

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 and the
7 Division of Technology, Licensure, and Testing to the
8 Division of Technology; establishing the Division of
9 Service Operations; amending s. 215.20, F.S.; conforming
10 the name of the Division of Florida Land Sales,
11 Condominiums, and Mobile Homes Trust Fund to correspond to
12 the name change of the division; amending s. 450.33, F.S.;
13 removing the requirement for a farm labor contractor to
14 file a set of fingerprints with the department; amending
15 s. 455.203, F.S.; authorizing the department to close and
16 terminate deficient license applications and to approve
17 professional license applications meeting certain
18 criteria; amending s. 455.217, F.S.; providing that the
19 Division of Service Operations is responsible for certain
20 requirements related to examinations; amending s.
21 455.2273, F.S.; authorizing the section to apply to
22 disciplinary guidelines adopted by all boards and
23 divisions; amending s. 475.17, F.S.; revising requirements
24 for licensure as a real estate broker; amending s.
25 475.451, F.S.; deleting requirements relating to the
26 submission of certain real estate course rosters to the
27 department; amending s. 489.105, F.S.; clarifying that
28 individuals and business entities that sell manufactured

29 and factory-built buildings can legally enter into
30 contracts for those sales; amending s. 489.511, F.S.;
31 revising requirements for taking the electrical or alarm
32 system contractor certification examination; providing
33 requirements for certification; amending s. 489.515, F.S.;
34 revising requirements for certification as a certified
35 contractor by the Electrical Contractors' Licensing Board
36 to reflect changes made to s. 489.511, F.S., by this act;
37 renumbering s. 498.009, F.S., relating to the location of
38 the division's offices; amending and renumbering s.
39 498.011, F.S., relating to payment of per diem, mileage,
40 and other expenses for division employees; providing for
41 reimbursement of expenses for on-site review; deleting the
42 expense reimbursement for inspection of subdivided lands;
43 renumbering s. 498.013, F.S., relating to the
44 authentication of records; amending and renumbering s.
45 498.057, F.S., relating to service of process; deleting
46 provision that service may be made by delivering a copy of
47 the process to the division director; providing that the
48 division can be the petitioner or the plaintiff; repealing
49 ss. 498.001, 498.003, 498.005, 498.007, 498.017, 498.019,
50 498.021, 498.022, 498.023, 498.024, 498.025, 498.027,
51 498.028, 498.029, 498.031, 498.033, 498.035, 498.037,
52 498.039, 498.041, 498.047, 498.049, 498.051, 498.053,
53 498.059, 498.061, and 498.063, F.S., relating to
54 regulation of land sales practices; amending s. 548.0065,
55 F.S.; including amateur mixed martial arts in a provision
56 relating to the authority of the Florida State Boxing

57 Commission to suspend amateur matches for violation of
58 certain health and safety standards; amending s. 548.008,
59 F.S.; removing prohibition against holding amateur mixed
60 martial arts matches in this state; amending s. 548.041,
61 F.S.; providing additional licensure requirements for
62 boxing participants; amending s. 718.501, F.S.; providing
63 additional powers and duties of the division; providing
64 for additional enforcement proceedings for carrying out
65 the purposes of ch. 718, F.S.; deleting the payment of
66 money by a developer to a condominium association as a
67 permissible affirmative action; providing for actions of
68 conservator or receiver; providing for application to
69 circuit court for an order of restitution; providing for
70 imposition of civil penalties and award of court costs,
71 attorney's fees, and costs of investigation under certain
72 circumstances; providing for contracting for investigative
73 services; providing for acceptance of grants-in-aid;
74 requiring the cooperation with similar agencies on
75 establishment of certain procedures, standards, and forms;
76 providing what constitutes completeness of notice;
77 authorizing the division to issue a notice to show cause;
78 providing conforming changes; amending s. 718.509, F.S.;
79 revising to incorporate provisions of s. 498.019, F.S.,
80 relating to the Division of Florida Condominiums,
81 Timeshares, and Mobile Homes Trust Fund; revising
82 provisions to conform to the change in division name;
83 providing for the deposit of moneys resulting from an
84 administrative final order; amending s. 721.03, F.S.;

