

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

29 investigation required in other areas of responsibility;
 30 amending and renumbering s. 498.022, F.S., relating to
 31 jurisdiction over fraudulent acts; transferring such acts
 32 to be handled as unfair and deceptive trade practices
 33 under ch. 501, F.S.; deleting provision requiring division
 34 enforcement of provision referencing a provision being
 35 repealed; deleting provision relating to rights of
 36 purchaser of subdivided lands under a provision being
 37 repealed; providing a definition of the term "common
 38 promotional plan"; amending and renumbering s. 498.057,
 39 F.S., relating to service of process; deleting provision
 40 that service may be made by delivering a copy of the
 41 process to division director; providing that the division
 42 can be the petitioner or the plaintiff; repealing ss.
 43 498.001, 498.003, 498.005, 498.007, 498.017, 498.021,
 44 498.023, 498.024, 498.025, 498.027, 498.028, 498.029,
 45 498.031, 498.033, 498.035, 498.037, 498.039, 498.041,
 46 498.047, 498.049, 498.051, 498.053, 498.059, 498.061, and
 47 498.063, F.S., relating to regulation of land sales
 48 practices; amending s. 548.0065, F.S.; including amateur
 49 mixed martial arts in a provision relating to the
 50 authority of the Florida State Boxing Commission to
 51 suspend amateur matches for violation of certain health
 52 and safety standards; extending requirements for amateur
 53 matches and amateur sanctioning organizations to amateur
 54 mixed martial arts by addition of reference to mixed
 55 martial arts; amending s. 548.008, F.S.; removing a
 56 provision prohibiting amateur mixed martial arts matches

57 | from being held in this state; amending s. 718.112, F.S.;
58 | requiring an association annual budget to be adopted prior
59 | to the beginning of the fiscal year; amending s. 718.501,
60 | F.S.; providing additional powers and duties of the
61 | division; providing for admission of certain evidence as
62 | competent evidence in a hearing; providing certain
63 | affirmative action for carrying out purposes of ch. 718,
64 | F.S.; providing for actions of conservator or receiver;
65 | providing for application to circuit court for an order of
66 | restitution; providing for imposition of civil penalties
67 | and award of court costs, attorney's fees, and costs of
68 | investigation under certain circumstances; providing for
69 | contracting for investigative services; providing for
70 | acceptance of grants-in-aid; requiring the cooperation
71 | with similar agencies on establishment of certain
72 | procedures, standards, and forms; providing what
73 | constitutes completeness of notice; authorizing the
74 | division to issue a notice to show cause; providing
75 | conforming changes; amending s. 718.509, F.S.; amending
76 | trust fund language and incorporating and amending s.
77 | 498.019, F.S.; deleting language relating to deposit of
78 | certain moneys into trust fund created in s. 498.019,
79 | F.S.; amending language incorporated to conform to change
80 | in division name; adding language to provide for the
81 | deposit of moneys resulting from an administrative final
82 | order; amending s. 720.401, F.S.; deleting reference to a
83 | subdivider registered under ch. 498, F.S., to conform;
84 | amending s. 723.011, F.S.; requiring a filing fee for

85 amendments to prospectus disclosure documents; amending
 86 ss. 73.073, 190.009, 192.037, 213.053, 326.002, 326.006,
 87 380.05, 380.06, 380.0651, 381.0065, 455.116, 475.455,
 88 494.008, 509.512, 517.301, 559.935, 718.103, 718.105,
 89 718.1255, 718.5011, 718.502, 718.504, 718.508, 718.608,
 90 719.103, 719.1255, 719.501, 719.502, 719.504, 719.508,
 91 719.608, 720.301, 720.401, 721.05, 721.07, 721.08, 721.26,
 92 721.28, 721.301, 721.50, 723.003, 723.006, 723.009, and
 93 723.0611, F.S., to conform; providing an effective date.

94

95 Be It Enacted by the Legislature of the State of Florida:

96

97 Section 1. Paragraph (d) of subsection (2) of section
 98 20.165, Florida Statutes, is amended to read:

99 20.165 Department of Business and Professional
 100 Regulation.--There is created a Department of Business and
 101 Professional Regulation.

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

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

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

108 73.073 Eminent domain procedure with respect to
 109 condominium common elements.--

110 (2) With respect to the exercise of eminent domain or a
 111 negotiated sale for the purchase or taking of a portion of the
 112 common elements of a condominium, the condemning authority shall

HB 601

2008

113 have the responsibility of contacting the condominium
114 association and acquiring the most recent rolls indicating the
115 names of the unit owners or contacting the appropriate taxing
116 authority to obtain the names of the owners of record on the tax
117 rolls. Notification shall thereupon be sent by certified mail,
118 return receipt requested, to the unit owners of record of the
119 condominium units by the condemning authority indicating the
120 intent to purchase or take the required property and requesting
121 a response from the unit owner. The condemning authority shall
122 be responsible for the expense of sending notification pursuant
123 to this section. Such notice shall, at a minimum, include:

- 124 (a) The name and address of the condemning authority.
- 125 (b) A written or visual description of the property.
- 126 (c) The public purpose for which the property is needed.
- 127 (d) The appraisal value of the property.
- 128 (e) A clear, concise statement relating to the unit
129 owner's right to object to the taking or appraisal value and the
130 procedures and effects of exercising that right.
- 131 (f) A clear, concise statement relating to the power of
132 the association to convey the property on behalf of the unit
133 owners if no objection to the taking or appraisal value is
134 raised, and the effects of this alternative on the unit owner.

135
136 The Division of Florida ~~Land Sales~~, Condominiums, Timeshares,
137 and Mobile Homes of the Department of Business and Professional
138 Regulation may adopt, by rule, a standard form for such notice
139 and may require the notice to include any additional relevant
140 information.

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

143 190.009 Disclosure of public financing.--

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

148 (2)~~(3)~~ The Department of Community Affairs shall keep a
 149 current list of districts and their disclosures pursuant to this
 150 act and shall make such studies and reports and take such
 151 actions as it deems necessary.

152 Section 4. Paragraph (e) of subsection (6) of section
 153 192.037, Florida Statutes, is amended to read:

154 192.037 Fee timeshare real property; taxes and
 155 assessments; escrow.--

156 (6)

157 (e) On or before May 1 of each year, a statement of
 158 receipts and disbursements of the escrow account must be filed
 159 with the Division of Florida ~~Land Sales, Condominiums,~~
 160 Timeshares, and Mobile Homes of the Department of Business and
 161 Professional Regulation, which may enforce this paragraph
 162 pursuant to s. 721.26. This statement must appropriately show
 163 the amount of principal and interest in such account.

164 Section 5. Paragraph (i) of subsection (8) of section
 165 213.053, Florida Statutes, is amended to read:

166 213.053 Confidentiality and information sharing.--

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

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

173
 174 Disclosure of information under this subsection shall be
 175 pursuant to a written agreement between the executive director
 176 and the agency. Such agencies, governmental or nongovernmental,
 177 shall be bound by the same requirements of confidentiality as
 178 the Department of Revenue. Breach of confidentiality is a
 179 misdemeanor of the first degree, punishable as provided by s.
 180 775.082 or s. 775.083.

181 Section 6. Paragraph (d) of subsection (4) of section
 182 215.20, Florida Statutes, is amended to read:

183 215.20 Certain income and certain trust funds to
 184 contribute to the General Revenue Fund.--

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

189 (d) Within the Department of Business and Professional
 190 Regulation:

- 191 1. The Administrative Trust Fund.
- 192 2. The Alcoholic Beverage and Tobacco Trust Fund.
- 193 3. The Cigarette Tax Collection Trust Fund.
- 194 4. The Division of Florida ~~Land Sales~~, Condominiums,
 195 Timeshares, and Mobile Homes Trust Fund.

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

199 6. The Professional Regulation Trust Fund.

200 7. The trust funds administered by the Division of Pari-
 201 mutuel Wagering.

202

203 The enumeration of the foregoing moneys or trust funds shall not
 204 prohibit the applicability thereto of s. 215.24 should the
 205 Governor determine that for the reasons mentioned in s. 215.24
 206 the money or trust funds should be exempt herefrom, as it is the
 207 purpose of this law to exempt income from its force and effect
 208 when, by the operation of this law, federal matching funds or
 209 contributions or private grants to any trust fund would be lost
 210 to the state.

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

213 326.002 Definitions.--As used in ss. 326.001-326.006, the
 214 term:

215 (2) "Division" means the Division of Florida ~~Land Sales,~~
 216 Condominiums, Timeshares, and Mobile Homes of the Department of
 217 Business and Professional Regulation.

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

220 326.006 Powers and duties of division.--

221 (2) The division has the power to enforce and ensure
 222 compliance with the provisions of this chapter and rules adopted
 223 under this chapter relating to the sale and ownership of yachts

224 and ships. In performing its duties, the division has the
 225 following powers and duties:

226 (d) Notwithstanding any remedies available to a yacht or
 227 ship purchaser, if the division has reasonable cause to believe
 228 that a violation of any provision of this chapter or rule
 229 adopted under this chapter has occurred, the division may
 230 institute enforcement proceedings in its own name against any
 231 broker or salesperson or any of his or her assignees or agents,
 232 or against any unlicensed person or any of his or her assignees
 233 or agents, as follows:

234 1. The division may permit a person whose conduct or
 235 actions are under investigation to waive formal proceedings and
 236 enter into a consent proceeding whereby orders, rules, or
 237 letters of censure or warning, whether formal or informal, may
 238 be entered against the person.

239 2. The division may issue an order requiring the broker or
 240 salesperson or any of his or her assignees or agents, or
 241 requiring any unlicensed person or any of his or her assignees
 242 or agents, to cease and desist from the unlawful practice and
 243 take such affirmative action as in the judgment of the division
 244 will carry out the purposes of this chapter.

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

248 4. The division may impose a civil penalty against a
 249 broker or salesperson or any of his or her assignees or agents,
 250 or against an unlicensed person or any of his or her assignees
 251 or agents, for any violation of this chapter or a rule adopted

252 | under this chapter. A penalty may be imposed for each day of
 253 | continuing violation, but in no event may the penalty for any
 254 | offense exceed \$10,000. All amounts collected must be deposited
 255 | with the Chief Financial Officer to the credit of the Division
 256 | of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile
 257 | Homes Trust Fund. If a broker, salesperson, or unlicensed person
 258 | working for a broker, fails to pay the civil penalty, the
 259 | division shall thereupon issue an order suspending the broker's
 260 | license until such time as the civil penalty is paid or may
 261 | pursue enforcement of the penalty in a court of competent
 262 | jurisdiction. The order imposing the civil penalty or the order
 263 | of suspension may not become effective until 20 days after the
 264 | date of such order. Any action commenced by the division must be
 265 | brought in the county in which the division has its executive
 266 | offices or in the county where the violation occurred.

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

270 | Section 9. Subsection (18) of section 380.05, Florida
 271 | Statutes, is amended to read:

272 | 380.05 Areas of critical state concern.--

273 | (18) Neither the designation of an area of critical state
 274 | concern nor the adoption of any regulations for such an area
 275 | shall in any way limit or modify the rights of any person to
 276 | complete any development that was ~~has been~~ authorized by
 277 | registration of a subdivision pursuant to former chapter 498 or
 278 | former chapter 478, by recordation pursuant to local subdivision
 279 | plat law, or by a building permit or other authorization to

HB 601

2008

280 commence development on which there has been reliance and a
281 change of position, and which registration or recordation was
282 accomplished, or which permit or authorization was issued, prior
283 to the approval under subsection (6), or the adoption under
284 subsection (8), of land development regulations for the area of
285 critical state concern. If a developer has by his or her actions
286 in reliance on prior regulations obtained vested or other legal
287 rights that in law would have prevented a local government from
288 changing those regulations in a way adverse to the developer's
289 interests, nothing in this chapter authorizes any governmental
290 agency to abridge those rights.

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

293 380.06 Developments of regional impact.--

294 (20) VESTED RIGHTS.--Nothing in this section shall limit
295 or modify the rights of any person to complete any development
296 that was ~~has been~~ authorized by registration of a subdivision
297 pursuant to former chapter 498, by recordation pursuant to local
298 subdivision plat law, or by a building permit or other
299 authorization to commence development on which there has been
300 reliance and a change of position and which registration or
301 recordation was accomplished, or which permit or authorization
302 was issued, prior to July 1, 1973. If a developer has, by his or
303 her actions in reliance on prior regulations, obtained vested or
304 other legal rights that in law would have prevented a local
305 government from changing those regulations in a way adverse to
306 the developer's interests, nothing in this chapter authorizes
307 any governmental agency to abridge those rights.

308 (a) For the purpose of determining the vesting of rights
309 under this subsection, approval pursuant to local subdivision
310 plat law, ordinances, or regulations of a subdivision plat by
311 formal vote of a county or municipal governmental body having
312 jurisdiction after August 1, 1967, and prior to July 1, 1973, is
313 sufficient to vest all property rights for the purposes of this
314 subsection; and no action in reliance on, or change of position
315 concerning, such local governmental approval is required for
316 vesting to take place. Anyone claiming vested rights under this
317 paragraph must so notify the department in writing by January 1,
318 1986. Such notification shall include information adequate to
319 document the rights established by this subsection. When such
320 notification requirements are met, in order for the vested
321 rights authorized pursuant to this paragraph to remain valid
322 after June 30, 1990, development of the vested plan must be
323 commenced prior to that date upon the property that the state
324 land planning agency has determined to have acquired vested
325 rights following the notification or in a binding letter of
326 interpretation. When the notification requirements have not been
327 met, the vested rights authorized by this paragraph shall expire
328 June 30, 1986, unless development commenced prior to that date.

329 (b) For the purpose of this act, the conveyance of, or the
330 agreement to convey, property to the county, state, or local
331 government as a prerequisite to zoning change approval shall be
332 construed as an act of reliance to vest rights as determined
333 under this subsection, provided such zoning change is actually
334 granted by such government.

335 Section 11. Paragraph (a) of subsection (4) of section
 336 380.0651, Florida Statutes, is amended to read:

337 380.0651 Statewide guidelines and standards.--

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

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

346 1.a. The same person has retained or shared control of the
 347 developments;

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

350 c. There is common management of the developments
 351 controlling the form of physical development or disposition of
 352 parcels of the development.

353 2. There is a reasonable closeness in time between the
 354 completion of 80 percent or less of one development and the
 355 submission to a governmental agency of a master plan or series
 356 of plans or drawings for the other development which is
 357 indicative of a common development effort.

358 3. A master plan or series of plans or drawings exists
 359 covering the developments sought to be aggregated which have
 360 been submitted to a local general-purpose government, water
 361 management district, the Florida Department of Environmental
 362 Protection, or the Division of Florida ~~Land Sales~~, Condominiums,

363 Timeshares, and Mobile Homes for authorization to commence
 364 development. The existence or implementation of a utility's
 365 master utility plan required by the Public Service Commission or
 366 general-purpose local government or a master drainage plan shall
 367 not be the sole determinant of the existence of a master plan.

368 4. The voluntary sharing of infrastructure that is
 369 indicative of a common development effort or is designated
 370 specifically to accommodate the developments sought to be
 371 aggregated, except that which was implemented because it was
 372 required by a local general-purpose government; water management
 373 district; the Department of Environmental Protection; the
 374 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 375 Mobile Homes; or the Public Service Commission.

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

378 Section 12. Paragraph (c) of subsection (4) of section
 379 381.0065, Florida Statutes, is amended to read:

380 381.0065 Onsite sewage treatment and disposal systems;
 381 regulation.--

382 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may
 383 not construct, repair, modify, abandon, or operate an onsite
 384 sewage treatment and disposal system without first obtaining a
 385 permit approved by the department. The department may issue
 386 permits to carry out this section, but shall not make the
 387 issuance of such permits contingent upon prior approval by the
 388 Department of Environmental Protection, except that the issuance
 389 of a permit for work seaward of the coastal construction control
 390 line established under s. 161.053 shall be contingent upon

391 receipt of any required coastal construction control line permit
392 from the Department of Environmental Protection. A construction
393 permit is valid for 18 months from the issuance date and may be
394 extended by the department for one 90-day period under rules
395 adopted by the department. A repair permit is valid for 90 days
396 from the date of issuance. An operating permit must be obtained
397 prior to the use of any aerobic treatment unit or if the
398 establishment generates commercial waste. Buildings or
399 establishments that use an aerobic treatment unit or generate
400 commercial waste shall be inspected by the department at least
401 annually to assure compliance with the terms of the operating
402 permit. The operating permit for a commercial wastewater system
403 is valid for 1 year from the date of issuance and must be
404 renewed annually. The operating permit for an aerobic treatment
405 unit is valid for 2 years from the date of issuance and must be
406 renewed every 2 years. If all information pertaining to the
407 siting, location, and installation conditions or repair of an
408 onsite sewage treatment and disposal system remains the same, a
409 construction or repair permit for the onsite sewage treatment
410 and disposal system may be transferred to another person, if the
411 transferee files, within 60 days after the transfer of
412 ownership, an amended application providing all corrected
413 information and proof of ownership of the property. There is no
414 fee associated with the processing of this supplemental
415 information. A person may not contract to construct, modify,
416 alter, repair, service, abandon, or maintain any portion of an
417 onsite sewage treatment and disposal system without being
418 registered under part III of chapter 489. A property owner who

419 personally performs construction, maintenance, or repairs to a
420 system serving his or her own owner-occupied single-family
421 residence is exempt from registration requirements for
422 performing such construction, maintenance, or repairs on that
423 residence, but is subject to all permitting requirements. A
424 municipality or political subdivision of the state may not issue
425 a building or plumbing permit for any building that requires the
426 use of an onsite sewage treatment and disposal system unless the
427 owner or builder has received a construction permit for such
428 system from the department. A building or structure may not be
429 occupied and a municipality, political subdivision, or any state
430 or federal agency may not authorize occupancy until the
431 department approves the final installation of the onsite sewage
432 treatment and disposal system. A municipality or political
433 subdivision of the state may not approve any change in occupancy
434 or tenancy of a building that uses an onsite sewage treatment
435 and disposal system until the department has reviewed the use of
436 the system with the proposed change, approved the change, and
437 amended the operating permit.

438 (c) Notwithstanding the provisions of paragraphs (a) and
439 (b), for subdivisions platted of record on or before October 1,
440 1991, when a developer or other appropriate entity has
441 previously made or makes provisions, including financial
442 assurances or other commitments, acceptable to the Department of
443 Health, that a central water system will be installed by a
444 regulated public utility based on a density formula, private
445 potable wells may be used with onsite sewage treatment and
446 disposal systems until the agreed-upon densities are reached.

447 ~~The department may consider assurances filed with the Department~~
 448 ~~of Business and Professional Regulation under chapter 498 in~~
 449 ~~determining the adequacy of the financial assurance required by~~
 450 ~~this paragraph.~~ In a subdivision regulated by this paragraph,
 451 the average daily sewage flow may not exceed 2,500 gallons per
 452 acre per day. This section does not affect the validity of
 453 existing prior agreements. After October 1, 1991, the exception
 454 provided under this paragraph is not available to a developer or
 455 other appropriate entity.

