities of a timeshare plan, where the managing entity has
3731 failed to repair or reconstruct same.

3732 b. A breach of fiduciary duty by the managing entity,
3733 including, but not limited to, undisclosed self-dealing or
3734 failure to timely assess, collect, or disburse the common
3735 expenses of the timeshare plan.

3736 c. Failure of the managing entity to operate the timeshare
3737 plan in accordance with the timeshare instrument and this
3738 chapter.

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023651

4/21/2008 3:15 PM

Amendment No.

3740 If, under the circumstances, it appears that the events giving
3741 rise to the petition for receivership cannot be reasonably and
3742 timely corrected in a cost-effective manner consistent with the
3743 timeshare instrument, the receiver may petition the circuit
3744 court to implement such amendments or revisions to the timeshare
3745 instrument as may be necessary to enable the managing entity to
3746 resume effective operation of the timeshare plan, or to enter an
3747 order terminating the timeshare plan, or to enter such further
3748 orders regarding the disposition of the timeshare property as
3749 the court deems appropriate, including the disposition and sale
3750 of the timeshare property held by the owners' association or the
3751 purchasers. In the event of a receiver's sale, all rights,
3752 title, and interest held by the owners' association or any
3753 purchaser shall be extinguished and title shall vest in the
3754 buyer. This provision applies to timeshare estates, personal
3755 property timeshare interests, and timeshare licenses. All
3756 reasonable costs and fees of the receiver relating to the
3757 receivership shall become common expenses of the timeshare plan
3758 upon order of the court.

3759 3. The division may revoke its approval of any filing for
3760 any timeshare plan for which a petition for receivership has
3761 been filed pursuant to this paragraph.

3762 (e)1. The division may impose a penalty against any
3763 regulated party for a violation of this chapter or any rule
3764 adopted thereunder. A penalty may be imposed on the basis of
3765 each day of continuing violation, but in no event may the
3766 penalty for any offense exceed \$10,000. All accounts collected
3767 shall be deposited with the Chief Financial Officer to the

023651

4/21/2008 3:15 PM

Amendment No.

3768 credit of the Division of Florida ~~Land Sales~~, Condominiums,
3769 Timeshares, and Mobile Homes Trust Fund.

3770 2.a. If a regulated party fails to pay a penalty, the
3771 division shall thereupon issue an order directing that such
3772 regulated party cease and desist from further operation until
3773 such time as the penalty is paid; or the division may pursue
3774 enforcement of the penalty in a court of competent jurisdiction.

3775 b. If an owners' association or managing entity fails to
3776 pay a civil penalty, the division may pursue enforcement in a
3777 court of competent jurisdiction.

3778 (f) In order to permit the regulated party an opportunity
3779 ~~either~~ to appeal such decision administratively or to seek
3780 relief in a court of competent jurisdiction, the order imposing
3781 the penalty or the cease and desist order shall not become
3782 effective until 20 days after the date of such order.

3783 (g) Any action commenced by the division shall be brought
3784 in the county in which the division has its executive offices or
3785 in the county where the violation occurred.

3786 (h) Notice to any regulated party shall be complete when
3787 delivered by United States mail, return receipt requested, to
3788 the party's address currently on file with the division or to
3789 such other address at which the division is able to locate the
3790 party. Every regulated party has an affirmative duty to notify
3791 the division of any change of address at least 5 business days
3792 prior to such change.

3793 (6) The division has authority to adopt rules pursuant to
3794 ss. 120.536(1) and 120.54 to implement and enforce the
3795 provisions of this chapter.

023651

4/21/2008 3:15 PM

Amendment No.

3796 (7) (a) The use of any unfair or deceptive act or practice
3797 by any person in connection with the sales or other operations
3798 of an exchange program or timeshare plan is a violation of this
3799 chapter.

3800 (b) Any violation of the Florida Deceptive and Unfair
3801 Trade Practices Act, ss. 501.201 et seq., relating to the
3802 creation, promotion, sale, operation, or management of any
3803 timeshare plan shall also be a violation of this chapter.