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

95

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

97

98 Section 1. Paragraphs (d) and (j) of subsection (2) of
 99 section 20.165, Florida Statutes, are amended, and paragraph (k)
 100 is added to that subsection, to read:

101 20.165 Department of Business and Professional
 102 Regulation.--There is created a Department of Business and
 103 Professional Regulation.

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

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

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

109 (k) Division of Service Operations.

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

112 73.073 Eminent domain procedure with respect to

113 condominium common elements.--

114 (2) With respect to the exercise of eminent domain or a
 115 negotiated sale for the purchase or taking of a portion of the
 116 common elements of a condominium, the condemning authority shall
 117 have the responsibility of contacting the condominium
 118 association and acquiring the most recent rolls indicating the
 119 names of the unit owners or contacting the appropriate taxing
 120 authority to obtain the names of the owners of record on the tax
 121 rolls. Notification shall ~~thereupon~~ be sent by certified mail,
 122 return receipt requested, to the unit owners of record of the
 123 condominium units by the condemning authority indicating the
 124 intent to purchase or take the required property and requesting
 125 a response from the unit owner. The condemning authority shall
 126 be responsible for the expense of sending notification pursuant
 127 to this section. Such notice shall, at a minimum, include:

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

139

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

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

147 190.009 Disclosure of public financing.--

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

152 (2)~~(3)~~ The Department of Community Affairs shall keep a
 153 current list of districts and their disclosures pursuant to this
 154 act and shall make such studies and reports and take such
 155 actions as it deems necessary.

156 Section 4. Paragraph (e) of subsection (6) of section
 157 192.037, Florida Statutes, is amended to read:

158 192.037 Fee timeshare real property; taxes and
 159 assessments; escrow.--

160 (6)

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

168 Section 5. Paragraph (i) of subsection (8) of section
 169 213.053, Florida Statutes, is amended to read:

170 213.053 Confidentiality and information sharing.--

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

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

177
 178 Disclosure of information under this subsection shall be
 179 pursuant to a written agreement between the executive director
 180 and the agency. Such agencies, governmental or nongovernmental,
 181 shall be bound by the same requirements of confidentiality as
 182 the Department of Revenue. Breach of confidentiality is a
 183 misdemeanor of the first degree, punishable as provided by s.
 184 775.082 or s. 775.083.

185 Section 6. Paragraph (d) of subsection (4) of section
 186 215.20, Florida Statutes, is amended to read:

187 215.20 Certain income and certain trust funds to
 188 contribute to the General Revenue Fund.--

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

193 (d) Within the Department of Business and Professional
 194 Regulation:

195 1. The Administrative Trust Fund.

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- 196 2. The Alcoholic Beverage and Tobacco Trust Fund.
- 197 3. The Cigarette Tax Collection Trust Fund.
- 198 4. The Division of Florida ~~Land Sales~~, Condominiums,
- 199 Timeshares, and Mobile Homes Trust Fund.
- 200 5. The Hotel and Restaurant Trust Fund, with the exception
- 201 of those fees collected for the purpose of funding of the
- 202 hospitality education program as stated in s. 509.302.
- 203 6. The Professional Regulation Trust Fund.
- 204 7. The trust funds administered by the Division of Pari-
- 205 mutuel Wagering.

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

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

217 326.002 Definitions.--As used in ss. 326.001-326.006, the
 218 term:

219 (2) "Division" means the Division of Florida ~~Land Sales~~,
 220 Condominiums, Timeshares, and Mobile Homes of the Department of
 221 Business and Professional Regulation.