456 Section 13. Subsections (8) through (12) of section
 457 450.33, Florida Statutes, are amended to read:

458 450.33 Duties of farm labor contractor.--Every farm labor
 459 contractor must:

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

462 (8)~~(9)~~ Produce evidence to the department that each
 463 vehicle he or she uses for the transportation of employees
 464 complies with the requirements and specifications established in
 465 chapter 316, s. 316.622, or Pub. L. No. 93-518 as amended by
 466 Pub. L. No. 97-470 meeting Department of Transportation
 467 requirements or, in lieu thereof, bears a valid inspection
 468 sticker showing that the vehicle has passed the inspection in
 469 the state in which the vehicle is registered.

470 (9)~~(10)~~ Comply with all applicable statutes, rules, and
 471 regulations of the United States and of the State of Florida for
 472 the protection or benefit of labor, including, but not limited
 473 to, those providing for wages, hours, fair labor standards,

474 social security, workers' compensation, unemployment
 475 compensation, child labor, and transportation.

476 ~~(10)-(11)~~ Maintain accurate daily field records for each
 477 employee actually paid by the farm labor contractor reflecting
 478 the hours worked for the farm labor contractor and, if paid by
 479 unit, the number of units harvested and the amount paid per
 480 unit.

481 ~~(11)-(12)~~ Clearly display on each vehicle used to transport
 482 migrant or seasonal farm workers a display sticker issued by the
 483 department, which states that the vehicle is authorized by the
 484 department to transport farm workers and the expiration date of
 485 the authorization.

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

488 455.203 Department; powers and duties.--The department,
 489 for the boards under its jurisdiction, shall:

490 (10) (a) Have the authority to close and terminate
 491 deficient license application files 2 years after the board or
 492 the department notifies the applicant of the deficiency.

493 (b) Have the authority to approve applications for
 494 professional licenses that meet all statutory and rule
 495 requirements for licensure.

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

498 455.116 Regulation trust funds.--The following trust funds
 499 shall be placed in the department:

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

502 Section 16. Subsection (9) of section 475.451, Florida
 503 Statutes, is amended to read:

504 475.451 Schools teaching real estate practice.--

505 ~~(9)(a) Each school permitholder of a proprietary real~~
 506 ~~estate school, each chief administrative person of such an~~
 507 ~~institution, or each course sponsor shall deliver to the~~
 508 ~~department, in a format acceptable to the department, a copy of~~
 509 ~~the classroom course roster of courses that require satisfactory~~
 510 ~~completion of an examination no later than 30 days beyond the~~
 511 ~~end of the calendar month in which the course was completed.~~

512 ~~(b) The course roster shall consist of the institution or~~
 513 ~~school name and permit number, if applicable, the instructor's~~
 514 ~~name and permit number, if applicable, course title, beginning~~
 515 ~~and ending dates of the course, number of course hours, course~~
 516 ~~location, if applicable, each student's full name and license~~
 517 ~~number, if applicable, each student's mailing address, and the~~
 518 ~~numerical grade each student achieved. The course roster shall~~
 519 ~~also include the signature of the school permitholder, the chief~~
 520 ~~administrative person, or the course sponsor.~~

521 Section 17. Section 475.455, Florida Statutes, is amended
 522 to read:

523 475.455 Exchange of disciplinary information.--The
 524 commission shall inform the Division of Florida ~~Land Sales,~~
 525 Condominiums, Timeshares, and Mobile Homes of the Department of
 526 Business and Professional Regulation of any disciplinary action
 527 the commission has taken against any of its licensees. The
 528 division shall inform the commission of any disciplinary action

HB 601

2008

529 the division has taken against any broker or sales associate
 530 registered with the division.

531 Section 18. Section 489.511, Florida Statutes, is amended
 532 to read:

533 489.511 Certification; application; examinations;
 534 endorsement.--

535 (1) (a) Any person who is at least 18 years of age shall be
 536 entitled to take the certification examination.

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

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

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

545 ~~1.2. Be~~ is of good moral character;

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

548 3. Meet ~~Meets~~ eligibility requirements according to one of
 549 the following criteria:

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

555 b. Has, within the 8 years immediately preceding the
 556 filing of the application, at least 4 years' experience as a

557 supervisor or contractor in the trade for which he or she is
558 making application;

559 c. Has, within the 12 years immediately preceding the
560 filing of the application, at least 6 years of comprehensive
561 training, technical education, or supervisory experience
562 associated with an electrical or alarm system contracting
563 business, or at least 6 years of technical experience in
564 electrical or alarm system work with the Armed Forces or a
565 governmental entity;

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

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

572 (c)~~(b)~~ For purposes of this subsection, "supervisor" means
573 a person having the experience gained while having the general
574 duty of overseeing the technical duties of the trade, provided
575 that such experience is gained by a person who is able to
576 perform the technical duties of the trade without supervision.

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

581 (2)~~(3)~~ The board may determine by rule the number of times
582 per year the applicant may take the examination and after three
583 unsuccessful attempts may ~~On or after October 1, 1998, every~~
584 ~~applicant who is qualified shall be allowed to take the~~

HB 601

2008

585 ~~examination three times, notwithstanding the number of times the~~
586 ~~applicant has previously failed the examination. If an applicant~~
587 ~~fails the examination three times after October 1, 1998, the~~
588 ~~board shall~~ require the applicant to complete additional
589 college-level or technical education courses in the areas of
590 deficiency, as determined by the board, as a condition of future
591 eligibility to take the examination. ~~The applicant must also~~
592 ~~submit a new application that meets all certification~~
593 ~~requirements at the time of its submission and must pay all~~
594 ~~appropriate fees.~~

595 (3) ~~(4)~~ (a) "Good moral character" means a personal history
596 of honesty, fairness, and respect for the rights of others and
597 for laws of this state and nation.

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

602 1. There is a substantial connection between the lack of
603 good moral character of the individual and the professional
604 responsibilities of a certified contractor; and

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

607 (c) When an individual is found to be unqualified for
608 certification ~~examination~~ because of a lack of good moral
609 character, the board shall furnish such individual a statement
610 containing the findings of the board, a complete record of the
611 evidence upon which the determination was based, and a notice of
612 the rights of the individual to a rehearing and appeal.

613 (4)~~(5)~~ The board shall, by rule, designate those types of
 614 specialty electrical or alarm system contractors who may be
 615 certified under this part. The limit of the scope of work and
 616 responsibility of a certified specialty contractor shall be
 617 established by board rule. A certified specialty contractor
 618 category exists as an optional statewide licensing category.
 619 Qualification for certification in a specialty category created
 620 by rule shall be the same as set forth in paragraph (1) (b)
 621 ~~(2) (a)~~. The existence of a specialty category created by rule
 622 does not itself create any licensing requirement; however,
 623 neither does its optional nature remove any licensure
 624 requirement established elsewhere in this part.

625 (5)~~(6)~~ The board shall certify as qualified for
 626 certification by endorsement any individual applying for
 627 certification who:

628 (a) Meets the requirements for certification as set forth
 629 in this section; has passed a national, regional, state, or
 630 United States territorial licensing examination that is
 631 substantially equivalent to the examination required by this
 632 part; and has satisfied the requirements set forth in s.
 633 489.521; or

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

639 (6)~~(7)~~ Upon the issuance of a certificate, any previously
 640 issued registered licenses for the classification in which the
 641 certification is issued are rendered void.

642 Section 19. Paragraph (b) of subsection (1) of section
 643 489.515, Florida Statutes, is amended to read:

644 489.515 Issuance of certificates; registrations.--

645 (1)

646 (b) The board shall certify as qualified for certification
 647 any person who satisfies the requirements of s. 489.511, ~~who~~
 648 ~~successfully passes the certification examination administered~~
 649 ~~by the department, achieving a passing grade as established by~~
 650 ~~board rule,~~ and who submits satisfactory evidence that he or she
 651 has obtained both workers' compensation insurance or an
 652 acceptable exemption certificate issued by the department and
 653 public liability and property damage insurance for the health,
 654 safety, and welfare of the public in amounts determined by rule
 655 of the board, and furnishes evidence of financial
 656 responsibility, credit, and business reputation of either
 657 himself or herself or the business organization he or she
 658 desires to qualify.

659 Section 20. Section 494.008, Florida Statutes, is amended
 660 to read:

661 494.008 Mortgages offered by land developers ~~licensed~~
 662 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~
 663 requirements; prohibitions.--No mortgage loan which has a face
 664 amount of \$35,000 or less and is secured by vacant land
 665 ~~registered under the Florida Uniform Land Sales Practices Law,~~
 666 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial

667 institution, by any person unless all of the following
668 requirements are met:

669 (1) Each mortgage securing a note or other obligation sold
670 or offered for sale shall be eligible for a recordation as a
671 first mortgage.

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

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

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

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

692 (6) All funds received by the mortgage broker pursuant to
693 this section shall promptly be deposited in the broker's trust

694 account where they shall remain until the note and mortgage are
 695 fully executed and recorded.

696 (7) Willful failure to comply with any of the above
 697 provisions shall subject the person to the penalties of s.
 698 494.05.

699 Section 21. Section 498.009, Florida Statutes, is
 700 renumbered as section 718.50152, Florida Statutes.

701 Section 22. Section 498.011, Florida Statutes, is
 702 renumbered as section 718.50153, Florida Statutes, and amended
 703 to read:

704 718.50153 ~~498.011~~ Payment of per diem, mileage, and other
 705 expenses to division employees.--The amount of per diem and
 706 mileage and expense money paid to employees shall be as provided
 707 in s. 112.061, except that the division shall establish by rule
 708 the standards for reimbursement of actual verified expenses
 709 incurred in connection with an on-site review ~~inspection~~ or
 710 investigation of ~~subdivided lands~~.

711 Section 23. Section 498.013, Florida Statutes, is
 712 renumbered as section 718.50154, Florida Statutes.

713 Section 24. Section 498.022, Florida Statutes, is
 714 renumbered as section 501.2076, Florida Statutes, and amended to
 715 read:

716 501.2076 ~~498.022~~ Prohibitions on the sale of subdivided
 717 lands ~~Jurisdiction over fraudulent acts.--~~

718 (1) It shall be unlawful and a violation of this part
 719 ~~chapter~~ for a person to offer or dispose of 5 or more lots,
 720 parcels, units, or interests in a subdivision, and to:

721 (a) Employ any device, scheme, or artifice to defraud.

722 (b) Obtain money or property by means of a false statement
 723 of a material fact, or the failure to state a material fact
 724 which makes the statement misleading in light of the
 725 circumstances and the context of the overall transaction, with
 726 respect to any information pertinent to the transaction.

727 (c) Engage in any transaction, practice, or course of
 728 business which operates or would operate as a fraud or deceit
 729 upon a purchaser.

730 (d) Make any false, fictitious, or fraudulent statement or
 731 representation, or make or use any false writing or document
 732 knowing the same to contain any false, fictitious, or fraudulent
 733 statement or entry.

734 (e) Falsify, conceal, or cover up, by any trick, scheme,
 735 or device, a material fact.

736 (f) Dispose of, conceal, or divert any funds or assets of
 737 any person so as to substantially and adversely affect the
 738 interest of a purchaser.

739 ~~(2) Those persons qualifying for exemptions pursuant to s.~~
 740 ~~498.025 shall not be exempt from the provisions of this section,~~
 741 ~~and the division shall have the authority to use any powers~~
 742 ~~granted to it by this chapter to prevent, investigate, or punish~~
 743 ~~any violation of this section.~~

744 ~~(3) Any violation of the provisions of subsection (1)~~
 745 ~~shall give to any purchaser of the lots, units, or interests the~~
 746 ~~same rights the purchasers would have under s. 498.061, as if~~
 747 ~~the lots, units, or interests were "subdivided lands" as defined~~
 748 ~~in s. 498.005(21).~~

749 ~~(2)(4) Notwithstanding any other provision of this~~
 750 ~~chapter,~~ The term "subdivision" or "subdivided lands" as used in
 751 this section means any contiguous land which is divided or is
 752 proposed to be divided for the purpose of disposition into 25 or
 753 more lots, parcels, units, or interests and also includes any
 754 land, whether contiguous or not, which is divided or proposed to
 755 be divided into 25 or more lots, parcels, units, or interests
 756 which are offered as a part of a common promotional plan.

757 (3) For the purposes of this section, the term "common
 758 promotional plan" means an offering of subdivided lands by a
 759 person in a similar plan of disposition. Elements relevant to
 760 whether the subdivided lands are being offered as part of a
 761 common promotional plan include, but are not limited to: the
 762 physical relationship of the properties being offered; whether
 763 the offered properties are known, designated, or advertised as a
 764 common unit or by a common name; the utilization of a common
 765 broker or sales personnel, common sales office or facilities, or
 766 common promotional methods; the utilization of cross-referrals
 767 of prospective purchasers between sales operations; and common
 768 ownership interests.

769 ~~(4)(5)~~ Any willful violation of the provisions of
 770 subsection (1) shall be a felony of the third degree, punishable
 771 as provided in s. 775.082, s. 775.083, or s. 775.084.

772 Section 25. Section 498.057, Florida Statutes, is
 773 renumbered as section 718.50155, Florida Statutes, and amended,
 774 to read:

775 718.50155 ~~498.057~~ Service of process.--

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

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

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

788 (2) If any person, including any nonresident of this
 789 state, allegedly engages in conduct prohibited by this chapter,
 790 or any rule or order of the division, and has not filed a
 791 consent to service of process, and personal jurisdiction over
 792 him or her cannot otherwise be obtained in this state, the
 793 director shall be authorized to receive service of process in
 794 any noncriminal proceeding against that person or his or her
 795 successor which grows out of the conduct and which is brought by
 796 the division under this chapter or any rule or order of the
 797 division. The process shall have the same force and validity as
 798 if personally served. Notice shall be given as provided in
 799 subsection (1).

800 Section 26. Sections 498.001, 498.003, 498.005, 498.007,
 801 498.017, 498.021, 498.023, 498.024, 498.025, 498.027, 498.028,
 802 498.029, 498.031, 498.033, 498.035, 498.037, 498.039, 498.041,

HB 601

2008

803 498.047, 498.049, 498.051, 498.053, 498.059, 498.061, and
 804 498.063, Florida Statutes, are repealed.

805 Section 27. Section 509.512, Florida Statutes, is amended
 806 to read:

807 509.512 Timeshare plan developer and exchange company
 808 exemption.--Sections 509.501-509.511 do not apply to a developer
 809 of a timeshare plan or an exchange company approved by the
 810 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 811 Mobile Homes pursuant to chapter 721, but only to the extent
 812 that the developer or exchange company engages in conduct
 813 regulated under chapter 721.

814 Section 28. Paragraph (a) of subsection (2) of section
 815 517.301, Florida Statutes, is amended to read:

816 517.301 Fraudulent transactions; falsification or
 817 concealment of facts.--

818 (2) For purposes of ss. 517.311 and 517.312 and this
 819 section, the term "investment" means any commitment of money or
 820 property principally induced by a representation that an
 821 economic benefit may be derived from such commitment, except
 822 that the term "investment" does not include a commitment of
 823 money or property for:

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

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

HB 601

2008

829 548.0065 Amateur matches; sanctioning and supervision;
830 health and safety standards; compliance checks; continuation,
831 suspension, and revocation of sanctioning approval.--

832 (4) Any member of the commission or the executive director
833 of the commission may suspend the approval of an amateur
834 sanctioning organization for failure to supervise amateur
835 matches or to enforce the approved health and safety standards
836 required under this chapter, provided that the suspension
837 complies with the procedures for summary suspensions in s.
838 120.60(6). At any amateur boxing, ~~or~~ kickboxing, or mixed
839 martial arts contest, any member of the commission or a
840 representative of the commission may immediately suspend one or
841 more matches in an event whenever it appears that the match or
842 matches violate the health and safety standards established by
843 rule as required by this chapter. A law enforcement officer may
844 assist any member of the commission or a representative of the
845 commission to enforce an order to stop a contest if called upon
846 to do so by a member of the commission or a representative of
847 the commission.

848 Section 30. Subsections (2), (3), and (4) of section
849 548.008, Florida Statutes, are amended to read:

850 548.008 Prohibited competitions.--

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

853 (2)~~(3)~~ No professional match may be held in this state
854 unless it meets the requirements for holding the match as
855 provided in this chapter and the rules adopted by the
856 commission.

HB 601

2008

857 ~~(3)-(4)~~(a) Any person participating in a match prohibited
 858 under this section, knowing the match to be prohibited, commits
 859 a misdemeanor of the second degree, punishable as provided in s.
 860 775.082 or s. 775.083.

861 (b) Any person holding, promoting, or sponsoring a match
 862 prohibited under this section commits a felony of the third
 863 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 864 775.084.

865 Section 31. Paragraph (h) of subsection (1) of section
 866 559.935, Florida Statutes, is amended to read:

867 559.935 Exemptions.--

868 (1) This part does not apply to:

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

874 Section 32. Subsection (17) of section 718.103, Florida
 875 Statutes, is amended to read:

876 718.103 Definitions.--As used in this chapter, the term:

877 (17) "Division" means the Division of Florida ~~Land Sales~~,
 878 Condominiums, Timeshares, and Mobile Homes of the Department of
 879 Business and Professional Regulation.

880 Section 33. Paragraph (c) of subsection (4) of section
 881 718.105, Florida Statutes, is amended to read:

882 718.105 Recording of declaration.--

883 (4)

884 (c) If the sum of money held by the clerk has not been
 885 paid to the developer or association as provided in paragraph
 886 (b) by 3 years after the date the declaration was originally
 887 recorded, the clerk in his or her discretion may notify, in
 888 writing, the registered agent of the association that the sum is
 889 still available and the purpose for which it was deposited. If
 890 the association does not record the certificate within 90 days
 891 after the clerk has given the notice, the clerk may disburse the
 892 money to the developer. If the developer cannot be located, the
 893 clerk shall disburse the money to the Division of Florida ~~Land~~
 894 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes for deposit in
 895 the Division of Florida ~~Land Sales~~, Condominiums, Timeshares,
 896 and Mobile Homes Trust Fund.