3804 (c) The division may ~~is authorized to~~ institute
3805 proceedings against any such person and take any appropriate
3806 action authorized in this section in connection therewith,
3807 notwithstanding any remedies available to purchasers.

3808 (8) The failure of any person to comply with any order of
3809 the division is a violation of this chapter.

3810 Section 66. Section 721.28, Florida Statutes, is amended
3811 to read:

3812 721.28 Division of Florida ~~Land Sales,~~ Condominiums,
3813 Timeshares, and Mobile Homes Trust Fund.--All funds collected by
3814 the division and any amounts paid as fees or penalties under
3815 this chapter shall be deposited in the State Treasury to the
3816 credit of the Division of Florida ~~Land Sales,~~ Condominiums,
3817 Timeshares, and Mobile Homes Trust Fund created by s. 718.509
3818 ~~498.019~~.

3819 Section 67. Paragraph (c) of subsection (1) of section
3820 721.301, Florida Statutes, is amended to read:

3821 721.301 Florida Timesharing, Vacation Club, and
3822 Hospitality Program.--

3823 (1)

023651

4/21/2008 3:15 PM

Amendment No.

3824 (c) The director may designate funds from the Division of
3825 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes
3826 Trust Fund, not to exceed \$50,000 annually, to support the
3827 projects and proposals undertaken pursuant to paragraph (b). All
3828 state trust funds to be expended pursuant to this section must
3829 be matched equally with private moneys and shall comprise no
3830 more than half of the total moneys expended annually.

3831 Section 68. Section 721.50, Florida Statutes, is amended
3832 to read:

3833 721.50 Short title.--This part may be cited as the
3834 "McAllister Act" in recognition and appreciation for the years
3835 of extraordinary and insightful contributions by Mr. Bryan C.
3836 McAllister, Examinations Supervisor of the former, Division of
3837 Florida Land Sales, Condominiums, and Mobile Homes.

3838 Section 69. Subsection (1) of section 723.003, Florida
3839 Statutes, is amended to read:

3840 723.003 Definitions.--As used in this chapter, the
3841 following words and terms have the following meanings unless
3842 clearly indicated otherwise:

3843 (1) The term "division" means the Division of Florida ~~Land~~
3844 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the
3845 Department of Business and Professional Regulation.

3846 Section 70. Paragraph (e) of subsection (5) of section
3847 723.006, Florida Statutes, is amended to read:

3848 723.006 Powers and duties of division.--In performing its
3849 duties, the division has the following powers and duties:

3850 (5) Notwithstanding any remedies available to mobile home
3851 owners, mobile home park owners, and homeowners' associations,
023651

4/21/2008 3:15 PM

Amendment No.

3852 if the division has reasonable cause to believe that a violation
3853 of any provision of this chapter or related ~~any rule promulgated~~
3854 ~~pursuant hereto~~ has occurred, the division may institute
3855 enforcement proceedings in its own name against a developer,
3856 mobile home park owner, or homeowners' association, or its
3857 assignee or agent, as follows:

3858 (e)1. The division may impose a civil penalty against a
3859 mobile home park owner or homeowners' association, or its
3860 assignee or agent, for any violation of this chapter, a properly
3861 adopted ~~promulgated~~ park rule or regulation, or a rule adopted
3862 ~~or regulation promulgated~~ pursuant hereto. A penalty may be
3863 imposed on the basis of each separate violation and, if the
3864 violation is a continuing one, for each day of continuing
3865 violation, but in no event may the penalty for each separate
3866 violation or for each day of continuing violation exceed \$5,000.
3867 All amounts collected shall be deposited with the Chief
3868 Financial Officer to the credit of the Division of Florida ~~Land~~
3869 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund.