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

224 326.006 Powers and duties of division.--

225 (2) The division has the power to enforce and ensure
 226 compliance with the provisions of this chapter and rules adopted
 227 under this chapter relating to the sale and ownership of yachts
 228 and ships. In performing its duties, the division has the
 229 following powers and duties:

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

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

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

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

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

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

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

276 380.05 Areas of critical state concern.--

277 (18) Neither the designation of an area of critical state
 278 concern nor the adoption of any regulations for such an area
 279 shall in any way limit or modify the rights of any person to

280 complete any development that was ~~has been~~ authorized by
 281 registration of a subdivision pursuant to former chapter 498 or
 282 former chapter 478, by recordation pursuant to local subdivision
 283 plat law, or by a building permit or other authorization to
 284 commence development on which there has been reliance and a
 285 change of position, and which registration or recordation was
 286 accomplished, or which permit or authorization was issued, prior
 287 to the approval under subsection (6), or the adoption under
 288 subsection (8), of land development regulations for the area of
 289 critical state concern. If a developer has by his or her actions
 290 in reliance on prior regulations obtained vested or other legal
 291 rights that in law would have prevented a local government from
 292 changing those regulations in a way adverse to the developer's
 293 interests, nothing in this chapter authorizes any governmental
 294 agency to abridge those rights.

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

297 380.06 Developments of regional impact.--

298 (20) VESTED RIGHTS.--Nothing in this section shall limit
 299 or modify the rights of any person to complete any development
 300 that was ~~has been~~ authorized by registration of a subdivision
 301 pursuant to former chapter 498, by recordation pursuant to local
 302 subdivision plat law, or by a building permit or other
 303 authorization to commence development on which there has been
 304 reliance and a change of position and which registration or
 305 recordation was accomplished, or which permit or authorization
 306 was issued, prior to July 1, 1973. If a developer has, by his or
 307 her actions in reliance on prior regulations, obtained vested or

308 other legal rights that in law would have prevented a local
 309 government from changing those regulations in a way adverse to
 310 the developer's interests, nothing in this chapter authorizes
 311 any governmental agency to abridge those rights.

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

333 (b) For the purpose of this act, the conveyance of, or the
 334 agreement to convey, property to the county, state, or local
 335 government as a prerequisite to zoning change approval shall be

336 construed as an act of reliance to vest rights as determined
 337 under this subsection, provided such zoning change is actually
 338 granted by such government.

339 Section 11. Paragraph (a) of subsection (4) of section
 340 380.0651, Florida Statutes, is amended to read:

341 380.0651 Statewide guidelines and standards.--

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

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

350 1.a. The same person has retained or shared control of the
 351 developments;

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

354 c. There is common management of the developments
 355 controlling the form of physical development or disposition of
 356 parcels of the development.

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

362 3. A master plan or series of plans or drawings exists
 363 covering the developments sought to be aggregated which have

364 | been submitted to a local general-purpose government, water
 365 | management district, the Florida Department of Environmental
 366 | Protection, or the Division of Florida ~~Land Sales~~, Condominiums,
 367 | Timeshares, and Mobile Homes for authorization to commence
 368 | development. The existence or implementation of a utility's
 369 | master utility plan required by the Public Service Commission or
 370 | general-purpose local government or a master drainage plan shall
 371 | not be the sole determinant of the existence of a master plan.

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

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

382 | Section 12. Paragraph (c) of subsection (4) of section
 383 | 381.0065, Florida Statutes, is amended to read:

384 | 381.0065 Onsite sewage treatment and disposal systems;
 385 | regulation.--

386 | (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may
 387 | not construct, repair, modify, abandon, or operate an onsite
 388 | sewage treatment and disposal system without first obtaining a
 389 | permit approved by the department. The department may issue
 390 | permits to carry out this section, but shall not make the
 391 | issuance of such permits contingent upon prior approval by the