897 Section 34. Paragraph (f) of subsection (2) of section
 898 718.112, Florida Statutes, is amended to read:

899 718.112 Bylaws.--

900 (2) REQUIRED PROVISIONS.--The bylaws shall provide for the
 901 following and, if they do not do so, shall be deemed to include
 902 the following:

903 (f) Annual budget.--

904 1. The proposed annual budget of common expenses shall be
 905 detailed and shall show the amounts budgeted by accounts and
 906 expense classifications, including, if applicable, but not
 907 limited to, those expenses listed in s. 718.504(21). The annual
 908 budget shall be adopted prior to the beginning of the fiscal
 909 year. A multicondominium association shall adopt a separate
 910 budget of common expenses for each condominium the association
 911 operates and shall adopt a separate budget of common expenses

912 for the association. In addition, if the association maintains
913 limited common elements with the cost to be shared only by those
914 entitled to use the limited common elements as provided for in
915 s. 718.113(1), the budget or a schedule attached thereto shall
916 show amounts budgeted therefor. If, after turnover of control of
917 the association to the unit owners, any of the expenses listed
918 in s. 718.504(21) are not applicable, they need not be listed.

919 2. In addition to annual operating expenses, the budget
920 shall include reserve accounts for capital expenditures and
921 deferred maintenance. These accounts shall include, but are not
922 limited to, roof replacement, building painting, and pavement
923 resurfacing, regardless of the amount of deferred maintenance
924 expense or replacement cost, and for any other item for which
925 the deferred maintenance expense or replacement cost exceeds
926 \$10,000. The amount to be reserved shall be computed by means of
927 a formula which is based upon estimated remaining useful life
928 and estimated replacement cost or deferred maintenance expense
929 of each reserve item. The association may adjust replacement
930 reserve assessments annually to take into account any changes in
931 estimates or extension of the useful life of a reserve item
932 caused by deferred maintenance. This subsection does not apply
933 to an adopted budget in which the members of an association have
934 determined, by a majority vote at a duly called meeting of the
935 association, to provide no reserves or less reserves than
936 required by this subsection. However, prior to turnover of
937 control of an association by a developer to unit owners other
938 than a developer pursuant to s. 718.301, the developer may vote
939 to waive the reserves or reduce the funding of reserves for the

940 first 2 fiscal years of the association's operation, beginning
941 with the fiscal year in which the initial declaration is
942 recorded, after which time reserves may be waived or reduced
943 only upon the vote of a majority of all nondeveloper voting
944 interests voting in person or by limited proxy at a duly called
945 meeting of the association. If a meeting of the unit owners has
946 been called to determine whether to waive or reduce the funding
947 of reserves, and no such result is achieved or a quorum is not
948 attained, the reserves as included in the budget shall go into
949 effect. After the turnover, the developer may vote its voting
950 interest to waive or reduce the funding of reserves.

951 3. Reserve funds and any interest accruing thereon shall
952 remain in the reserve account or accounts, and shall be used
953 only for authorized reserve expenditures unless their use for
954 other purposes is approved in advance by a majority vote at a
955 duly called meeting of the association. Prior to turnover of
956 control of an association by a developer to unit owners other
957 than the developer pursuant to s. 718.301, the developer-
958 controlled association shall not vote to use reserves for
959 purposes other than that for which they were intended without
960 the approval of a majority of all nondeveloper voting interests,
961 voting in person or by limited proxy at a duly called meeting of
962 the association.

963 4. The only voting interests which are eligible to vote on
964 questions that involve waiving or reducing the funding of
965 reserves, or using existing reserve funds for purposes other
966 than purposes for which the reserves were intended, are the

967 | voting interests of the units subject to assessment to fund the
 968 | reserves in question.

969 | Section 35. Subsection (4) of section 718.1255, Florida
 970 | Statutes, is amended to read:

971 | 718.1255 Alternative dispute resolution; voluntary
 972 | mediation; mandatory nonbinding arbitration; legislative
 973 | findings.--

974 | (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
 975 | DISPUTES.--The Division of Florida ~~Land Sales~~, Condominiums,
 976 | Timeshares, and Mobile Homes of the Department of Business and
 977 | Professional Regulation shall employ full-time attorneys to act
 978 | as arbitrators to conduct the arbitration hearings provided by
 979 | this chapter. The division may also certify attorneys who are
 980 | not employed by the division to act as arbitrators to conduct
 981 | the arbitration hearings provided by this section. No person may
 982 | be employed by the department as a full-time arbitrator unless
 983 | he or she is a member in good standing of The Florida Bar. The
 984 | department shall promulgate rules of procedure to govern such
 985 | arbitration hearings including mediation incident thereto. The
 986 | decision of an arbitrator shall be final; however, such a
 987 | decision shall not be deemed final agency action. Nothing in
 988 | this provision shall be construed to foreclose parties from
 989 | proceeding in a trial de novo unless the parties have agreed
 990 | that the arbitration is binding. If such judicial proceedings
 991 | are initiated, the final decision of the arbitrator shall be
 992 | admissible in evidence in the trial de novo.

993 | (a) Prior to the institution of court litigation, a party
 994 | to a dispute shall petition the division for nonbinding

HB 601

2008

995 arbitration. The petition must be accompanied by a filing fee in
996 the amount of \$50. Filing fees collected under this section must
997 be used to defray the expenses of the alternative dispute
998 resolution program.

999 (b) The petition must recite, and have attached thereto,
1000 supporting proof that the petitioner gave the respondents:

1001 1. Advance written notice of the specific nature of the
1002 dispute;

1003 2. A demand for relief, and a reasonable opportunity to
1004 comply or to provide the relief; and

1005 3. Notice of the intention to file an arbitration petition
1006 or other legal action in the absence of a resolution of the
1007 dispute.

1008
1009 Failure to include the allegations or proof of compliance with
1010 these prerequisites requires dismissal of the petition without
1011 prejudice.

1012 (c) Upon receipt, the petition shall be promptly reviewed
1013 by the division to determine the existence of a dispute and
1014 compliance with the requirements of paragraphs (a) and (b). If
1015 emergency relief is required and is not available through
1016 arbitration, a motion to stay the arbitration may be filed. The
1017 motion must be accompanied by a verified petition alleging facts
1018 that, if proven, would support entry of a temporary injunction,
1019 and if an appropriate motion and supporting papers are filed,
1020 the division may abate the arbitration pending a court hearing
1021 and disposition of a motion for temporary injunction.

HB 601

2008

1022 (d) Upon determination by the division that a dispute
1023 exists and that the petition substantially meets the
1024 requirements of paragraphs (a) and (b) and any other applicable
1025 rules, a copy of the petition shall forthwith be served by the
1026 division upon all respondents.

1027 (e) Either before or after the filing of the respondents'
1028 answer to the petition, any party may request that the
1029 arbitrator refer the case to mediation under this section and
1030 any rules adopted by the division. Upon receipt of a request for
1031 mediation, the division shall promptly contact the parties to
1032 determine if there is agreement that mediation would be
1033 appropriate. If all parties agree, the dispute must be referred
1034 to mediation. Notwithstanding a lack of an agreement by all
1035 parties, the arbitrator may refer a dispute to mediation at any
1036 time.

1037 (f) Upon referral of a case to mediation, the parties must
1038 select a mutually acceptable mediator. To assist in the
1039 selection, the arbitrator shall provide the parties with a list
1040 of both volunteer and paid mediators that have been certified by
1041 the division under s. 718.501. If the parties are unable to
1042 agree on a mediator within the time allowed by the arbitrator,
1043 the arbitrator shall appoint a mediator from the list of
1044 certified mediators. If a case is referred to mediation, the
1045 parties shall attend a mediation conference, as scheduled by the
1046 parties and the mediator. If any party fails to attend a duly
1047 noticed mediation conference, without the permission or approval
1048 of the arbitrator or mediator, the arbitrator must impose
1049 sanctions against the party, including the striking of any

1050 pleadings filed, the entry of an order of dismissal or default
1051 if appropriate, and the award of costs and attorneys' fees
1052 incurred by the other parties. Unless otherwise agreed to by the
1053 parties or as provided by order of the arbitrator, a party is
1054 deemed to have appeared at a mediation conference by the
1055 physical presence of the party or its representative having full
1056 authority to settle without further consultation, provided that
1057 an association may comply by having one or more representatives
1058 present with full authority to negotiate a settlement and
1059 recommend that the board of administration ratify and approve
1060 such a settlement within 5 days from the date of the mediation
1061 conference. The parties shall share equally the expense of
1062 mediation, unless they agree otherwise.

1063 (g) The purpose of mediation as provided for by this
1064 section is to present the parties with an opportunity to resolve
1065 the underlying dispute in good faith, and with a minimum
1066 expenditure of time and resources.

1067 (h) Mediation proceedings must generally be conducted in
1068 accordance with the Florida Rules of Civil Procedure, and these
1069 proceedings are privileged and confidential to the same extent
1070 as court-ordered mediation. Persons who are not parties to the
1071 dispute are not allowed to attend the mediation conference
1072 without the consent of all parties, with the exception of
1073 counsel for the parties and corporate representatives designated
1074 to appear for a party. If the mediator declares an impasse after
1075 a mediation conference has been held, the arbitration proceeding
1076 terminates, unless all parties agree in writing to continue the
1077 arbitration proceeding, in which case the arbitrator's decision

HB 601

2008

1078 shall be either binding or nonbinding, as agreed upon by the
1079 parties; in the arbitration proceeding, the arbitrator shall not
1080 consider any evidence relating to the unsuccessful mediation
1081 except in a proceeding to impose sanctions for failure to appear
1082 at the mediation conference. If the parties do not agree to
1083 continue arbitration, the arbitrator shall enter an order of
1084 dismissal, and either party may institute a suit in a court of
1085 competent jurisdiction. The parties may seek to recover any
1086 costs and attorneys' fees incurred in connection with
1087 arbitration and mediation proceedings under this section as part
1088 of the costs and fees that may be recovered by the prevailing
1089 party in any subsequent litigation.

1090 (i) Arbitration shall be conducted according to rules
1091 promulgated by the division. The filing of a petition for
1092 arbitration shall toll the applicable statute of limitations.

1093 (j) At the request of any party to the arbitration, such
1094 arbitrator shall issue subpoenas for the attendance of witnesses
1095 and the production of books, records, documents, and other
1096 evidence and any party on whose behalf a subpoena is issued may
1097 apply to the court for orders compelling such attendance and
1098 production. Subpoenas shall be served and shall be enforceable
1099 in the manner provided by the Florida Rules of Civil Procedure.
1100 Discovery may, in the discretion of the arbitrator, be permitted
1101 in the manner provided by the Florida Rules of Civil Procedure.
1102 Rules adopted by the division may authorize any reasonable
1103 sanctions except contempt for a violation of the arbitration
1104 procedural rules of the division or for the failure of a party

HB 601

2008

1105 to comply with a reasonable nonfinal order issued by an
1106 arbitrator which is not under judicial review.

1107 (k) The arbitration decision shall be presented to the
1108 parties in writing. An arbitration decision is final in those
1109 disputes in which the parties have agreed to be bound. An
1110 arbitration decision is also final if a complaint for a trial de
1111 novo is not filed in a court of competent jurisdiction in which
1112 the condominium is located within 30 days. The right to file for
1113 a trial de novo entitles the parties to file a complaint in the
1114 appropriate trial court for a judicial resolution of the
1115 dispute. The prevailing party in an arbitration proceeding shall
1116 be awarded the costs of the arbitration and reasonable
1117 attorney's fees in an amount determined by the arbitrator. Such
1118 an award shall include the costs and reasonable attorney's fees
1119 incurred in the arbitration proceeding as well as the costs and
1120 reasonable attorney's fees incurred in preparing for and
1121 attending any scheduled mediation.

1122 (l) The party who files a complaint for a trial de novo
1123 shall be assessed the other party's arbitration costs, court
1124 costs, and other reasonable costs, including attorney's fees,
1125 investigation expenses, and expenses for expert or other
1126 testimony or evidence incurred after the arbitration hearing if
1127 the judgment upon the trial de novo is not more favorable than
1128 the arbitration decision. If the judgment is more favorable, the
1129 party who filed a complaint for trial de novo shall be awarded
1130 reasonable court costs and attorney's fees.

1131 (m) Any party to an arbitration proceeding may enforce an
1132 arbitration award by filing a petition in a court of competent

HB 601

2008

1133 jurisdiction in which the condominium is located. A petition may
 1134 not be granted unless the time for appeal by the filing of a
 1135 complaint for trial de novo has expired. If a complaint for a
 1136 trial de novo has been filed, a petition may not be granted with
 1137 respect to an arbitration award that has been stayed. If the
 1138 petition for enforcement is granted, the petitioner shall
 1139 recover reasonable attorney's fees and costs incurred in
 1140 enforcing the arbitration award. A mediation settlement may also
 1141 be enforced through the county or circuit court, as applicable,
 1142 and any costs and fees incurred in the enforcement of a
 1143 settlement agreement reached at mediation must be awarded to the
 1144 prevailing party in any enforcement action.

1145 Section 36. Section 718.501, Florida Statutes, is amended
 1146 to read:

1147 718.501 Powers and duties of Division of Florida ~~Land~~
 1148 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

1149 (1) The Division of Florida ~~Land Sales~~, Condominiums,
 1150 Timeshares, and Mobile Homes of the Department of Business and
 1151 Professional Regulation, referred to as the "division" in this
 1152 part, ~~in addition to other powers and duties prescribed by~~
 1153 ~~chapter 498,~~ has the power to enforce and ensure compliance with
 1154 the provisions of this chapter and rules promulgated pursuant
 1155 hereto relating to the development, construction, sale, lease,
 1156 ownership, operation, and management of residential condominium
 1157 units. In performing its duties, the division has the following
 1158 powers and duties:

1159 (a)1. The division may make necessary public or private
 1160 investigations within or outside this state to determine whether

1161 any person has violated this chapter or any rule or order
 1162 hereunder, to aid in the enforcement of this chapter, or to aid
 1163 in the adoption of rules or forms hereunder.

1164 2. The division may submit any official written report,
 1165 worksheet, or other related paper, or a duly certified copy
 1166 thereof, compiled, prepared, drafted, or otherwise made by and
 1167 duly authenticated by a financial examiner or analyst to be
 1168 admitted as competent evidence in any hearing in which the
 1169 financial examiner or analyst is available for cross-examination
 1170 and attests to under oath that such documents were prepared as a
 1171 result of an examination or inspection conducted pursuant to the
 1172 authority of this chapter.

1173 (b) The division may require or permit any person to file
 1174 a statement in writing, under oath or otherwise, as the division
 1175 determines, as to the facts and circumstances concerning a
 1176 matter to be investigated.

1177 (c) For the purpose of any investigation under this
 1178 chapter, the division director or any officer or employee
 1179 designated by the division director may administer oaths or
 1180 affirmations, subpoena witnesses and compel their attendance,
 1181 take evidence, and require the production of any matter which is
 1182 relevant to the investigation, including the existence,
 1183 description, nature, custody, condition, and location of any
 1184 books, documents, or other tangible things and the identity and
 1185 location of persons having knowledge of relevant facts or any
 1186 other matter reasonably calculated to lead to the discovery of
 1187 material evidence. Upon the failure by a person to obey a
 1188 subpoena or to answer questions propounded by the investigating

1189 officer and upon reasonable notice to all persons affected
 1190 thereby, the division may apply to the circuit court for an
 1191 order compelling compliance.

1192 (d) Notwithstanding any remedies available to unit owners
 1193 and associations, if the division has reasonable cause to
 1194 believe that a violation of any provision of this chapter or
 1195 rule promulgated pursuant hereto has occurred, the division may
 1196 institute enforcement proceedings in its own name against any
 1197 developer, association, officer, or member of the board of
 1198 administration, or its assignees or agents, as follows:

1199 1. The division may permit a person whose conduct or
 1200 actions may be under investigation to waive formal proceedings
 1201 and enter into a consent proceeding whereby orders, rules, or
 1202 letters of censure or warning, whether formal or informal, may
 1203 be entered against the person.

1204 2.a. The division may issue an order requiring the
 1205 developer, association, officer, or member of the board of
 1206 administration, or its assignees or agents, to cease and desist
 1207 from the unlawful practice and take such affirmative action as
 1208 in the judgment of the division will carry out the purposes of
 1209 this chapter. Such affirmative action may include, but is not
 1210 limited to:⁷

1211 (I) Requiring developers ~~an order requiring a developer~~ to
 1212 pay moneys determined to be owed to a condominium association;

1213 (II) Notifying purchasers of condominium units who have a
 1214 rescission right that they may elect to rescind the purchase
 1215 transaction as provided by contract or by other provisions of
 1216 this chapter; and

1217 (III) Establishing a trust or escrow account in a
 1218 financial institution located within this state to ensure the
 1219 payment of refunds to those purchasers who elect to rescind or
 1220 to ensure the conveyance of clear and marketable title to those
 1221 purchasers who do not elect to rescind.

1222 b. Whenever the division finds that a developer,
 1223 association, officer, or member of the board of administration,
 1224 or its assignees or agents, is violating or is about to violate
 1225 any provision of this chapter, any rule adopted or order
 1226 promulgated by the division, or any written agreement entered
 1227 into with the division, and presents an immediate danger to the
 1228 public requiring an immediate final order, it may issue an
 1229 emergency cease and desist order reciting with particularity the
 1230 facts underlying such findings. The emergency cease and desist
 1231 order is effective for 90 days. If the division begins
 1232 nonemergency cease and desist proceedings under sub-subparagraph
 1233 a., the emergency cease and desist order remains effective until
 1234 conclusion of the proceedings under ss. 120.569 and 120.57.

1235 3. The division may bring an action in circuit court on
 1236 behalf of a class of unit owners, lessees, or purchasers for
 1237 declaratory relief, injunctive relief, or restitution.

1238 4. The division may petition the court for the appointment
 1239 of a receiver or conservator. If appointed, the receiver or
 1240 conservator may take action to implement the provisions of the
 1241 court order, to ensure the performance of the order, and to
 1242 remedy any breach thereof. In addition to all other means
 1243 provided by law for the enforcement of an injunction or
 1244 temporary restraining order, the circuit court may impound or

1245 sequester the property of a party defendant, including books,
 1246 papers, documents, and records pertaining thereto, and allow the
 1247 examination and use of said property by the division and a
 1248 court-appointed receiver or conservator.

1249 5. The division may apply to the circuit court for an
 1250 order of restitution whereby the defendant in an action brought
 1251 pursuant to subparagraph 4. shall be ordered to make restitution
 1252 of those sums shown by the division to have been obtained by the
 1253 defendant in violation of any of the provisions of this chapter.
 1254 Such restitution shall, at the option of the court, be payable
 1255 to the conservator or receiver appointed pursuant to
 1256 subparagraph 4. or directly to the persons whose funds or assets
 1257 were obtained in violation of this chapter.