3870 2. If a violator fails to pay the civil penalty, the
3871 division shall thereupon issue an order directing that such
3872 violator cease and desist from further violation until such time
3873 as the civil penalty is paid or may pursue enforcement of the
3874 penalty in a court of competent jurisdiction. If a homeowners'
3875 association fails to pay the civil penalty, the division shall
3876 thereupon pursue enforcement in a court of competent
3877 jurisdiction, and the order imposing the civil penalty or the
3878 cease and desist order shall not become effective until 20 days
3879 after the date of such order. Any action commenced by the

023651

4/21/2008 3:15 PM

Amendment No.

3880 division shall be brought in the county in which the division
3881 has its executive offices or in which the violation occurred.

3882 Section 71. Section 723.009, Florida Statutes, is amended
3883 to read:

3884 723.009 Division of Florida ~~Land Sales~~, Condominiums,
3885 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the
3886 fees, penalties, and fines imposed pursuant to this chapter
3887 shall be deposited into the Division of Florida ~~Land Sales~~,
3888 Condominiums, Timeshares, and Mobile Homes Trust Fund created by
3889 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the
3890 Legislature pursuant to chapter 216, may be used to defray the
3891 expenses incurred by the division in administering the
3892 provisions of this chapter.

3893 Section 72. Paragraph (c) of subsection (2) of section
3894 723.0611, Florida Statutes, is amended to read:

3895 723.0611 Florida Mobile Home Relocation Corporation.--
3896 (2)

3897 (c) The corporation shall, for purposes of s. 768.28, be
3898 considered an agency of the state. Agents or employees of the
3899 corporation, members of the board of directors of the
3900 corporation, or representatives of the Division of Florida ~~Land~~
3901 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be
3902 considered officers, employees, or agents of the state, and
3903 actions against them and the corporation shall be governed by s.
3904 768.28.

3905 Section 73. Except as otherwise expressly provided in this
3906 act, this act shall take effect July 1, 2008.

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023651

4/21/2008 3:15 PM

Amendment No.

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T I T L E A M E N D M E N T

Remove the entire title and insert:

A bill to be entitled

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

023651
4/21/2008 3:15 PM

Amendment No.

3936 association to obtain and maintain liability insurance for
3937 directors and officers, insurance for the benefit of association
3938 employees, and flood insurance for common elements, association
3939 property, and units; requiring that every hazard insurance
3940 policy issued or renewed on or after a specified date for the
3941 purpose of protecting the condominium provide certain coverage;
3942 requiring that such policies contain certain provisions;
3943 providing that such policies issued to individual unit owners do
3944 not provide rights of subrogation against the condominium
3945 association; providing for the insurance of improvements or
3946 additions benefiting fewer than all unit owners; requiring that
3947 an association require each owner to provide evidence of a
3948 current policy of hazard and liability insurance upon request;
3949 limiting the frequency with which an association may make such a
3950 request; authorizing an association to purchase coverage on
3951 behalf of an owner under certain circumstances; providing for
3952 the collection of the costs of such a policy; providing
3953 responsibilities of the unit owner and association with regard
3954 to reconstruction work and associated costs after a casualty
3955 loss; authorizing a multicondominium association to operate such
3956 condominiums as a single condominium for certain purposes by
3957 majority vote of the members of all applicable condominiums;
3958 providing that such election constitutes an amendment to the
3959 declaration of all applicable condominiums; requiring that an
3960 association maintain insurance or fidelity bonding for all
3961 persons who control or disburse association funds; requiring
3962 that such insurance policy or fidelity bond cover the maximum
3963 funds in the custody of the association or its management agent

023651

4/21/2008 3:15 PM

Amendment No.