392 Department of Environmental Protection, except that the issuance
393 of a permit for work seaward of the coastal construction control
394 line established under s. 161.053 shall be contingent upon
395 receipt of any required coastal construction control line permit
396 from the Department of Environmental Protection. A construction
397 permit is valid for 18 months from the issuance date and may be
398 extended by the department for one 90-day period under rules
399 adopted by the department. A repair permit is valid for 90 days
400 from the date of issuance. An operating permit must be obtained
401 prior to the use of any aerobic treatment unit or if the
402 establishment generates commercial waste. Buildings or
403 establishments that use an aerobic treatment unit or generate
404 commercial waste shall be inspected by the department at least
405 annually to assure compliance with the terms of the operating
406 permit. The operating permit for a commercial wastewater system
407 is valid for 1 year from the date of issuance and must be
408 renewed annually. The operating permit for an aerobic treatment
409 unit is valid for 2 years from the date of issuance and must be
410 renewed every 2 years. If all information pertaining to the
411 siting, location, and installation conditions or repair of an
412 onsite sewage treatment and disposal system remains the same, a
413 construction or repair permit for the onsite sewage treatment
414 and disposal system may be transferred to another person, if the
415 transferee files, within 60 days after the transfer of
416 ownership, an amended application providing all corrected
417 information and proof of ownership of the property. There is no
418 fee associated with the processing of this supplemental
419 information. A person may not contract to construct, modify,

420 alter, repair, service, abandon, or maintain any portion of an
421 onsite sewage treatment and disposal system without being
422 registered under part III of chapter 489. A property owner who
423 personally performs construction, maintenance, or repairs to a
424 system serving his or her own owner-occupied single-family
425 residence is exempt from registration requirements for
426 performing such construction, maintenance, or repairs on that
427 residence, but is subject to all permitting requirements. A
428 municipality or political subdivision of the state may not issue
429 a building or plumbing permit for any building that requires the
430 use of an onsite sewage treatment and disposal system unless the
431 owner or builder has received a construction permit for such
432 system from the department. A building or structure may not be
433 occupied and a municipality, political subdivision, or any state
434 or federal agency may not authorize occupancy until the
435 department approves the final installation of the onsite sewage
436 treatment and disposal system. A municipality or political
437 subdivision of the state may not approve any change in occupancy
438 or tenancy of a building that uses an onsite sewage treatment
439 and disposal system until the department has reviewed the use of
440 the system with the proposed change, approved the change, and
441 amended the operating permit.

442 (c) Notwithstanding ~~the provisions of~~ paragraphs (a) and
443 (b), for subdivisions platted of record on or before October 1,
444 1991, when a developer or other appropriate entity has
445 previously made or makes provisions, including financial
446 assurances or other commitments, acceptable to the Department of
447 Health, that a central water system will be installed by a

448 regulated public utility based on a density formula, private
 449 potable wells may be used with onsite sewage treatment and
 450 disposal systems until the agreed-upon densities are reached.
 451 ~~The department may consider assurances filed with the Department~~
 452 ~~of Business and Professional Regulation under chapter 498 in~~
 453 ~~determining the adequacy of the financial assurance required by~~
 454 ~~this paragraph.~~ In a subdivision regulated by this paragraph,
 455 the average daily sewage flow may not exceed 2,500 gallons per
 456 acre per day. This section does not affect the validity of
 457 existing prior agreements. After October 1, 1991, the exception
 458 provided under this paragraph is not available to a developer or
 459 other appropriate entity.

460 Section 13. Subsections (8) through (12) of section
 461 450.33, Florida Statutes, are amended to read:

462 450.33 Duties of farm labor contractor.--Every farm labor
 463 contractor must:

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

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

474 (9)~~(10)~~ Comply with all applicable statutes, rules, and
 475 regulations of the United States and of the State of Florida for

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476 the protection or benefit of labor, including, but not limited
 477 to, those providing for wages, hours, fair labor standards,
 478 social security, workers' compensation, unemployment
 479 compensation, child labor, and transportation.