1258 ~~6.4.~~ The division may impose a civil penalty against a
 1259 developer or association, or its assignee or agent, for any
 1260 violation of this chapter or a rule promulgated pursuant hereto.
 1261 The division may impose a civil penalty individually against any
 1262 officer or board member who willfully and knowingly violates a
 1263 provision of this chapter, a rule adopted pursuant hereto, or a
 1264 final order of the division. The term "willfully and knowingly"
 1265 means that the division informed the officer or board member
 1266 that his or her action or intended action violates this chapter,
 1267 a rule adopted under this chapter, or a final order of the
 1268 division and that the officer or board member refused to comply
 1269 with the requirements of this chapter, a rule adopted under this
 1270 chapter, or a final order of the division. The division, prior
 1271 to initiating formal agency action under chapter 120, shall
 1272 afford the officer or board member an opportunity to voluntarily

HB 601

2008

1273 | comply with this chapter, a rule adopted under this chapter, or
1274 | a final order of the division. An officer or board member who
1275 | complies within 10 days is not subject to a civil penalty. A
1276 | penalty may be imposed on the basis of each day of continuing
1277 | violation, but in no event shall the penalty for any offense
1278 | exceed \$5,000. By January 1, 1998, the division shall adopt, by
1279 | rule, penalty guidelines applicable to possible violations or to
1280 | categories of violations of this chapter or rules adopted by the
1281 | division. The guidelines must specify a meaningful range of
1282 | civil penalties for each such violation of the statute and rules
1283 | and must be based upon the harm caused by the violation, the
1284 | repetition of the violation, and upon such other factors deemed
1285 | relevant by the division. For example, the division may consider
1286 | whether the violations were committed by a developer or owner-
1287 | controlled association, the size of the association, and other
1288 | factors. The guidelines must designate the possible mitigating
1289 | or aggravating circumstances that justify a departure from the
1290 | range of penalties provided by the rules. It is the legislative
1291 | intent that minor violations be distinguished from those which
1292 | endanger the health, safety, or welfare of the condominium
1293 | residents or other persons and that such guidelines provide
1294 | reasonable and meaningful notice to the public of likely
1295 | penalties that may be imposed for proscribed conduct. This
1296 | subsection does not limit the ability of the division to
1297 | informally dispose of administrative actions or complaints by
1298 | stipulation, agreed settlement, or consent order. All amounts
1299 | collected shall be deposited with the Chief Financial Officer to
1300 | the credit of the Division of Florida ~~Land Sales~~, Condominiums,

HB 601

2008

1301 Timeshares, and Mobile Homes Trust Fund. If a developer fails to
1302 pay the civil penalty, the division shall thereupon issue an
1303 order directing that such developer cease and desist from
1304 further operation until such time as the civil penalty is paid
1305 or may pursue enforcement of the penalty in a court of competent
1306 jurisdiction. If an association fails to pay the civil penalty,
1307 the division shall thereupon pursue enforcement in a court of
1308 competent jurisdiction, and the order imposing the civil penalty
1309 or the cease and desist order will not become effective until 20
1310 days after the date of such order. Any action commenced by the
1311 division shall be brought in the county in which the division
1312 has its executive offices or in the county where the violation
1313 occurred.

1314 7. In addition to the provisions of subparagraph 6., the
1315 division may seek the imposition of a civil penalty through the
1316 circuit court for any violation for which the division may issue
1317 a notice to show cause under paragraph (q). The civil penalty
1318 shall be no less than \$500 and no more than \$5,000 for each
1319 violation. The court may also award to the prevailing party
1320 court costs and reasonable attorney's fees and, in the event the
1321 division prevails, may also award reasonable costs of
1322 investigation.

1323 (e) The division is authorized to prepare and disseminate
1324 a prospectus and other information to assist prospective owners,
1325 purchasers, lessees, and developers of residential condominiums
1326 in assessing the rights, privileges, and duties pertaining
1327 thereto.

1328 (f) The division has authority to adopt rules pursuant to
 1329 ss. 120.536(1) and 120.54 to implement and enforce the
 1330 provisions of this chapter.

1331 (g) The division shall establish procedures for providing
 1332 notice to an association when the division is considering the
 1333 issuance of a declaratory statement with respect to the
 1334 declaration of condominium or any related document governing in
 1335 such condominium community.

1336 (h) The division shall furnish each association which pays
 1337 the fees required by paragraph (2)(a) a copy of this act,
 1338 subsequent changes to this act on an annual basis, an amended
 1339 version of this act as it becomes available from the Secretary
 1340 of State's office on a biennial basis, and the rules promulgated
 1341 pursuant thereto on an annual basis.

1342 (i) The division shall annually provide each association
 1343 with a summary of declaratory statements and formal legal
 1344 opinions relating to the operations of condominiums which were
 1345 rendered by the division during the previous year.

1346 (j) The division shall provide training programs for
 1347 condominium association board members and unit owners.

1348 (k) The division shall maintain a toll-free telephone
 1349 number accessible to condominium unit owners.

1350 (l) The division shall develop a program to certify both
 1351 volunteer and paid mediators to provide mediation of condominium
 1352 disputes. The division shall provide, upon request, a list of
 1353 such mediators to any association, unit owner, or other
 1354 participant in arbitration proceedings under s. 718.1255
 1355 requesting a copy of the list. The division shall include on the

HB 601

2008

1356 list of volunteer mediators only the names of persons who have
1357 received at least 20 hours of training in mediation techniques
1358 or who have mediated at least 20 disputes. In order to become
1359 initially certified by the division, paid mediators must be
1360 certified by the Supreme Court to mediate court cases in either
1361 county or circuit courts. However, the division may adopt, by
1362 rule, additional factors for the certification of paid
1363 mediators, which factors must be related to experience,
1364 education, or background. Any person initially certified as a
1365 paid mediator by the division must, in order to continue to be
1366 certified, comply with the factors or requirements imposed by
1367 rules adopted by the division.

1368 (m) When a complaint is made, the division shall conduct
1369 its inquiry with due regard to the interests of the affected
1370 parties. Within 30 days after receipt of a complaint, the
1371 division shall acknowledge the complaint in writing and notify
1372 the complainant whether the complaint is within the jurisdiction
1373 of the division and whether additional information is needed by
1374 the division from the complainant. The division shall conduct
1375 its investigation and shall, within 90 days after receipt of the
1376 original complaint or of timely requested additional
1377 information, take action upon the complaint. However, the
1378 failure to complete the investigation within 90 days does not
1379 prevent the division from continuing the investigation,
1380 accepting or considering evidence obtained or received after 90
1381 days, or taking administrative action if reasonable cause exists
1382 to believe that a violation of this chapter or a rule of the
1383 division has occurred. If an investigation is not completed

HB 601

2008

1384 within the time limits established in this paragraph, the
1385 division shall, on a monthly basis, notify the complainant in
1386 writing of the status of the investigation. When reporting its
1387 action to the complainant, the division shall inform the
1388 complainant of any right to a hearing pursuant to ss. 120.569
1389 and 120.57.

1390 (n) The division may:

1391 1. Contract with agencies in this state or other
1392 jurisdictions to perform investigative functions; or

1393 2. Accept grants-in-aid from any source.

1394 (o) The division shall cooperate with similar agencies in
1395 other jurisdictions to establish uniform filing procedures and
1396 forms, public offering statements, advertising standards, and
1397 rules and common administrative practices.

1398 (p) The division shall consider notice to a developer to
1399 be complete when it is delivered to the developer's address
1400 currently on file with the division.

1401 (q) In addition to its enforcement authority, the division
1402 may issue a notice to show cause, which shall provide for a
1403 hearing, upon written request, in accordance with chapter 120.

1404 (2) (a) Effective January 1, 1992, each condominium
1405 association which operates more than two units shall pay to the
1406 division an annual fee in the amount of \$4 for each residential
1407 unit in condominiums operated by the association. If the fee is
1408 not paid by March 1, then the association shall be assessed a
1409 penalty of 10 percent of the amount due, and the association
1410 will not have standing to maintain or defend any action in the

HB 601

2008

1411 courts of this state until the amount due, plus any penalty, is
 1412 paid.

1413 (b) All fees shall be deposited in the Division of Florida
 1414 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust
 1415 Fund as provided by law.

1416 Section 37. Subsection (1) of section 718.5011, Florida
 1417 Statutes, is amended to read:

1418 718.5011 Ombudsman; appointment; administration.--

1419 (1) There is created an Office of the Condominium
 1420 Ombudsman, to be located for administrative purposes within the
 1421 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 1422 Mobile Homes. The functions of the office shall be funded by the
 1423 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 1424 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief
 1425 of the division, and the office shall be set within the division
 1426 in the same manner as any other bureau is staffed and funded.

1427 Section 38. Paragraph (a) of subsection (2) of section
 1428 718.502, Florida Statutes, is amended to read:

1429 718.502 Filing prior to sale or lease.--

1430 (2)(a) Prior to filing as required by subsection (1), and
 1431 prior to acquiring an ownership, leasehold, or contractual
 1432 interest in the land upon which the condominium is to be
 1433 developed, a developer shall not offer a contract for purchase
 1434 of a unit or lease of a unit for more than 5 years. However, the
 1435 developer may accept deposits for reservations upon the approval
 1436 of a fully executed escrow agreement and reservation agreement
 1437 form properly filed with the Division of Florida ~~Land Sales~~,
 1438 Condominiums, Timeshares, and Mobile Homes. Each filing of a

HB 601

2008

1439 proposed reservation program shall be accompanied by a filing
 1440 fee of \$250. Reservations shall not be taken on a proposed
 1441 condominium unless the developer has an ownership, leasehold, or
 1442 contractual interest in the land upon which the condominium is
 1443 to be developed. The division shall notify the developer within
 1444 20 days of receipt of the reservation filing of any deficiencies
 1445 contained therein. Such notification shall not preclude the
 1446 determination of reservation filing deficiencies at a later
 1447 date, nor shall it relieve the developer of any responsibility
 1448 under the law. The escrow agreement and the reservation
 1449 agreement form shall include a statement of the right of the
 1450 prospective purchaser to an immediate unqualified refund of the
 1451 reservation deposit moneys upon written request to the escrow
 1452 agent by the prospective purchaser or the developer.

1453 Section 39. Section 718.504, Florida Statutes, is amended
 1454 to read:

1455 718.504 Prospectus or offering circular.--Every developer
 1456 of a residential condominium which contains more than 20
 1457 residential units, or which is part of a group of residential
 1458 condominiums which will be served by property to be used in
 1459 common by unit owners of more than 20 residential units, shall
 1460 prepare a prospectus or offering circular and file it with the
 1461 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 1462 Mobile Homes prior to entering into an enforceable contract of
 1463 purchase and sale of any unit or lease of a unit for more than 5
 1464 years and shall furnish a copy of the prospectus or offering
 1465 circular to each buyer. In addition to the prospectus or
 1466 offering circular, each buyer shall be furnished a separate page

1467 entitled "Frequently Asked Questions and Answers," which shall
 1468 be in accordance with a format approved by the division and a
 1469 copy of the financial information required by s. 718.111. This
 1470 page shall, in readable language, inform prospective purchasers
 1471 regarding their voting rights and unit use restrictions,
 1472 including restrictions on the leasing of a unit; shall indicate
 1473 whether and in what amount the unit owners or the association is
 1474 obligated to pay rent or land use fees for recreational or other
 1475 commonly used facilities; shall contain a statement identifying
 1476 that amount of assessment which, pursuant to the budget, would
 1477 be levied upon each unit type, exclusive of any special
 1478 assessments, and which shall further identify the basis upon
 1479 which assessments are levied, whether monthly, quarterly, or
 1480 otherwise; shall state and identify any court cases in which the
 1481 association is currently a party of record in which the
 1482 association may face liability in excess of \$100,000; and which
 1483 shall further state whether membership in a recreational
 1484 facilities association is mandatory, and if so, shall identify
 1485 the fees currently charged per unit type. The division shall by
 1486 rule require such other disclosure as in its judgment will
 1487 assist prospective purchasers. The prospectus or offering
 1488 circular may include more than one condominium, although not all
 1489 such units are being offered for sale as of the date of the
 1490 prospectus or offering circular. The prospectus or offering
 1491 circular must contain the following information:

- 1492 (1) The front cover or the first page must contain only:
- 1493 (a) The name of the condominium.
- 1494 (b) The following statements in conspicuous type:

1495 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
 1496 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

1497 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
 1498 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
 1499 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
 1500 MATERIALS.

1501 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
 1502 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
 1503 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
 1504 REPRESENTATIONS.

1505 (2) Summary: The next page must contain all statements
 1506 required to be in conspicuous type in the prospectus or offering
 1507 circular.

1508 (3) A separate index of the contents and exhibits of the
 1509 prospectus.

1510 (4) Beginning on the first page of the text (not including
 1511 the summary and index), a description of the condominium,
 1512 including, but not limited to, the following information:

1513 (a) Its name and location.

1514 (b) A description of the condominium property, including,
 1515 without limitation:

1516 1. The number of buildings, the number of units in each
 1517 building, the number of bathrooms and bedrooms in each unit, and
 1518 the total number of units, if the condominium is not a phase
 1519 condominium, or the maximum number of buildings that may be
 1520 contained within the condominium, the minimum and maximum
 1521 numbers of units in each building, the minimum and maximum
 1522 numbers of bathrooms and bedrooms that may be contained in each

HB 601

2008

1523 unit, and the maximum number of units that may be contained
1524 within the condominium, if the condominium is a phase
1525 condominium.

1526 2. The page in the condominium documents where a copy of
1527 the plot plan and survey of the condominium is located.

1528 3. The estimated latest date of completion of
1529 constructing, finishing, and equipping. In lieu of a date, the
1530 description shall include a statement that the estimated date of
1531 completion of the condominium is in the purchase agreement and a
1532 reference to the article or paragraph containing that
1533 information.

1534 (c) The maximum number of units that will use facilities
1535 in common with the condominium. If the maximum number of units
1536 will vary, a description of the basis for variation and the
1537 minimum amount of dollars per unit to be spent for additional
1538 recreational facilities or enlargement of such facilities. If
1539 the addition or enlargement of facilities will result in a
1540 material increase of a unit owner's maintenance expense or
1541 rental expense, if any, the maximum increase and limitations
1542 thereon shall be stated.

1543 (5) (a) A statement in conspicuous type describing whether
1544 the condominium is created and being sold as fee simple
1545 interests or as leasehold interests. If the condominium is
1546 created or being sold on a leasehold, the location of the lease
1547 in the disclosure materials shall be stated.

1548 (b) If timeshare estates are or may be created with
1549 respect to any unit in the condominium, a statement in

1550 conspicuous type stating that timeshare estates are created and
 1551 being sold in units in the condominium.

1552 (6) A description of the recreational and other commonly
 1553 used facilities that will be used only by unit owners of the
 1554 condominium, including, but not limited to, the following:

1555 (a) Each room and its intended purposes, location,
 1556 approximate floor area, and capacity in numbers of people.

1557 (b) Each swimming pool, as to its general location,
 1558 approximate size and depths, approximate deck size and capacity,
 1559 and whether heated.

1560 (c) Additional facilities, as to the number of each
 1561 facility, its approximate location, approximate size, and
 1562 approximate capacity.

1563 (d) A general description of the items of personal
 1564 property and the approximate number of each item of personal
 1565 property that the developer is committing to furnish for each
 1566 room or other facility or, in the alternative, a representation
 1567 as to the minimum amount of expenditure that will be made to
 1568 purchase the personal property for the facility.

1569 (e) The estimated date when each room or other facility
 1570 will be available for use by the unit owners.

1571 (f)1. An identification of each room or other facility to
 1572 be used by unit owners that will not be owned by the unit owners
 1573 or the association;

1574 2. A reference to the location in the disclosure materials
 1575 of the lease or other agreements providing for the use of those
 1576 facilities; and

1577 3. A description of the terms of the lease or other
 1578 agreements, including the length of the term; the rent payable,
 1579 directly or indirectly, by each unit owner, and the total rent
 1580 payable to the lessor, stated in monthly and annual amounts for
 1581 the entire term of the lease; and a description of any option to
 1582 purchase the property leased under any such lease, including the
 1583 time the option may be exercised, the purchase price or how it
 1584 is to be determined, the manner of payment, and whether the
 1585 option may be exercised for a unit owner's share or only as to
 1586 the entire leased property.

1587 (g) A statement as to whether the developer may provide
 1588 additional facilities not described above; their general
 1589 locations and types; improvements or changes that may be made;
 1590 the approximate dollar amount to be expended; and the maximum
 1591 additional common expense or cost to the individual unit owners
 1592 that may be charged during the first annual period of operation
 1593 of the modified or added facilities.

1594
 1595 Descriptions as to locations, areas, capacities, numbers,
 1596 volumes, or sizes may be stated as approximations or minimums.

1597 (7) A description of the recreational and other facilities
 1598 that will be used in common with other condominiums, community
 1599 associations, or planned developments which require the payment
 1600 of the maintenance and expenses of such facilities, either
 1601 directly or indirectly, by the unit owners. The description
 1602 shall include, but not be limited to, the following:

1603 (a) Each building and facility committed to be built.

1604 (b) Facilities not committed to be built except under
 1605 certain conditions, and a statement of those conditions or
 1606 contingencies.

1607 (c) As to each facility committed to be built, or which
 1608 will be committed to be built upon the happening of one of the
 1609 conditions in paragraph (b), a statement of whether it will be
 1610 owned by the unit owners having the use thereof or by an
 1611 association or other entity which will be controlled by them, or
 1612 others, and the location in the exhibits of the lease or other
 1613 document providing for use of those facilities.

1614 (d) The year in which each facility will be available for
 1615 use by the unit owners or, in the alternative, the maximum
 1616 number of unit owners in the project at the time each of all of
 1617 the facilities is committed to be completed.

1618 (e) A general description of the items of personal
 1619 property, and the approximate number of each item of personal
 1620 property, that the developer is committing to furnish for each
 1621 room or other facility or, in the alternative, a representation
 1622 as to the minimum amount of expenditure that will be made to
 1623 purchase the personal property for the facility.

1624 (f) If there are leases, a description thereof, including
 1625 the length of the term, the rent payable, and a description of
 1626 any option to purchase.

1627
 1628 Descriptions shall include location, areas, capacities, numbers,
 1629 volumes, or sizes and may be stated as approximations or
 1630 minimums.

1631 (8) Recreation lease or associated club membership:

1632 (a) If any recreational facilities or other facilities
 1633 offered by the developer and available to, or to be used by,
 1634 unit owners are to be leased or have club membership associated,
 1635 the following statement in conspicuous type shall be included:
 1636 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 1637 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 1638 CONDOMINIUM. There shall be a reference to the location in the
 1639 disclosure materials where the recreation lease or club
 1640 membership is described in detail.

1641 (b) If it is mandatory that unit owners pay a fee, rent,
 1642 dues, or other charges under a recreational facilities lease or
 1643 club membership for the use of facilities, there shall be in
 1644 conspicuous type the applicable statement:

1645 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 1646 MANDATORY FOR UNIT OWNERS; or

1647 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 1648 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

1649 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
 1650 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
 1651 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
 1652 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

1653 4. A similar statement of the nature of the organization
 1654 or the manner in which the use rights are created, and that unit
 1655 owners are required to pay.

1656
 1657 Immediately following the applicable statement, the location in
 1658 the disclosure materials where the development is described in
 1659 detail shall be stated.