3964 at any one time; defining the term "persons who control or
3965 disburse funds of the association"; authorizing an association
3966 to amend the declaration of condominium without regard to any
3967 requirement for approval by mortgagees of amendments affecting
3968 insurance requirements for the purpose of conforming the
3969 declaration of condominium to certain coverage requirements;
3970 providing that any portion of the condominium property required
3971 to be insured by the association against casualty loss which is
3972 damaged be reconstructed, repaired, or replaced as necessary by
3973 the association as a common expense; providing that all hazard
3974 insurance deductibles, uninsured losses, and other damages in
3975 excess of hazard insurance coverage under the hazard insurance
3976 policies maintained by the association are a common expense of
3977 the condominium; providing exceptions; allocating responsibility
3978 for certain costs of repair or reconstruction; authorizing an
3979 association to opt out of certain requirements related to such
3980 allocation of responsibility by majority vote; providing a
3981 procedure by which a multicondominium association that has not
3982 consolidated its financial operations may opt out of such
3983 allocation of responsibility; requiring that a decision to opt
3984 out be recorded; providing that such decision takes effect on
3985 the date on which it is recorded; authorizing the reversal of
3986 such decision; providing a procedure for reversal; providing
3987 that an association is not obligated to pay for any
3988 reconstruction or repair expenses for improvements made by an
3989 owner or the development if an improvement benefits only the
3990 unit for which it was installed; amending s. 718.115, F.S.;

3991 requiring that certain expenses be designated as common
023651

4/21/2008 3:15 PM

Amendment No.

3992 expenses; amending s. 718.116, F.S.; authorizing the designee of
3993 a unit owner or mortgagee to request a certificate of
3994 assessment; requiring that the fee for preparation of such
3995 certificate be stated on the certificate; providing for the
3996 establishment of such fees; providing for payment of the fee;
3997 requiring that the fee be refunded if a planned sale or mortgage
3998 does not occur; providing that any such refund is the obligation
3999 of the unit owner and is collectable in the same manner as an
4000 assessment; amending s. 718.117, F.S.; prohibiting the
4001 distribution of proceeds from the sale of a condominium unit to
4002 a lienholder from exceeding a unit owner's share of the
4003 proceeds; creating s. 720.30851, F.S.; requiring that the
4004 association provide a certificate signed by an officer or agent
4005 of the association stating all assessments and other moneys owed
4006 to the association by the parcel owner or mortgagee with respect
4007 to the parcel within a specified period after the association's
4008 receipt of a request for an estoppel certificate by an owner or
4009 mortgagee; providing that any person other than a parcel owner
4010 who relies upon a certificate receives the benefits and
4011 protection thereof; providing that a summary proceeding may be
4012 brought to compel the association to comply with the requirement
4013 to provide a certificate; providing that the prevailing party is
4014 entitled to recover reasonable attorney's fees; requiring that
4015 the fee for preparation of such certificate be stated on the
4016 certificate; providing for the establishment of such fees;
4017 providing for payment of the fee; requiring that the fee be
4018 refunded if a planned sale or mortgage does not occur; providing
4019 that any such refund is the obligation of the unit owner and is

023651

4/21/2008 3:15 PM

Amendment No.

4020 collectable in the same manner as an assessment; amending s.
4021 20.165, F.S.; changing the name of the Division of Florida Land
4022 Sales, Condominiums, and Mobile Homes to the Division of Florida
4023 Condominiums, Timeshares, and Mobile Homes and the Division of
4024 Technology, Licensure, and Testing to the Division of
4025 Technology; amending s. 215.20, F.S.; conforming the name of the
4026 division's trust fund to correspond to the name change of the
4027 division; amending s. 450.33, F.S.; removing the requirement for
4028 a farm labor contractor to file a set of fingerprints with the
4029 department; amending s. 455.203, F.S.; authorizing the
4030 department to close and terminate deficient license applications
4031 and to approve professional license applications meeting certain
4032 criteria; amending s. 455.217, F.S.; conforming terminology to
4033 changes made by the act; amending s. 455.2273, F.S.; authorizing
4034 the section to apply to disciplinary guidelines adopted by all
4035 boards and divisions; amending s. 468.841, F.S.; clarifying
4036 exemption provisions for license provisions governing mold-
4037 related services; amending s. 475.17, F.S.; revising
4038 requirements for licensure as a real estate broker; amending s.
4039 475.451, F.S.; deleting requirements relating to the submission
4040 of certain real estate course rosters to the department;
4041 amending s. 489.105, F.S.; clarifying that individuals and
4042 business entities that sell manufactured and factory-built
4043 buildings can legally enter into contracts for those sales;
4044 amending s. 489.511, F.S.; revising requirements for taking the
4045 electrical or alarm system contractor certification examination;
4046 providing requirements for certification; amending s. 489.515,
4047 F.S.; revising requirements for certification as a certified

023651

4/21/2008 3:15 PM

Amendment No.