1660 (c) If the developer, or any other person other than the
 1661 unit owners and other persons having use rights in the
 1662 facilities, reserves, or is entitled to receive, any rent, fee,
 1663 or other payment for the use of the facilities, then there shall
 1664 be the following statement in conspicuous type: THE UNIT OWNERS
 1665 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 1666 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately
 1667 following this statement, the location in the disclosure
 1668 materials where the rent or land use fees are described in
 1669 detail shall be stated.

1670 (d) If, in any recreation format, whether leasehold, club,
 1671 or other, any person other than the association has the right to
 1672 a lien on the units to secure the payment of assessments, rent,
 1673 or other exactions, there shall appear a statement in
 1674 conspicuous type in substantially the following form:

1675 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 1676 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 1677 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
 1678 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

1679 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 1680 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 1681 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 1682 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE
 1683 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

1684
 1685 Immediately following the applicable statement, the location in
 1686 the disclosure materials where the lien or lien right is
 1687 described in detail shall be stated.

1688 (9) If the developer or any other person has the right to
 1689 increase or add to the recreational facilities at any time after
 1690 the establishment of the condominium whose unit owners have use
 1691 rights therein, without the consent of the unit owners or
 1692 associations being required, there shall appear a statement in
 1693 conspicuous type in substantially the following form:

1694 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
 1695 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
 1696 statement, the location in the disclosure materials where such
 1697 reserved rights are described shall be stated.

1698 (10) A statement of whether the developer's plan includes
 1699 a program of leasing units rather than selling them, or leasing
 1700 units and selling them subject to such leases. If so, there
 1701 shall be a description of the plan, including the number and
 1702 identification of the units and the provisions and term of the
 1703 proposed leases, and a statement in boldfaced type that: THE
 1704 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

1705 (11) The arrangements for management of the association
 1706 and maintenance and operation of the condominium property and of
 1707 other property that will serve the unit owners of the
 1708 condominium property, and a description of the management
 1709 contract and all other contracts for these purposes having a
 1710 term in excess of 1 year, including the following:

- 1711 (a) The names of contracting parties.
- 1712 (b) The term of the contract.
- 1713 (c) The nature of the services included.
- 1714 (d) The compensation, stated on a monthly and annual
 1715 basis, and provisions for increases in the compensation.

1716 (e) A reference to the volumes and pages of the
1717 condominium documents and of the exhibits containing copies of
1718 such contracts.

1719
1720 Copies of all described contracts shall be attached as exhibits.
1721 If there is a contract for the management of the condominium
1722 property, then a statement in conspicuous type in substantially
1723 the following form shall appear, identifying the proposed or
1724 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
1725 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE
1726 CONTRACT MANAGER). Immediately following this statement, the
1727 location in the disclosure materials of the contract for
1728 management of the condominium property shall be stated.

1729 (12) If the developer or any other person or persons other
1730 than the unit owners has the right to retain control of the
1731 board of administration of the association for a period of time
1732 which can exceed 1 year after the closing of the sale of a
1733 majority of the units in that condominium to persons other than
1734 successors or alternate developers, then a statement in
1735 conspicuous type in substantially the following form shall be
1736 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
1737 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
1738 HAVE BEEN SOLD. Immediately following this statement, the
1739 location in the disclosure materials where this right to control
1740 is described in detail shall be stated.

1741 (13) If there are any restrictions upon the sale,
1742 transfer, conveyance, or leasing of a unit, then a statement in
1743 conspicuous type in substantially the following form shall be

1744 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
 1745 CONTROLLED. Immediately following this statement, the location
 1746 in the disclosure materials where the restriction, limitation,
 1747 or control on the sale, lease, or transfer of units is described
 1748 in detail shall be stated.

1749 (14) If the condominium is part of a phase project, the
 1750 following information shall be stated:

1751 (a) A statement in conspicuous type in substantially the
 1752 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
 1753 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
 1754 this statement, the location in the disclosure materials where
 1755 the phasing is described shall be stated.

1756 (b) A summary of the provisions of the declaration which
 1757 provide for the phasing.

1758 (c) A statement as to whether or not residential buildings
 1759 and units which are added to the condominium may be
 1760 substantially different from the residential buildings and units
 1761 originally in the condominium. If the added residential
 1762 buildings and units may be substantially different, there shall
 1763 be a general description of the extent to which such added
 1764 residential buildings and units may differ, and a statement in
 1765 conspicuous type in substantially the following form shall be
 1766 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM
 1767 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
 1768 UNITS IN THE CONDOMINIUM. Immediately following this statement,
 1769 the location in the disclosure materials where the extent to
 1770 which added residential buildings and units may substantially
 1771 differ is described shall be stated.

1772 (d) A statement of the maximum number of buildings
 1773 containing units, the maximum and minimum numbers of units in
 1774 each building, the maximum number of units, and the minimum and
 1775 maximum square footage of the units that may be contained within
 1776 each parcel of land which may be added to the condominium.

1777 (15) If a condominium created on or after July 1, 2000, is
 1778 or may become part of a multicondominium, the following
 1779 information must be provided:

1780 (a) A statement in conspicuous type in substantially the
 1781 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
 1782 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
 1783 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
 1784 this statement, the location in the prospectus or offering
 1785 circular and its exhibits where the multicondominium aspects of
 1786 the offering are described must be stated.

1787 (b) A summary of the provisions in the declaration,
 1788 articles of incorporation, and bylaws which establish and
 1789 provide for the operation of the multicondominium, including a
 1790 statement as to whether unit owners in the condominium will have
 1791 the right to use recreational or other facilities located or
 1792 planned to be located in other condominiums operated by the same
 1793 association, and the manner of sharing the common expenses
 1794 related to such facilities.

1795 (c) A statement of the minimum and maximum number of
 1796 condominiums, and the minimum and maximum number of units in
 1797 each of those condominiums, which will or may be operated by the
 1798 association, and the latest date by which the exact number will
 1799 be finally determined.

HB 601

2008

1800 (d) A statement as to whether any of the condominiums in
1801 the multicondominium may include units intended to be used for
1802 nonresidential purposes and the purpose or purposes permitted
1803 for such use.

1804 (e) A general description of the location and approximate
1805 acreage of any land on which any additional condominiums to be
1806 operated by the association may be located.

1807 (16) If the condominium is created by conversion of
1808 existing improvements, the following information shall be
1809 stated:

1810 (a) The information required by s. 718.616.

1811 (b) A caveat that there are no express warranties unless
1812 they are stated in writing by the developer.

1813 (17) A summary of the restrictions, if any, to be imposed
1814 on units concerning the use of any of the condominium property,
1815 including statements as to whether there are restrictions upon
1816 children and pets, and reference to the volumes and pages of the
1817 condominium documents where such restrictions are found, or if
1818 such restrictions are contained elsewhere, then a copy of the
1819 documents containing the restrictions shall be attached as an
1820 exhibit.

1821 (18) If there is any land that is offered by the developer
1822 for use by the unit owners and that is neither owned by them nor
1823 leased to them, the association, or any entity controlled by
1824 unit owners and other persons having the use rights to such
1825 land, a statement shall be made as to how such land will serve
1826 the condominium. If any part of such land will serve the
1827 condominium, the statement shall describe the land and the

1828 nature and term of service, and the declaration or other
 1829 instrument creating such servitude shall be included as an
 1830 exhibit.

1831 (19) The manner in which utility and other services,
 1832 including, but not limited to, sewage and waste disposal, water
 1833 supply, and storm drainage, will be provided and the person or
 1834 entity furnishing them.

1835 (20) An explanation of the manner in which the
 1836 apportionment of common expenses and ownership of the common
 1837 elements has been determined.

1838 (21) An estimated operating budget for the condominium and
 1839 the association, and a schedule of the unit owner's expenses
 1840 shall be attached as an exhibit and shall contain the following
 1841 information:

1842 (a) The estimated monthly and annual expenses of the
 1843 condominium and the association that are collected from unit
 1844 owners by assessments.

1845 (b) The estimated monthly and annual expenses of each unit
 1846 owner for a unit, other than common expenses paid by all unit
 1847 owners, payable by the unit owner to persons or entities other
 1848 than the association, as well as to the association, including
 1849 fees assessed pursuant to s. 718.113(1) for maintenance of
 1850 limited common elements where such costs are shared only by
 1851 those entitled to use the limited common element, and the total
 1852 estimated monthly and annual expense. There may be excluded from
 1853 this estimate expenses which are not provided for or
 1854 contemplated by the condominium documents, including, but not
 1855 limited to, the costs of private telephone; maintenance of the

1856 interior of condominium units, which is not the obligation of
 1857 the association; maid or janitorial services privately
 1858 contracted for by the unit owners; utility bills billed directly
 1859 to each unit owner for utility services to his or her unit;
 1860 insurance premiums other than those incurred for policies
 1861 obtained by the condominium; and similar personal expenses of
 1862 the unit owner. A unit owner's estimated payments for
 1863 assessments shall also be stated in the estimated amounts for
 1864 the times when they will be due.

1865 (c) The estimated items of expenses of the condominium and
 1866 the association, except as excluded under paragraph (b),
 1867 including, but not limited to, the following items, which shall
 1868 be stated either as an association expense collectible by
 1869 assessments or as unit owners' expenses payable to persons other
 1870 than the association:

- 1871 1. Expenses for the association and condominium:
- 1872 a. Administration of the association.
- 1873 b. Management fees.
- 1874 c. Maintenance.
- 1875 d. Rent for recreational and other commonly used
- 1876 facilities.
- 1877 e. Taxes upon association property.
- 1878 f. Taxes upon leased areas.
- 1879 g. Insurance.
- 1880 h. Security provisions.
- 1881 i. Other expenses.
- 1882 j. Operating capital.
- 1883 k. Reserves.

- 1884 1. Fees payable to the division.
- 1885 2. Expenses for a unit owner:
- 1886 a. Rent for the unit, if subject to a lease.
- 1887 b. Rent payable by the unit owner directly to the lessor
- 1888 or agent under any recreational lease or lease for the use of
- 1889 commonly used facilities, which use and payment is a mandatory
- 1890 condition of ownership and is not included in the common expense
- 1891 or assessments for common maintenance paid by the unit owners to
- 1892 the association.

1893 (d) The following statement in conspicuous type: THE
 1894 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
 1895 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
 1896 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
 1897 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
 1898 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
 1899 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
 1900 THE OFFERING.

1901 (e) Each budget for an association prepared by a developer
 1902 consistent with this subsection shall be prepared in good faith
 1903 and shall reflect accurate estimated amounts for the required
 1904 items in paragraph (c) at the time of the filing of the offering
 1905 circular with the division, and subsequent increased amounts of
 1906 any item included in the association's estimated budget that are
 1907 beyond the control of the developer shall not be considered an
 1908 amendment that would give rise to rescission rights set forth in
 1909 s. 718.503(1)(a) or (b), nor shall such increases modify, void,
 1910 or otherwise affect any guarantee of the developer contained in

1911 the offering circular or any purchase contract. It is the intent
 1912 of this paragraph to clarify existing law.

1913 (f) The estimated amounts shall be stated for a period of
 1914 at least 12 months and may distinguish between the period prior
 1915 to the time unit owners other than the developer elect a
 1916 majority of the board of administration and the period after
 1917 that date.

1918 (22) A schedule of estimated closing expenses to be paid
 1919 by a buyer or lessee of a unit and a statement of whether title
 1920 opinion or title insurance policy is available to the buyer and,
 1921 if so, at whose expense.

1922 (23) The identity of the developer and the chief operating
 1923 officer or principal directing the creation and sale of the
 1924 condominium and a statement of its and his or her experience in
 1925 this field.

1926 (24) Copies of the following, to the extent they are
 1927 applicable, shall be included as exhibits:

1928 (a) The declaration of condominium, or the proposed
 1929 declaration if the declaration has not been recorded.

1930 (b) The articles of incorporation creating the
 1931 association.

1932 (c) The bylaws of the association.

1933 (d) The ground lease or other underlying lease of the
 1934 condominium.

1935 (e) The management agreement and all maintenance and other
 1936 contracts for management of the association and operation of the
 1937 condominium and facilities used by the unit owners having a
 1938 service term in excess of 1 year.

1939 (f) The estimated operating budget for the condominium and
 1940 the required schedule of unit owners' expenses.

1941 (g) A copy of the floor plan of the unit and the plot plan
 1942 showing the location of the residential buildings and the
 1943 recreation and other common areas.

1944 (h) The lease of recreational and other facilities that
 1945 will be used only by unit owners of the subject condominium.

1946 (i) The lease of facilities used by owners and others.

1947 (j) The form of unit lease, if the offer is of a
 1948 leasehold.

1949 (k) A declaration of servitude of properties serving the
 1950 condominium but not owned by unit owners or leased to them or
 1951 the association.

1952 (l) The statement of condition of the existing building or
 1953 buildings, if the offering is of units in an operation being
 1954 converted to condominium ownership.

1955 (m) The statement of inspection for termite damage and
 1956 treatment of the existing improvements, if the condominium is a
 1957 conversion.

1958 (n) The form of agreement for sale or lease of units.

1959 (o) A copy of the agreement for escrow of payments made to
 1960 the developer prior to closing.

1961 (p) A copy of the documents containing any restrictions on
 1962 use of the property required by subsection (17).

1963 (25) Any prospectus or offering circular complying, prior
 1964 to the effective date of this act, with the provisions of former
 1965 ss. 711.69 and 711.802 may continue to be used without amendment
 1966 or may be amended to comply with the provisions of this chapter.

1967 (26) A brief narrative description of the location and
 1968 effect of all existing and intended easements located or to be
 1969 located on the condominium property other than those described
 1970 in the declaration.

1971 (27) If the developer is required by state or local
 1972 authorities to obtain acceptance or approval of any dock or
 1973 marina facilities intended to serve the condominium, a copy of
 1974 any such acceptance or approval acquired by the time of filing
 1975 with the division under s. 718.502(1) or a statement that such
 1976 acceptance or approval has not been acquired or received.

1977 (28) Evidence demonstrating that the developer has an
 1978 ownership, leasehold, or contractual interest in the land upon
 1979 which the condominium is to be developed.

1980 Section 40. Section 718.508, Florida Statutes, is amended
 1981 to read:

1982 718.508 Regulation by Division of Hotels and
 1983 Restaurants.--In addition to the authority, regulation, or
 1984 control exercised by the Division of Florida ~~Land Sales,~~
 1985 Condominiums, Timeshares, and Mobile Homes pursuant to this act
 1986 with respect to condominiums, buildings included in a
 1987 condominium property shall be subject to the authority,
 1988 regulation, or control of the Division of Hotels and Restaurants
 1989 of the Department of Business and Professional Regulation, to
 1990 the extent provided for in chapter 399.

1991 Section 41. Section 718.509, Florida Statutes, is amended,
 1992 and section 498.019, Florida Statutes, is redesignated as
 1993 subsections (1) and (2) of section 718.509, Florida Statutes,
 1994 and amended, to read:

1995 718.509 Division of Florida ~~Land Sales~~, Condominiums,
 1996 Timeshares, and Mobile Homes Trust Fund.--~~All funds collected by~~
 1997 ~~the division and any amount paid for a fee or penalty under this~~
 1998 ~~chapter shall be deposited in the State Treasury to the credit~~
 1999 ~~of the Division of Florida Land Sales, Condominiums, and Mobile~~
 2000 ~~Homes Trust Fund created by s. 498.019.~~

2001 ~~498.019 Division of Florida Land Sales, Condominiums, and~~
 2002 ~~Mobile Homes Trust Fund.~~

2003 (1) There is created within the State Treasury the
 2004 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 2005 Mobile Homes Trust Fund to be used for the administration and
 2006 operation of this chapter and chapters ~~718~~, 719, 721, and 723 by
 2007 the division.

2008 (2) All moneys collected by the division from fees, fines,
 2009 or penalties or from costs awarded to the division by a court or
 2010 administrative final order shall be paid into the Division of
 2011 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes
 2012 Trust Fund. The Legislature shall appropriate funds from this
 2013 trust fund sufficient to carry out the provisions of this
 2014 chapter and the provisions of law with respect to each category
 2015 of business covered by this trust fund. The division shall
 2016 maintain separate revenue accounts in the trust fund for each of
 2017 the businesses regulated by the division. The division shall
 2018 provide for the proportionate allocation among the accounts of
 2019 expenses incurred by the division in the performance of its
 2020 duties with respect to each of these businesses. As part of its
 2021 normal budgetary process, the division shall prepare an annual
 2022 report of revenue and allocated expenses related to the

2023 operation of each of these businesses which may be used to
 2024 determine fees charged by the division. This subsection shall
 2025 operate pursuant to the provisions of s. 215.20.

2026 Section 42. Paragraph (a) of subsection (2) of section
 2027 718.608, Florida Statutes, is amended to read:

2028 718.608 Notice of intended conversion; time of delivery;
 2029 content.--

2030 (2)(a) Each notice of intended conversion shall be dated
 2031 and in writing. The notice shall contain the following
 2032 statement, with the phrases of the following statement which
 2033 appear in upper case printed in conspicuous type:

2034
 2035 These apartments are being converted to condominium by
 2036 (name of developer) , the developer.

2037 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
 2038 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
 2039 AGREEMENT AS FOLLOWS:

2040 a. If you have continuously been a resident of these
 2041 apartments during the last 180 days and your rental agreement
 2042 expires during the next 270 days, you may extend your rental
 2043 agreement for up to 270 days after the date of this notice.

2044 b. If you have not been a continuous resident of these
 2045 apartments for the last 180 days and your rental agreement
 2046 expires during the next 180 days, you may extend your rental
 2047 agreement for up to 180 days after the date of this notice.

2048 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
 2049 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
 2050 DATE OF THIS NOTICE.

2051 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
 2052 you may extend your rental agreement for up to 45 days after the
 2053 date of this notice while you decide whether to extend your
 2054 rental agreement as explained above. To do so, you must notify
 2055 the developer in writing. You will then have the full 45 days to
 2056 decide whether to extend your rental agreement as explained
 2057 above.

2058 3. During the extension of your rental agreement you will
 2059 be charged the same rent that you are now paying.

2060 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
 2061 OF THE RENTAL AGREEMENT AS FOLLOWS:

2062 a. If your rental agreement began or was extended or
 2063 renewed after May 1, 1980, and your rental agreement, including
 2064 extensions and renewals, has an unexpired term of 180 days or
 2065 less, you may cancel your rental agreement upon 30 days' written
 2066 notice and move. Also, upon 30 days' written notice, you may
 2067 cancel any extension of the rental agreement.

2068 b. If your rental agreement was not begun or was not
 2069 extended or renewed after May 1, 1980, you may not cancel the
 2070 rental agreement without the consent of the developer. If your
 2071 rental agreement, including extensions and renewals, has an
 2072 unexpired term of 180 days or less, you may, however, upon 30
 2073 days' written notice cancel any extension of the rental
 2074 agreement.

2075 5. All notices must be given in writing and sent by mail,
 2076 return receipt requested, or delivered in person to the
 2077 developer at this address: (name and address of developer) .

2078 6. If you have continuously been a resident of these
 2079 apartments during the last 180 days:

2080 a. You have the right to purchase your apartment and will
 2081 have 45 days to decide whether to purchase. If you do not buy
 2082 the unit at that price and the unit is later offered at a lower
 2083 price, you will have the opportunity to buy the unit at the
 2084 lower price. However, in all events your right to purchase the
 2085 unit ends when the rental agreement or any extension of the
 2086 rental agreement ends or when you waive this right in writing.

2087 b. Within 90 days you will be provided purchase
 2088 information relating to your apartment, including the price of
 2089 your unit and the condition of the building. If you do not
 2090 receive this information within 90 days, your rental agreement
 2091 and any extension will be extended 1 day for each day over 90
 2092 days until you are given the purchase information. If you do not
 2093 want this rental agreement extension, you must notify the
 2094 developer in writing.

2095 7. If you have any questions regarding this conversion or
 2096 the Condominium Act, you may contact the developer or the state
 2097 agency which regulates condominiums: The Division of Florida
 2098 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,
 2099 (Tallahassee address and telephone number of division) .

2100 Section 43. Subsection (17) of section 719.103, Florida
 2101 Statutes, is amended to read:

2102 719.103 Definitions.--As used in this chapter:

2103 (17) "Division" means the Division of Florida ~~Land Sales~~,
 2104 Condominiums, Timeshares, and Mobile Homes of the Department of
 2105 Business and Professional Regulation.

HB 601

2008

2106 Section 44. Section 719.1255, Florida Statutes, is amended
 2107 to read:

2108 719.1255 Alternative resolution of disputes.--The Division
 2109 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile
 2110 Homes of the Department of Business and Professional Regulation
 2111 shall provide for alternative dispute resolution in accordance
 2112 with s. 718.1255.

2113 Section 45. Section 719.501, Florida Statutes, is amended
 2114 to read:

2115 719.501 Powers and duties of Division of Florida ~~Land~~
 2116 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

2117 (1) The Division of Florida ~~Land Sales~~, Condominiums,
 2118 Timeshares, and Mobile Homes of the Department of Business and
 2119 Professional Regulation, referred to as the "division" in this
 2120 part, in addition to other powers and duties prescribed by
 2121 chapter 718 498, has the power to enforce and ensure compliance
 2122 with the provisions of this chapter and rules promulgated
 2123 pursuant hereto relating to the development, construction, sale,
 2124 lease, ownership, operation, and management of residential
 2125 cooperative units. In performing its duties, the division shall
 2126 have the following powers and duties:

2127 (a) The division may make necessary public or private
 2128 investigations within or outside this state to determine whether
 2129 any person has violated this chapter or any rule or order
 2130 hereunder, to aid in the enforcement of this chapter, or to aid
 2131 in the adoption of rules or forms hereunder.

2132 (b) The division may require or permit any person to file
 2133 a statement in writing, under oath or otherwise, as the division

HB 601

2008

2134 determines, as to the facts and circumstances concerning a
2135 matter to be investigated.

2136 (c) For the purpose of any investigation under this
2137 chapter, the division director or any officer or employee
2138 designated by the division director may administer oaths or
2139 affirmations, subpoena witnesses and compel their attendance,
2140 take evidence, and require the production of any matter which is
2141 relevant to the investigation, including the existence,
2142 description, nature, custody, condition, and location of any
2143 books, documents, or other tangible things and the identity and
2144 location of persons having knowledge of relevant facts or any
2145 other matter reasonably calculated to lead to the discovery of
2146 material evidence. Upon failure by a person to obey a subpoena
2147 or to answer questions propounded by the investigating officer
2148 and upon reasonable notice to all persons affected thereby, the
2149 division may apply to the circuit court for an order compelling
2150 compliance.

2151 (d) Notwithstanding any remedies available to unit owners
2152 and associations, if the division has reasonable cause to
2153 believe that a violation of any provision of this chapter or
2154 rule promulgated pursuant hereto has occurred, the division may
2155 institute enforcement proceedings in its own name against a
2156 developer, association, officer, or member of the board, or its
2157 assignees or agents, as follows:

2158 1. The division may permit a person whose conduct or
2159 actions may be under investigation to waive formal proceedings
2160 and enter into a consent proceeding whereby orders, rules, or

2161 letters of censure or warning, whether formal or informal, may
 2162 be entered against the person.

2163 2. The division may issue an order requiring the
 2164 developer, association, officer, or member of the board, or its
 2165 assignees or agents, to cease and desist from the unlawful
 2166 practice and take such affirmative action as in the judgment of
 2167 the division will carry out the purposes of this chapter. Such
 2168 affirmative action may include, but is not limited to, an order
 2169 requiring a developer to pay moneys determined to be owed to a
 2170 condominium association.

2171 3. The division may bring an action in circuit court on
 2172 behalf of a class of unit owners, lessees, or purchasers for
 2173 declaratory relief, injunctive relief, or restitution.

2174 4. The division may impose a civil penalty against a
 2175 developer or association, or its assignees or agents, for any
 2176 violation of this chapter or a rule promulgated pursuant hereto.
 2177 The division may impose a civil penalty individually against any
 2178 officer or board member who willfully and knowingly violates a
 2179 provision of this chapter, a rule adopted pursuant to this
 2180 chapter, or a final order of the division. The term "willfully
 2181 and knowingly" means that the division informed the officer or
 2182 board member that his or her action or intended action violates
 2183 this chapter, a rule adopted under this chapter, or a final
 2184 order of the division, and that the officer or board member
 2185 refused to comply with the requirements of this chapter, a rule
 2186 adopted under this chapter, or a final order of the division.
 2187 The division, prior to initiating formal agency action under
 2188 chapter 120, shall afford the officer or board member an

HB 601

2008

2189 opportunity to voluntarily comply with this chapter, a rule
2190 adopted under this chapter, or a final order of the division. An
2191 officer or board member who complies within 10 days is not
2192 subject to a civil penalty. A penalty may be imposed on the
2193 basis of each day of continuing violation, but in no event shall
2194 the penalty for any offense exceed \$5,000. By January 1, 1998,
2195 the division shall adopt, by rule, penalty guidelines applicable
2196 to possible violations or to categories of violations of this
2197 chapter or rules adopted by the division. The guidelines must
2198 specify a meaningful range of civil penalties for each such
2199 violation of the statute and rules and must be based upon the
2200 harm caused by the violation, the repetition of the violation,
2201 and upon such other factors deemed relevant by the division. For
2202 example, the division may consider whether the violations were
2203 committed by a developer or owner-controlled association, the
2204 size of the association, and other factors. The guidelines must
2205 designate the possible mitigating or aggravating circumstances
2206 that justify a departure from the range of penalties provided by
2207 the rules. It is the legislative intent that minor violations be
2208 distinguished from those which endanger the health, safety, or
2209 welfare of the cooperative residents or other persons and that
2210 such guidelines provide reasonable and meaningful notice to the
2211 public of likely penalties that may be imposed for proscribed
2212 conduct. This subsection does not limit the ability of the
2213 division to informally dispose of administrative actions or
2214 complaints by stipulation, agreed settlement, or consent order.
2215 All amounts collected shall be deposited with the Chief
2216 Financial Officer to the credit of the Division of Florida Land

2217 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If
 2218 a developer fails to pay the civil penalty, the division shall
 2219 thereupon issue an order directing that such developer cease and
 2220 desist from further operation until such time as the civil
 2221 penalty is paid or may pursue enforcement of the penalty in a
 2222 court of competent jurisdiction. If an association fails to pay
 2223 the civil penalty, the division shall thereupon pursue
 2224 enforcement in a court of competent jurisdiction, and the order
 2225 imposing the civil penalty or the cease and desist order shall
 2226 not become effective until 20 days after the date of such order.
 2227 Any action commenced by the division shall be brought in the
 2228 county in which the division has its executive offices or in the
 2229 county where the violation occurred.

2230 (e) The division is authorized to prepare and disseminate
 2231 a prospectus and other information to assist prospective owners,
 2232 purchasers, lessees, and developers of residential cooperatives
 2233 in assessing the rights, privileges, and duties pertaining
 2234 thereto.

2235 (f) The division has authority to adopt rules pursuant to
 2236 ss. 120.536(1) and 120.54 to implement and enforce the
 2237 provisions of this chapter.

2238 (g) The division shall establish procedures for providing
 2239 notice to an association when the division is considering the
 2240 issuance of a declaratory statement with respect to the
 2241 cooperative documents governing such cooperative community.

2242 (h) The division shall furnish each association which pays
 2243 the fees required by paragraph (2) (a) a copy of this act,
 2244 subsequent changes to this act on an annual basis, an amended

2245 version of this act as it becomes available from the Secretary
2246 of State's office on a biennial basis, and the rules promulgated
2247 pursuant thereto on an annual basis.

2248 (i) The division shall annually provide each association
2249 with a summary of declaratory statements and formal legal
2250 opinions relating to the operations of cooperatives which were
2251 rendered by the division during the previous year.

2252 (j) The division shall adopt uniform accounting
2253 principles, policies, and standards to be used by all
2254 associations in the preparation and presentation of all
2255 financial statements required by this chapter. The principles,
2256 policies, and standards shall take into consideration the size
2257 of the association and the total revenue collected by the
2258 association.

2259 (k) The division shall provide training programs for
2260 cooperative association board members and unit owners.

2261 (l) The division shall maintain a toll-free telephone
2262 number accessible to cooperative unit owners.

2263 (m) When a complaint is made to the division, the division
2264 shall conduct its inquiry with reasonable dispatch and with due
2265 regard to the interests of the affected parties. Within 30 days
2266 after receipt of a complaint, the division shall acknowledge the
2267 complaint in writing and notify the complainant whether the
2268 complaint is within the jurisdiction of the division and whether
2269 additional information is needed by the division from the
2270 complainant. The division shall conduct its investigation and
2271 shall, within 90 days after receipt of the original complaint or
2272 timely requested additional information, take action upon the

HB 601

2008

2273 | complaint. However, the failure to complete the investigation
2274 | within 90 days does not prevent the division from continuing the
2275 | investigation, accepting or considering evidence obtained or
2276 | received after 90 days, or taking administrative action if
2277 | reasonable cause exists to believe that a violation of this
2278 | chapter or a rule of the division has occurred. If an
2279 | investigation is not completed within the time limits
2280 | established in this paragraph, the division shall, on a monthly
2281 | basis, notify the complainant in writing of the status of the
2282 | investigation. When reporting its action to the complainant, the
2283 | division shall inform the complainant of any right to a hearing
2284 | pursuant to ss. 120.569 and 120.57.

2285 | (n) The division shall develop a program to certify both
2286 | volunteer and paid mediators to provide mediation of cooperative
2287 | disputes. The division shall provide, upon request, a list of
2288 | such mediators to any association, unit owner, or other
2289 | participant in arbitration proceedings under s. 718.1255
2290 | requesting a copy of the list. The division shall include on the
2291 | list of voluntary mediators only persons who have received at
2292 | least 20 hours of training in mediation techniques or have
2293 | mediated at least 20 disputes. In order to become initially
2294 | certified by the division, paid mediators must be certified by
2295 | the Supreme Court to mediate court cases in either county or
2296 | circuit courts. However, the division may adopt, by rule,
2297 | additional factors for the certification of paid mediators,
2298 | which factors must be related to experience, education, or
2299 | background. Any person initially certified as a paid mediator by
2300 | the division must, in order to continue to be certified, comply

2301 with the factors or requirements imposed by rules adopted by the
 2302 division.

2303 (2) (a) Each cooperative association shall pay to the
 2304 division, on or before January 1 of each year, an annual fee in
 2305 the amount of \$4 for each residential unit in cooperatives
 2306 operated by the association. If the fee is not paid by March 1,
 2307 then the association shall be assessed a penalty of 10 percent
 2308 of the amount due, and the association shall not have the
 2309 standing to maintain or defend any action in the courts of this
 2310 state until the amount due is paid.

2311 (b) All fees shall be deposited in the Division of Florida
 2312 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust
 2313 Fund as provided by law.

2314 Section 46. Paragraph (a) of subsection (2) of section
 2315 719.502, Florida Statutes, is amended to read:

2316 719.502 Filing prior to sale or lease.--

2317 (2) (a) Prior to filing as required by subsection (1), and
 2318 prior to acquiring an ownership, leasehold, or contractual
 2319 interest in the land upon which the cooperative is to be
 2320 developed, a developer shall not offer a contract for purchase
 2321 or lease of a unit for more than 5 years. However, the developer
 2322 may accept deposits for reservations upon the approval of a
 2323 fully executed escrow agreement and reservation agreement form
 2324 properly filed with the Division of Florida ~~Land Sales~~,
 2325 Condominiums, Timeshares, and Mobile Homes. Each filing of a
 2326 proposed reservation program shall be accompanied by a filing
 2327 fee of \$250. Reservations shall not be taken on a proposed
 2328 cooperative unless the developer has an ownership, leasehold, or

2329 contractual interest in the land upon which the cooperative is
 2330 to be developed. The division shall notify the developer within
 2331 20 days of receipt of the reservation filing of any deficiencies
 2332 contained therein. Such notification shall not preclude the
 2333 determination of reservation filing deficiencies at a later
 2334 date, nor shall it relieve the developer of any responsibility
 2335 under the law. The escrow agreement and the reservation
 2336 agreement form shall include a statement of the right of the
 2337 prospective purchaser to an immediate unqualified refund of the
 2338 reservation deposit moneys upon written request to the escrow
 2339 agent by the prospective purchaser or the developer.

2340 Section 47. Section 719.504, Florida Statutes, is amended
 2341 to read:

2342 719.504 Prospectus or offering circular.--Every developer
 2343 of a residential cooperative which contains more than 20
 2344 residential units, or which is part of a group of residential
 2345 cooperatives which will be served by property to be used in
 2346 common by unit owners of more than 20 residential units, shall
 2347 prepare a prospectus or offering circular and file it with the
 2348 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 2349 Mobile Homes prior to entering into an enforceable contract of
 2350 purchase and sale of any unit or lease of a unit for more than 5
 2351 years and shall furnish a copy of the prospectus or offering
 2352 circular to each buyer. In addition to the prospectus or
 2353 offering circular, each buyer shall be furnished a separate page
 2354 entitled "Frequently Asked Questions and Answers," which must be
 2355 in accordance with a format approved by the division. This page
 2356 must, in readable language: inform prospective purchasers

2357 regarding their voting rights and unit use restrictions,
 2358 including restrictions on the leasing of a unit; indicate
 2359 whether and in what amount the unit owners or the association is
 2360 obligated to pay rent or land use fees for recreational or other
 2361 commonly used facilities; contain a statement identifying that
 2362 amount of assessment which, pursuant to the budget, would be
 2363 levied upon each unit type, exclusive of any special
 2364 assessments, and which identifies the basis upon which
 2365 assessments are levied, whether monthly, quarterly, or
 2366 otherwise; state and identify any court cases in which the
 2367 association is currently a party of record in which the
 2368 association may face liability in excess of \$100,000; and state
 2369 whether membership in a recreational facilities association is
 2370 mandatory and, if so, identify the fees currently charged per
 2371 unit type. The division shall by rule require such other
 2372 disclosure as in its judgment will assist prospective
 2373 purchasers. The prospectus or offering circular may include more
 2374 than one cooperative, although not all such units are being
 2375 offered for sale as of the date of the prospectus or offering
 2376 circular. The prospectus or offering circular must contain the
 2377 following information:

2378 (1) The front cover or the first page must contain only:

2379 (a) The name of the cooperative.

2380 (b) The following statements in conspicuous type:

2381 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
 2382 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2383 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
 2384 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,

2385 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
 2386 MATERIALS.

2387 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
 2388 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
 2389 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
 2390 REPRESENTATIONS.

2391 (2) Summary: The next page must contain all statements
 2392 required to be in conspicuous type in the prospectus or offering
 2393 circular.

2394 (3) A separate index of the contents and exhibits of the
 2395 prospectus.

2396 (4) Beginning on the first page of the text (not including
 2397 the summary and index), a description of the cooperative,
 2398 including, but not limited to, the following information:

2399 (a) Its name and location.

2400 (b) A description of the cooperative property, including,
 2401 without limitation:

2402 1. The number of buildings, the number of units in each
 2403 building, the number of bathrooms and bedrooms in each unit, and
 2404 the total number of units, if the cooperative is not a phase
 2405 cooperative; or, if the cooperative is a phase cooperative, the
 2406 maximum number of buildings that may be contained within the
 2407 cooperative, the minimum and maximum number of units in each
 2408 building, the minimum and maximum number of bathrooms and
 2409 bedrooms that may be contained in each unit, and the maximum
 2410 number of units that may be contained within the cooperative.

2411 2. The page in the cooperative documents where a copy of
 2412 the survey and plot plan of the cooperative is located.

2413 3. The estimated latest date of completion of
 2414 constructing, finishing, and equipping. In lieu of a date, a
 2415 statement that the estimated date of completion of the
 2416 cooperative is in the purchase agreement and a reference to the
 2417 article or paragraph containing that information.

2418 (c) The maximum number of units that will use facilities
 2419 in common with the cooperative. If the maximum number of units
 2420 will vary, a description of the basis for variation and the
 2421 minimum amount of dollars per unit to be spent for additional
 2422 recreational facilities or enlargement of such facilities. If
 2423 the addition or enlargement of facilities will result in a
 2424 material increase of a unit owner's maintenance expense or
 2425 rental expense, if any, the maximum increase and limitations
 2426 thereon shall be stated.

2427 (5) (a) A statement in conspicuous type describing whether
 2428 the cooperative is created and being sold as fee simple
 2429 interests or as leasehold interests. If the cooperative is
 2430 created or being sold on a leasehold, the location of the lease
 2431 in the disclosure materials shall be stated.

2432 (b) If timeshare estates are or may be created with
 2433 respect to any unit in the cooperative, a statement in
 2434 conspicuous type stating that timeshare estates are created and
 2435 being sold in such specified units in the cooperative.

2436 (6) A description of the recreational and other common
 2437 areas that will be used only by unit owners of the cooperative,
 2438 including, but not limited to, the following:

2439 (a) Each room and its intended purposes, location,
 2440 approximate floor area, and capacity in numbers of people.

2441 (b) Each swimming pool, as to its general location,
 2442 approximate size and depths, approximate deck size and capacity,
 2443 and whether heated.

2444 (c) Additional facilities, as to the number of each
 2445 facility, its approximate location, approximate size, and
 2446 approximate capacity.

2447 (d) A general description of the items of personal
 2448 property and the approximate number of each item of personal
 2449 property that the developer is committing to furnish for each
 2450 room or other facility or, in the alternative, a representation
 2451 as to the minimum amount of expenditure that will be made to
 2452 purchase the personal property for the facility.