4048 contractor by the Electrical Contractors' Licensing Board to
4049 reflect changes made to s. 489.511, F.S., by this act;
4050 renumbering s. 498.009, F.S., relating to the location of the
4051 division's offices; amending and renumbering s. 498.011, F.S.,
4052 relating to payment of per diem, mileage, and other expenses for
4053 division employees; providing for reimbursement of expenses for
4054 on-site review; deleting the expense reimbursement for
4055 inspection of subdivided lands; renumbering s. 498.013, F.S.,
4056 relating to the authentication of records; amending and
4057 renumbering s. 498.057, F.S., relating to service of process;
4058 deleting provision that service may be made by delivering a copy
4059 of the process to the division director; providing that the
4060 division can be the petitioner or the plaintiff; repealing ss.
4061 498.001, 498.003, 498.005, 498.007, 498.017, 498.021, 498.022,
4062 498.023, 498.024, 498.025, 498.027, 498.028, 498.029, 498.031,
4063 498.033, 498.035, 498.037, 498.039, 498.041, 498.047, 498.049,
4064 498.051, 498.053, 498.059, 498.061, and 498.063, F.S., relating
4065 to regulation of land sales practices; amending s. 548.0065,
4066 F.S.; including amateur mixed martial arts in a provision
4067 relating to the authority of the Florida State Boxing Commission
4068 to suspend amateur matches for violation of certain health and
4069 safety standards; amending s. 548.008, F.S.; removing
4070 prohibition against holding amateur mixed martial arts matches
4071 in this state; amending s. 548.041, F.S.; providing additional
4072 licensure requirements for boxing participants; amending s.
4073 718.501, F.S.; providing additional powers and duties of the
4074 division; providing for additional enforcement proceedings for
4075 carrying out the purposes of ch. 718, F.S.; deleting the payment
023651

4/21/2008 3:15 PM

Amendment No.

4076 of money by a developer to a condominium association as a
4077 permissible affirmative action; providing for actions of
4078 conservator or receiver; providing for application to circuit
4079 court for an order of restitution; providing for imposition of
4080 civil penalties and award of court costs, attorney's fees, and
4081 costs of investigation under certain circumstances; providing
4082 for contracting for investigative services; providing for
4083 acceptance of grants-in-aid; requiring the cooperation with
4084 similar agencies on establishment of certain procedures,
4085 standards, and forms; providing what constitutes completeness of
4086 notice; authorizing the division to issue a notice to show
4087 cause; providing conforming changes; amending s. 718.509, F.S.,
4088 and transferring, renumbering, and amending s. 498.019, F.S.;
4089 consolidating and revising provisions relating to the creation,
4090 purposes, and sources of funds of the Division of Florida
4091 Condominiums, Timeshares, and Mobile Homes Trust Fund; revising
4092 provisions to conform to the change in division name; providing
4093 for the deposit of moneys resulting from an administrative final
4094 order; amending s. 721.03, F.S.; clarifying that timeshare plan
4095 includes a nonspecific multisite timeshare plan; amending ss.
4096 73.073, 190.009, 192.037, 213.053, 326.002, 326.006, 380.05,
4097 380.06, 380.0651, 381.0065, 455.116, 475.455, 494.008, 509.512,
4098 517.301, 559.935, 718.103, 718.105, 718.1255, 718.5011, 718.502,
4099 718.504, 718.508, 718.608, 719.103, 719.1255, 719.501, 719.502,
4100 719.504, 719.508, 719.608, 720.301, 720.401, 721.05, 721.07,
4101 721.08, 721.26, 721.28, 721.301, 721.50, 723.003, 723.006,
4102 723.009, and 723.0611, F.S., to conform; providing effective
4103 dates.

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