2453 (e) The estimated date when each room or other facility
 2454 will be available for use by the unit owners.

2455 (f)1. An identification of each room or other facility to
 2456 be used by unit owners that will not be owned by the unit owners
 2457 or the association;

2458 2. A reference to the location in the disclosure materials
 2459 of the lease or other agreements providing for the use of those
 2460 facilities; and

2461 3. A description of the terms of the lease or other
 2462 agreements, including the length of the term; the rent payable,
 2463 directly or indirectly, by each unit owner, and the total rent
 2464 payable to the lessor, stated in monthly and annual amounts for
 2465 the entire term of the lease; and a description of any option to
 2466 purchase the property leased under any such lease, including the
 2467 time the option may be exercised, the purchase price or how it
 2468 is to be determined, the manner of payment, and whether the

HB 601

2008

2469 option may be exercised for a unit owner's share or only as to
2470 the entire leased property.

2471 (g) A statement as to whether the developer may provide
2472 additional facilities not described above, their general
2473 locations and types, improvements or changes that may be made,
2474 the approximate dollar amount to be expended, and the maximum
2475 additional common expense or cost to the individual unit owners
2476 that may be charged during the first annual period of operation
2477 of the modified or added facilities.

2478
2479 Descriptions as to locations, areas, capacities, numbers,
2480 volumes, or sizes may be stated as approximations or minimums.

2481 (7) A description of the recreational and other facilities
2482 that will be used in common with other cooperatives, community
2483 associations, or planned developments which require the payment
2484 of the maintenance and expenses of such facilities, either
2485 directly or indirectly, by the unit owners. The description
2486 shall include, but not be limited to, the following:

2487 (a) Each building and facility committed to be built.

2488 (b) Facilities not committed to be built except under
2489 certain conditions, and a statement of those conditions or
2490 contingencies.

2491 (c) As to each facility committed to be built, or which
2492 will be committed to be built upon the happening of one of the
2493 conditions in paragraph (b), a statement of whether it will be
2494 owned by the unit owners having the use thereof or by an
2495 association or other entity which will be controlled by them, or

2496 | others, and the location in the exhibits of the lease or other
 2497 | document providing for use of those facilities.

2498 | (d) The year in which each facility will be available for
 2499 | use by the unit owners or, in the alternative, the maximum
 2500 | number of unit owners in the project at the time each of all of
 2501 | the facilities is committed to be completed.

2502 | (e) A general description of the items of personal
 2503 | property, and the approximate number of each item of personal
 2504 | property, that the developer is committing to furnish for each
 2505 | room or other facility or, in the alternative, a representation
 2506 | as to the minimum amount of expenditure that will be made to
 2507 | purchase the personal property for the facility.

2508 | (f) If there are leases, a description thereof, including
 2509 | the length of the term, the rent payable, and a description of
 2510 | any option to purchase.

2511 |
 2512 | Descriptions shall include location, areas, capacities, numbers,
 2513 | volumes, or sizes and may be stated as approximations or
 2514 | minimums.

2515 | (8) Recreation lease or associated club membership:

2516 | (a) If any recreational facilities or other common areas
 2517 | offered by the developer and available to, or to be used by,
 2518 | unit owners are to be leased or have club membership associated,
 2519 | the following statement in conspicuous type shall be included:

2520 | THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 2521 | COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 2522 | COOPERATIVE. There shall be a reference to the location in the

2523 disclosure materials where the recreation lease or club
 2524 membership is described in detail.

2525 (b) If it is mandatory that unit owners pay a fee, rent,
 2526 dues, or other charges under a recreational facilities lease or
 2527 club membership for the use of facilities, there shall be in
 2528 conspicuous type the applicable statement:

2529 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 2530 MANDATORY FOR UNIT OWNERS; or

2531 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 2532 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2533 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
 2534 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
 2535 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
 2536 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2537 4. A similar statement of the nature of the organization
 2538 or manner in which the use rights are created, and that unit
 2539 owners are required to pay.

2540
 2541 Immediately following the applicable statement, the location in
 2542 the disclosure materials where the development is described in
 2543 detail shall be stated.

2544 (c) If the developer, or any other person other than the
 2545 unit owners and other persons having use rights in the
 2546 facilities, reserves, or is entitled to receive, any rent, fee,
 2547 or other payment for the use of the facilities, then there shall
 2548 be the following statement in conspicuous type: THE UNIT OWNERS
 2549 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 2550 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this

2551 statement, the location in the disclosure materials where the
 2552 rent or land use fees are described in detail shall be stated.

2553 (d) If, in any recreation format, whether leasehold, club,
 2554 or other, any person other than the association has the right to
 2555 a lien on the units to secure the payment of assessments, rent,
 2556 or other exactions, there shall appear a statement in
 2557 conspicuous type in substantially the following form:

2558 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2559 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 2560 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
 2561 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2562 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2563 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 2564 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 2565 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE
 2566 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2567
 2568 Immediately following the applicable statement, the location in
 2569 the disclosure materials where the lien or lien right is
 2570 described in detail shall be stated.

2571 (9) If the developer or any other person has the right to
 2572 increase or add to the recreational facilities at any time after
 2573 the establishment of the cooperative whose unit owners have use
 2574 rights therein, without the consent of the unit owners or
 2575 associations being required, there shall appear a statement in
 2576 conspicuous type in substantially the following form:

2577 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
 2578 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this

2579 statement, the location in the disclosure materials where such
 2580 reserved rights are described shall be stated.

2581 (10) A statement of whether the developer's plan includes
 2582 a program of leasing units rather than selling them, or leasing
 2583 units and selling them subject to such leases. If so, there
 2584 shall be a description of the plan, including the number and
 2585 identification of the units and the provisions and term of the
 2586 proposed leases, and a statement in boldfaced type that: **THE**
 2587 **UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

2588 (11) The arrangements for management of the association
 2589 and maintenance and operation of the cooperative property and of
 2590 other property that will serve the unit owners of the
 2591 cooperative property, and a description of the management
 2592 contract and all other contracts for these purposes having a
 2593 term in excess of 1 year, including the following:

2594 (a) The names of contracting parties.

2595 (b) The term of the contract.

2596 (c) The nature of the services included.

2597 (d) The compensation, stated on a monthly and annual
 2598 basis, and provisions for increases in the compensation.

2599 (e) A reference to the volumes and pages of the
 2600 cooperative documents and of the exhibits containing copies of
 2601 such contracts.

2602
 2603 Copies of all described contracts shall be attached as exhibits.

2604 If there is a contract for the management of the cooperative
 2605 property, then a statement in conspicuous type in substantially
 2606 the following form shall appear, identifying the proposed or

HB 601

2008

2607 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
2608 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE
2609 CONTRACT MANAGER). Immediately following this statement, the
2610 location in the disclosure materials of the contract for
2611 management of the cooperative property shall be stated.

2612 (12) If the developer or any other person or persons other
2613 than the unit owners has the right to retain control of the
2614 board of administration of the association for a period of time
2615 which can exceed 1 year after the closing of the sale of a
2616 majority of the units in that cooperative to persons other than
2617 successors or alternate developers, then a statement in
2618 conspicuous type in substantially the following form shall be
2619 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
2620 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
2621 HAVE BEEN SOLD. Immediately following this statement, the
2622 location in the disclosure materials where this right to control
2623 is described in detail shall be stated.

2624 (13) If there are any restrictions upon the sale,
2625 transfer, conveyance, or leasing of a unit, then a statement in
2626 conspicuous type in substantially the following form shall be
2627 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
2628 CONTROLLED. Immediately following this statement, the location
2629 in the disclosure materials where the restriction, limitation,
2630 or control on the sale, lease, or transfer of units is described
2631 in detail shall be stated.

2632 (14) If the cooperative is part of a phase project, the
2633 following shall be stated:

2634 (a) A statement in conspicuous type in substantially the
 2635 following form shall be included: THIS IS A PHASE COOPERATIVE.
 2636 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.
 2637 Immediately following this statement, the location in the
 2638 disclosure materials where the phasing is described shall be
 2639 stated.

2640 (b) A summary of the provisions of the declaration
 2641 providing for the phasing.

2642 (c) A statement as to whether or not residential buildings
 2643 and units which are added to the cooperative may be
 2644 substantially different from the residential buildings and units
 2645 originally in the cooperative, and, if the added residential
 2646 buildings and units may be substantially different, there shall
 2647 be a general description of the extent to which such added
 2648 residential buildings and units may differ, and a statement in
 2649 conspicuous type in substantially the following form shall be
 2650 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE
 2651 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
 2652 UNITS IN THE COOPERATIVE. Immediately following this statement,
 2653 the location in the disclosure materials where the extent to
 2654 which added residential buildings and units may substantially
 2655 differ is described shall be stated.

2656 (d) A statement of the maximum number of buildings
 2657 containing units, the maximum and minimum number of units in
 2658 each building, the maximum number of units, and the minimum and
 2659 maximum square footage of the units that may be contained within
 2660 each parcel of land which may be added to the cooperative.

2661 (15) If the cooperative is created by conversion of
 2662 existing improvements, the following information shall be
 2663 stated:

2664 (a) The information required by s. 719.616.
 2665 (b) A caveat that there are no express warranties unless
 2666 they are stated in writing by the developer.

2667 (16) A summary of the restrictions, if any, to be imposed
 2668 on units concerning the use of any of the cooperative property,
 2669 including statements as to whether there are restrictions upon
 2670 children and pets, and reference to the volumes and pages of the
 2671 cooperative documents where such restrictions are found, or if
 2672 such restrictions are contained elsewhere, then a copy of the
 2673 documents containing the restrictions shall be attached as an
 2674 exhibit.

2675 (17) If there is any land that is offered by the developer
 2676 for use by the unit owners and that is neither owned by them nor
 2677 leased to them, the association, or any entity controlled by
 2678 unit owners and other persons having the use rights to such
 2679 land, a statement shall be made as to how such land will serve
 2680 the cooperative. If any part of such land will serve the
 2681 cooperative, the statement shall describe the land and the
 2682 nature and term of service, and the cooperative documents or
 2683 other instrument creating such servitude shall be included as an
 2684 exhibit.

2685 (18) The manner in which utility and other services,
 2686 including, but not limited to, sewage and waste disposal, water
 2687 supply, and storm drainage, will be provided and the person or
 2688 entity furnishing them.

HB 601

2008

2689 (19) An explanation of the manner in which the
2690 apportionment of common expenses and ownership of the common
2691 areas have been determined.

2692 (20) An estimated operating budget for the cooperative and
2693 the association, and a schedule of the unit owner's expenses
2694 shall be attached as an exhibit and shall contain the following
2695 information:

2696 (a) The estimated monthly and annual expenses of the
2697 cooperative and the association that are collected from unit
2698 owners by assessments.

2699 (b) The estimated monthly and annual expenses of each unit
2700 owner for a unit, other than assessments payable to the
2701 association, payable by the unit owner to persons or entities
2702 other than the association, and the total estimated monthly and
2703 annual expense. There may be excluded from this estimate
2704 expenses that are personal to unit owners, which are not
2705 uniformly incurred by all unit owners, or which are not provided
2706 for or contemplated by the cooperative documents, including, but
2707 not limited to, the costs of private telephone; maintenance of
2708 the interior of cooperative units, which is not the obligation
2709 of the association; maid or janitorial services privately
2710 contracted for by the unit owners; utility bills billed directly
2711 to each unit owner for utility services to his or her unit;
2712 insurance premiums other than those incurred for policies
2713 obtained by the cooperative; and similar personal expenses of
2714 the unit owner. A unit owner's estimated payments for
2715 assessments shall also be stated in the estimated amounts for
2716 the times when they will be due.

2717 (c) The estimated items of expenses of the cooperative and
 2718 the association, except as excluded under paragraph (b),
 2719 including, but not limited to, the following items, which shall
 2720 be stated either as an association expense collectible by
 2721 assessments or as unit owners' expenses payable to persons other
 2722 than the association:

- 2723 1. Expenses for the association and cooperative:
- 2724 a. Administration of the association.
- 2725 b. Management fees.
- 2726 c. Maintenance.
- 2727 d. Rent for recreational and other commonly used areas.
- 2728 e. Taxes upon association property.
- 2729 f. Taxes upon leased areas.
- 2730 g. Insurance.
- 2731 h. Security provisions.
- 2732 i. Other expenses.
- 2733 j. Operating capital.
- 2734 k. Reserves.
- 2735 1. Fee payable to the division.
- 2736 2. Expenses for a unit owner:
- 2737 a. Rent for the unit, if subject to a lease.
- 2738 b. Rent payable by the unit owner directly to the lessor
 2739 or agent under any recreational lease or lease for the use of
 2740 commonly used areas, which use and payment are a mandatory
 2741 condition of ownership and are not included in the common
 2742 expense or assessments for common maintenance paid by the unit
 2743 owners to the association.

HB 601

2008

2744 (d) The following statement in conspicuous type: THE
2745 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
2746 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
2747 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
2748 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
2749 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
2750 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
2751 THE OFFERING.

2752 (e) Each budget for an association prepared by a developer
2753 consistent with this subsection shall be prepared in good faith
2754 and shall reflect accurate estimated amounts for the required
2755 items in paragraph (c) at the time of the filing of the offering
2756 circular with the division, and subsequent increased amounts of
2757 any item included in the association's estimated budget that are
2758 beyond the control of the developer shall not be considered an
2759 amendment that would give rise to rescission rights set forth in
2760 s. 719.503(1)(a) or (b), nor shall such increases modify, void,
2761 or otherwise affect any guarantee of the developer contained in
2762 the offering circular or any purchase contract. It is the intent
2763 of this paragraph to clarify existing law.

2764 (f) The estimated amounts shall be stated for a period of
2765 at least 12 months and may distinguish between the period prior
2766 to the time unit owners other than the developer elect a
2767 majority of the board of administration and the period after
2768 that date.

2769 (21) A schedule of estimated closing expenses to be paid
2770 by a buyer or lessee of a unit and a statement of whether title

2771 opinion or title insurance policy is available to the buyer and,
 2772 if so, at whose expense.

2773 (22) The identity of the developer and the chief operating
 2774 officer or principal directing the creation and sale of the
 2775 cooperative and a statement of its and his or her experience in
 2776 this field.

2777 (23) Copies of the following, to the extent they are
 2778 applicable, shall be included as exhibits:

2779 (a) The cooperative documents, or the proposed cooperative
 2780 documents if the documents have not been recorded.

2781 (b) The articles of incorporation creating the
 2782 association.

2783 (c) The bylaws of the association.

2784 (d) The ground lease or other underlying lease of the
 2785 cooperative.

2786 (e) The management agreement and all maintenance and other
 2787 contracts for management of the association and operation of the
 2788 cooperative and facilities used by the unit owners having a
 2789 service term in excess of 1 year.

2790 (f) The estimated operating budget for the cooperative and
 2791 the required schedule of unit owners' expenses.

2792 (g) A copy of the floor plan of the unit and the plot plan
 2793 showing the location of the residential buildings and the
 2794 recreation and other common areas.

2795 (h) The lease of recreational and other facilities that
 2796 will be used only by unit owners of the subject cooperative.

2797 (i) The lease of facilities used by owners and others.

- 2798 | (j) The form of unit lease, if the offer is of a
- 2799 | leasehold.
- 2800 | (k) A declaration of servitude of properties serving the
- 2801 | cooperative but not owned by unit owners or leased to them or
- 2802 | the association.
- 2803 | (l) The statement of condition of the existing building or
- 2804 | buildings, if the offering is of units in an operation being
- 2805 | converted to cooperative ownership.
- 2806 | (m) The statement of inspection for termite damage and
- 2807 | treatment of the existing improvements, if the cooperative is a
- 2808 | conversion.
- 2809 | (n) The form of agreement for sale or lease of units.
- 2810 | (o) A copy of the agreement for escrow of payments made to
- 2811 | the developer prior to closing.
- 2812 | (p) A copy of the documents containing any restrictions on
- 2813 | use of the property required by subsection (16).
- 2814 | (24) Any prospectus or offering circular complying with
- 2815 | the provisions of former ss. 711.69 and 711.802 may continue to
- 2816 | be used without amendment, or may be amended to comply with the
- 2817 | provisions of this chapter.
- 2818 | (25) A brief narrative description of the location and
- 2819 | effect of all existing and intended easements located or to be
- 2820 | located on the cooperative property other than those in the
- 2821 | declaration.
- 2822 | (26) If the developer is required by state or local
- 2823 | authorities to obtain acceptance or approval of any dock or
- 2824 | marina facility intended to serve the cooperative, a copy of
- 2825 | such acceptance or approval acquired by the time of filing with

HB 601

2008

2826 the division pursuant to s. 719.502 or a statement that such
 2827 acceptance has not been acquired or received.

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

2831 Section 48. Section 719.508, Florida Statutes, is amended
 2832 to read:

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

2842 Section 49. Paragraph (a) of subsection (2) of section
 2843 719.608, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

2878 a. If your rental agreement began or was extended or
 2879 renewed after May 1, 1980, and your rental agreement, including
 2880 extensions and renewals, has an unexpired term of 180 days or

HB 601

2008

2881 less, you may cancel your rental agreement upon 30 days' written
 2882 notice and move. Also, upon 30 days' written notice, you may
 2883 cancel any extension of the rental agreement.

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

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

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

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

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

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

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

2916 Section 50. Subsection (7) of section 720.301, Florida
 2917 Statutes, is amended to read:

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

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

2922 Section 51. Subsection (2) of section 720.401, Florida
 2923 Statutes, is amended to read:

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

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

2933 Section 52. Subsection (11) of section 721.05, Florida
 2934 Statutes, is amended to read:

2935 721.05 Definitions.--As used in this chapter, the term:

HB 601

2008

2936 (11) "Division" means the Division of Florida ~~Land Sales,~~
 2937 Condominiums, Timeshares, and Mobile Homes of the Department of
 2938 Business and Professional Regulation.

2939 Section 53. Paragraph (d) of subsection (2) of section
 2940 721.07, Florida Statutes, is amended to read:

2941 721.07 Public offering statement.--Prior to offering any
 2942 timeshare plan, the developer must submit a filed public
 2943 offering statement to the division for approval as prescribed by
 2944 s. 721.03, s. 721.55, or this section. Until the division
 2945 approves such filing, any contract regarding the sale of that
 2946 timeshare plan is subject to cancellation by the purchaser
 2947 pursuant to s. 721.10.

2948 (2)

2949 (d) A developer shall have the authority to deliver to
 2950 purchasers any purchaser public offering statement that is not
 2951 yet approved by the division, provided that the following shall
 2952 apply:

2953 1. At the time the developer delivers an unapproved
 2954 purchaser public offering statement to a purchaser pursuant to
 2955 this paragraph, the developer shall deliver a fully completed
 2956 and executed copy of the purchase contract required by s. 721.06
 2957 that contains the following statement in conspicuous type in
 2958 substantially the following form which shall replace the
 2959 statements required by s. 721.06(1)(g):

2960
 2961 The developer is delivering to you a public offering statement
 2962 that has been filed with but not yet approved by the Division of
 2963 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes.

HB 601

2008

2964 Any revisions to the unapproved public offering statement you
2965 have received must be delivered to you, but only if the
2966 revisions materially alter or modify the offering in a manner
2967 adverse to you. After the division approves the public offering
2968 statement, you will receive notice of the approval from the
2969 developer and the required revisions, if any.

2970
2971 Your statutory right to cancel this transaction without any
2972 penalty or obligation expires 10 calendar days after the date
2973 you signed your purchase contract or the date on which you
2974 receive the last of all documents required to be given to you
2975 pursuant to section 721.07(6), Florida Statutes, or 10 calendar
2976 days after you receive revisions required to be delivered to
2977 you, if any, whichever is later. If you decide to cancel this
2978 contract, you must notify the seller in writing of your intent
2979 to cancel. Your notice of cancellation shall be effective upon
2980 the date sent and shall be sent to (Name of Seller) at
2981 (Address of Seller) . Any attempt to obtain a waiver of your
2982 cancellation right is void and of no effect. While you may
2983 execute all closing documents in advance, the closing, as
2984 evidenced by delivery of the deed or other document, before
2985 expiration of your 10-day cancellation period, is prohibited.

2986
2987 2. After receipt of approval from the division and prior
2988 to closing, if any revisions made to the documents contained in
2989 the purchaser public offering statement materially alter or
2990 modify the offering in a manner adverse to a purchaser, the
2991 developer shall send the purchaser such revisions together with

2992 a notice containing a statement in conspicuous type in
 2993 substantially the following form:

2994
 2995 The unapproved public offering statement previously delivered to
 2996 you, together with the enclosed revisions, has been approved by
 2997 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares,
 2998 and Mobile Homes. Accordingly, your cancellation right expires
 2999 10 calendar days after you sign your purchase contract or 10
 3000 calendar days after you receive these revisions, whichever is
 3001 later. If you have any questions regarding your cancellation
 3002 rights, you may contact the division at [insert division's
 3003 current address].

3004
 3005 3. After receipt of approval from the division and prior
 3006 to closing, if no revisions have been made to the documents
 3007 contained in the unapproved purchaser public offering statement,
 3008 or if such revisions do not materially alter or modify the
 3009 offering in a manner adverse to a purchaser, the developer shall
 3010 send the purchaser a notice containing a statement in
 3011 conspicuous type in substantially the following form:

3012
 3013 The unapproved public offering statement previously delivered to
 3014 you has been approved by the Division of Florida ~~Land Sales,~~
 3015 Condominiums, Timeshares, and Mobile Homes. Revisions made to
 3016 the unapproved public offering statement, if any, are either not
 3017 required to be delivered to you or are not deemed by the
 3018 developer, in its opinion, to materially alter or modify the
 3019 offering in a manner that is adverse to you. Accordingly, your

3020 cancellation right expired 10 days after you signed your
 3021 purchase contract. A complete copy of the approved public
 3022 offering statement is available through the managing entity for
 3023 inspection as part of the books and records of the plan. If you
 3024 have any questions regarding your cancellation rights, you may
 3025 contact the division at [insert division's current address].

3026 Section 54. Subsection (8) of section 721.08, Florida
 3027 Statutes, is amended to read:

3028 721.08 Escrow accounts; nondisturbance instruments;
 3029 alternate security arrangements; transfer of legal title.--

3030 (8) An escrow agent holding escrowed funds pursuant to
 3031 this chapter that have not been claimed for a period of 5 years
 3032 after the date of deposit shall make at least one reasonable
 3033 attempt to deliver such unclaimed funds to the purchaser who
 3034 submitted such funds to escrow. In making such attempt, an
 3035 escrow agent is entitled to rely on a purchaser's last known
 3036 address as set forth in the books and records of the escrow
 3037 agent and is not required to conduct any further search for the
 3038 purchaser. If an escrow agent's attempt to deliver unclaimed
 3039 funds to any purchaser is unsuccessful, the escrow agent may
 3040 deliver such unclaimed funds to the division and the division
 3041 shall deposit such unclaimed funds in the Division of Florida
 3042 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust
 3043 Fund, 30 days after giving notice in a publication of general
 3044 circulation in the county in which the timeshare property
 3045 containing the purchaser's timeshare interest is located. The
 3046 purchaser may claim the same at any time prior to the delivery
 3047 of such funds to the division. After delivery of such funds to

HB 601

2008

3048 the division, the purchaser shall have no more rights to the
 3049 unclaimed funds. The escrow agent shall not be liable for any
 3050 claims from any party arising out of the escrow agent's delivery
 3051 of the unclaimed funds to the division pursuant to this section.

3052 Section 55. Section 721.26, Florida Statutes, is amended
 3053 to read:

3054 721.26 Regulation by division.--The division has the power
 3055 to enforce and ensure compliance with the provisions of this
 3056 chapter, except for parts III and IV, using the powers provided
 3057 in this chapter, as well as the powers prescribed in chapters
 3058 ~~498~~, ~~718~~, and 719. In performing its duties, the division shall
 3059 have the following powers and duties:

3060 (1) To aid in the enforcement of this chapter, or any
 3061 division rule or order promulgated or issued pursuant to this
 3062 chapter, the division may make necessary public or private
 3063 investigations within or outside this state to determine whether
 3064 any person has violated or is about to violate this chapter, or
 3065 any division rule or order promulgated or issued pursuant to
 3066 this chapter.

3067 (2) The division may require or permit any person to file
 3068 a written statement under oath or otherwise, as the division
 3069 determines, as to the facts and circumstances concerning a
 3070 matter under investigation.

3071 (3) For the purpose of any investigation under this
 3072 chapter, the director of the division or any officer or employee
 3073 designated by the director may administer oaths or affirmations,
 3074 subpoena witnesses and compel their attendance, take evidence,
 3075 and require the production of any matter which is relevant to

3076 the investigation, including the identity, existence,
3077 description, nature, custody, condition, and location of any
3078 books, documents, or other tangible things and the identity and
3079 location of persons having knowledge of relevant facts or any
3080 other matter reasonably calculated to lead to the discovery of
3081 material evidence. Failure to obey a subpoena or to answer
3082 questions propounded by the investigating officer and upon
3083 reasonable notice to all persons affected thereby shall be a
3084 violation of this chapter. In addition to the other enforcement
3085 powers authorized in this subsection, the division may, at its
3086 discretion, apply to the circuit court for an order compelling
3087 compliance.

3088 (4) The division may prepare and disseminate a prospectus
3089 and other information to assist prospective purchasers, sellers,
3090 and managing entities of timeshare plans in assessing the
3091 rights, privileges, and duties pertaining thereto.

3092 (5) Notwithstanding any remedies available to purchasers,
3093 if the division has reasonable cause to believe that a violation
3094 of this chapter, or of any division rule or order promulgated or
3095 issued pursuant to this chapter, has occurred, the division may
3096 institute enforcement proceedings in its own name against any
3097 regulated party, as such term is defined in this subsection:

3098 (a)1. "Regulated party," for purposes of this section,
3099 means any developer, exchange company, seller, managing entity,
3100 owners' association, owners' association director, owners'
3101 association officer, manager, management firm, escrow agent,
3102 trustee, any respective assignees or agents, or any other person
3103 having duties or obligations pursuant to this chapter.

3104 2. Any person who materially participates in any offer or
3105 disposition of any interest in, or the management or operation
3106 of, a timeshare plan in violation of this chapter or relevant
3107 rules involving fraud, deception, false pretenses,
3108 misrepresentation, or false advertising or the disbursement,
3109 concealment, or diversion of any funds or assets, which conduct
3110 adversely affects the interests of a purchaser, and which person
3111 directly or indirectly controls a regulated party or is a
3112 general partner, officer, director, agent, or employee of such
3113 regulated party, shall be jointly and severally liable under
3114 this subsection with such regulated party, unless such person
3115 did not know, and in the exercise of reasonable care could not
3116 have known, of the existence of the facts giving rise to the
3117 violation of this chapter. A right of contribution shall exist
3118 among jointly and severally liable persons pursuant to this
3119 paragraph.

3120 (b) The division may permit any person whose conduct or
3121 actions may be under investigation to waive formal proceedings
3122 and enter into a consent proceeding whereby an order, rule, or
3123 letter of censure or warning, whether formal or informal, may be
3124 entered against that person.

3125 (c) The division may issue an order requiring a regulated
3126 party to cease and desist from an unlawful practice under this
3127 chapter and take such affirmative action as in the judgment of
3128 the division will carry out the purposes of this chapter.

3129 (d)1. The division may bring an action in circuit court
3130 for declaratory or injunctive relief or for other appropriate
3131 relief, including restitution.

HB 601

2008

3132 2. The division shall have broad authority and discretion
3133 to petition the circuit court to appoint a receiver with respect
3134 to any managing entity which fails to perform its duties and
3135 obligations under this chapter with respect to the operation of
3136 a timeshare plan. The circumstances giving rise to an
3137 appropriate petition for receivership under this subparagraph
3138 include, but are not limited to:

3139 a. Damage to or destruction of any of the accommodations
3140 or facilities of a timeshare plan, where the managing entity has
3141 failed to repair or reconstruct same.

3142 b. A breach of fiduciary duty by the managing entity,
3143 including, but not limited to, undisclosed self-dealing or
3144 failure to timely assess, collect, or disburse the common
3145 expenses of the timeshare plan.

3146 c. Failure of the managing entity to operate the timeshare
3147 plan in accordance with the timeshare instrument and this
3148 chapter.

3149
3150 If, under the circumstances, it appears that the events giving
3151 rise to the petition for receivership cannot be reasonably and
3152 timely corrected in a cost-effective manner consistent with the
3153 timeshare instrument, the receiver may petition the circuit
3154 court to implement such amendments or revisions to the timeshare
3155 instrument as may be necessary to enable the managing entity to
3156 resume effective operation of the timeshare plan, or to enter an
3157 order terminating the timeshare plan, or to enter such further
3158 orders regarding the disposition of the timeshare property as
3159 the court deems appropriate, including the disposition and sale

3160 of the timeshare property held by the owners' association or the
 3161 purchasers. In the event of a receiver's sale, all rights,
 3162 title, and interest held by the owners' association or any
 3163 purchaser shall be extinguished and title shall vest in the
 3164 buyer. This provision applies to timeshare estates, personal
 3165 property timeshare interests, and timeshare licenses. All
 3166 reasonable costs and fees of the receiver relating to the
 3167 receivership shall become common expenses of the timeshare plan
 3168 upon order of the court.

3169 3. The division may revoke its approval of any filing for
 3170 any timeshare plan for which a petition for receivership has
 3171 been filed pursuant to this paragraph.

3172 (e)1. The division may impose a penalty against any
 3173 regulated party for a violation of this chapter or any rule
 3174 adopted thereunder. A penalty may be imposed on the basis of
 3175 each day of continuing violation, but in no event may the
 3176 penalty for any offense exceed \$10,000. All accounts collected
 3177 shall be deposited with the Chief Financial Officer to the
 3178 credit of the Division of Florida ~~Land Sales~~, Condominiums,
 3179 Timeshares, and Mobile Homes Trust Fund.

3180 2.a. If a regulated party fails to pay a penalty, the
 3181 division shall thereupon issue an order directing that such
 3182 regulated party cease and desist from further operation until
 3183 such time as the penalty is paid; or the division may pursue
 3184 enforcement of the penalty in a court of competent jurisdiction.

3185 b. If an owners' association or managing entity fails to
 3186 pay a civil penalty, the division may pursue enforcement in a
 3187 court of competent jurisdiction.

3188 (f) In order to permit the regulated party an opportunity
 3189 either to appeal such decision administratively or to seek
 3190 relief in a court of competent jurisdiction, the order imposing
 3191 the penalty or the cease and desist order shall not become
 3192 effective until 20 days after the date of such order.

3193 (g) Any action commenced by the division shall be brought
 3194 in the county in which the division has its executive offices or
 3195 in the county where the violation occurred.

3196 (h) Notice to any regulated party shall be complete when
 3197 delivered by United States mail, return receipt requested, to
 3198 the party's address currently on file with the division or to
 3199 such other address at which the division is able to locate the
 3200 party. Every regulated party has an affirmative duty to notify
 3201 the division of any change of address at least 5 business days
 3202 prior to such change.

3203 (6) The division has authority to adopt rules pursuant to
 3204 ss. 120.536(1) and 120.54 to implement and enforce the
 3205 provisions of this chapter.

3206 (7)(a) The use of any unfair or deceptive act or practice
 3207 by any person in connection with the sales or other operations
 3208 of an exchange program or timeshare plan is a violation of this
 3209 chapter.

3210 (b) Any violation of the Florida Deceptive and Unfair
 3211 Trade Practices Act, ss. 501.201 et seq., relating to the
 3212 creation, promotion, sale, operation, or management of any
 3213 timeshare plan shall also be a violation of this chapter.

3214 (c) The division is authorized to institute proceedings
 3215 against any such person and take any appropriate action

HB 601

2008

3216 authorized in this section in connection therewith,
 3217 notwithstanding any remedies available to purchasers.

3218 (8) The failure of any person to comply with any order of
 3219 the division is a violation of this chapter.

3220 Section 56. Section 721.28, Florida Statutes, is amended
 3221 to read:

3222 721.28 Division of Florida ~~Land Sales,~~ Condominiums,
 3223 Timeshares, and Mobile Homes Trust Fund.--All funds collected by
 3224 the division and any amounts paid as fees or penalties under
 3225 this chapter shall be deposited in the State Treasury to the
 3226 credit of the Division of Florida ~~Land Sales,~~ Condominiums,
 3227 Timeshares, and Mobile Homes Trust Fund created by s. 718.509
 3228 ~~498.019.~~

3229 Section 57. Paragraph (c) of subsection (1) of section
 3230 721.301, Florida Statutes, is amended to read:

3231 721.301 Florida Timesharing, Vacation Club, and
 3232 Hospitality Program.--

3233 (1)

3234 (c) The director may designate funds from the Division of
 3235 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes
 3236 Trust Fund, not to exceed \$50,000 annually, to support the
 3237 projects and proposals undertaken pursuant to paragraph (b). All
 3238 state trust funds to be expended pursuant to this section must
 3239 be matched equally with private moneys and shall comprise no
 3240 more than half of the total moneys expended annually.

3241 Section 58. Section 721.50, Florida Statutes, is amended
 3242 to read:

3243 721.50 Short title.--This part may be cited as the
 3244 "McAllister Act" in recognition and appreciation for the years
 3245 of extraordinary and insightful contributions by Mr. Bryan C.
 3246 McAllister, Examinations Supervisor, of the former Division of
 3247 Florida Land Sales, Condominiums, and Mobile Homes.

3248 Section 59. Subsection (1) of section 723.003, Florida
 3249 Statutes, is amended to read:

3250 723.003 Definitions.--As used in this chapter, the
 3251 following words and terms have the following meanings unless
 3252 clearly indicated otherwise:

3253 (1) The term "division" means the Division of Florida ~~Land~~
 3254 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the
 3255 Department of Business and Professional Regulation.

3256 Section 60. Paragraph (e) of subsection (5) of section
 3257 723.006, Florida Statutes, is amended to read:

3258 723.006 Powers and duties of division.--In performing its
 3259 duties, the division has the following powers and duties:

3260 (5) Notwithstanding any remedies available to mobile home
 3261 owners, mobile home park owners, and homeowners' associations,
 3262 if the division has reasonable cause to believe that a violation
 3263 of any provision of this chapter or any rule promulgated
 3264 pursuant hereto has occurred, the division may institute
 3265 enforcement proceedings in its own name against a developer,
 3266 mobile home park owner, or homeowners' association, or its
 3267 assignee or agent, as follows:

3268 (e)1. The division may impose a civil penalty against a
 3269 mobile home park owner or homeowners' association, or its
 3270 assignee or agent, for any violation of this chapter, a properly

3271 promulgated park rule or regulation, or a rule or regulation
 3272 promulgated pursuant hereto. A penalty may be imposed on the
 3273 basis of each separate violation and, if the violation is a
 3274 continuing one, for each day of continuing violation, but in no
 3275 event may the penalty for each separate violation or for each
 3276 day of continuing violation exceed \$5,000. All amounts collected
 3277 shall be deposited with the Chief Financial Officer to the
 3278 credit of the Division of Florida ~~Land Sales~~, Condominiums,
 3279 Timeshares, and Mobile Homes Trust Fund.

3280 2. If a violator fails to pay the civil penalty, the
 3281 division shall thereupon issue an order directing that such
 3282 violator cease and desist from further violation until such time
 3283 as the civil penalty is paid or may pursue enforcement of the
 3284 penalty in a court of competent jurisdiction. If a homeowners'
 3285 association fails to pay the civil penalty, the division shall
 3286 thereupon pursue enforcement in a court of competent
 3287 jurisdiction, and the order imposing the civil penalty or the
 3288 cease and desist order shall not become effective until 20 days
 3289 after the date of such order. Any action commenced by the
 3290 division shall be brought in the county in which the division
 3291 has its executive offices or in which the violation occurred.

3292 Section 61. Section 723.009, Florida Statutes, is amended
 3293 to read:

3294 723.009 Division of Florida ~~Land Sales~~, Condominiums,
 3295 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the
 3296 fees, penalties, and fines imposed pursuant to this chapter
 3297 shall be deposited into the Division of Florida ~~Land Sales~~,
 3298 Condominiums, Timeshares, and Mobile Homes Trust Fund created by

HB 601

2008

3299 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the
 3300 Legislature pursuant to chapter 216, may be used to defray the
 3301 expenses incurred by the division in administering the
 3302 provisions of this chapter.

3303 Section 62. Paragraph (e) is added to subsection (1) of
 3304 section 723.011, Florida Statutes, to read:

3305 723.011 Disclosure prior to rental of a mobile home lot;
 3306 prospectus, filing, approval.--

3307 (1)

3308 (e) Filings of amendments to prospectus disclosure
 3309 documents shall be accompanied by a filing fee of \$100.

3310 Section 63. Paragraph (c) of subsection (2) of section
 3311 723.0611, Florida Statutes, is amended to read:

3312 723.0611 Florida Mobile Home Relocation Corporation.--

3313 (2)

3314 (c) The corporation shall, for purposes of s. 768.28, be
 3315 considered an agency of the state. Agents or employees of the
 3316 corporation, members of the board of directors of the
 3317 corporation, or representatives of the Division of Florida ~~Land~~
 3318 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be
 3319 considered officers, employees, or agents of the state, and
 3320 actions against them and the corporation shall be governed by s.
 3321 768.28.

3322 Section 64. This act shall take effect July 1, 2008.