480 (10)~~(11)~~ Maintain accurate daily field records for each
 481 employee actually paid by the farm labor contractor reflecting
 482 the hours worked for the farm labor contractor and, if paid by
 483 unit, the number of units harvested and the amount paid per
 484 unit.

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

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

492 455.203 Department; powers and duties.--The department,
 493 for the boards under its jurisdiction, shall:

494 (10) Have authority to:

495 (a) Close and terminate deficient license application
 496 files 2 years after the board or the department notifies the
 497 applicant of the deficiency; and

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

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

502 455.116 Regulation trust funds.--The following trust funds
 503 shall be placed in the department:

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

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

508 455.217 Examinations.--This section shall be read in
 509 conjunction with the appropriate practice act associated with
 510 each regulated profession under this chapter.

511 (1) The Division of Service Operations Technology,
 512 ~~Licensure, and Testing~~ of the Department of Business and
 513 Professional Regulation shall provide, contract, or approve
 514 services for the development, preparation, administration,
 515 scoring, score reporting, and evaluation of all examinations.
 516 The division shall seek the advice of the appropriate board in
 517 providing such services.

518 (a) The department, acting in conjunction with the
 519 Division of Service Operations Technology, ~~Licensure, and~~
 520 ~~Testing~~ and the Division of Real Estate, as appropriate, shall
 521 ensure that examinations adequately and reliably measure an
 522 applicant's ability to practice the profession regulated by the
 523 department. After an examination developed or approved by the
 524 department has been administered, the board or department may
 525 reject any question which does not reliably measure the general
 526 areas of competency specified in the rules of the board or
 527 department, when there is no board. The department shall use
 528 professional testing services for the development, preparation,
 529 and evaluation of examinations, when such services are available
 530 and approved by the board.

531 (b) For each examination developed by the department or

532 contracted vendor, to the extent not otherwise specified by
533 statute, the board or the department when there is no board,
534 shall by rule specify the general areas of competency to be
535 covered by the examination, the relative weight to be assigned
536 in grading each area tested, the score necessary to achieve a
537 passing grade, and the fees, where applicable, to cover the
538 actual cost for any purchase, development, and administration of
539 the required examination. However, statutory fee caps in each
540 practice act shall apply. This subsection does not apply to
541 national examinations approved and administered pursuant to
542 paragraph (d).

543 (c) If a practical examination is deemed to be necessary,
544 rules shall specify the criteria by which examiners are to be
545 selected, the grading criteria to be used by the examiner, the
546 relative weight to be assigned in grading each criterion, and
547 the score necessary to achieve a passing grade. When a mandatory
548 standardization exercise for a practical examination is required
549 by law, the board may conduct such exercise. Therefore, board
550 members may serve as examiners at a practical examination with
551 the consent of the board.

552 (d) A board, or the department when there is no board, may
553 approve by rule the use of any national examination which the
554 department has certified as meeting requirements of national
555 examinations and generally accepted testing standards pursuant
556 to department rules. Providers of examinations, which may be
557 either profit or nonprofit entities, seeking certification by
558 the department shall pay the actual costs incurred by the
559 department in making a determination regarding the

560 certification. The department shall use any national examination
561 which is available, certified by the department, and approved by
562 the board. The name and number of a candidate may be provided to
563 a national contractor for the limited purpose of preparing the
564 grade tape and information to be returned to the board or
565 department or, to the extent otherwise specified by rule, the
566 candidate may apply directly to the vendor of the national
567 examination. The department may delegate to the board the duty
568 to provide and administer the examination. Any national
569 examination approved by a board, or the department when there is
570 no board, prior to October 1, 1997, is deemed certified under
571 this paragraph. Any licensing or certification examination that
572 is not developed or administered by the department in-house or
573 provided as a national examination shall be competitively bid.

574 (e) The department shall adopt rules regarding the
575 security and monitoring of examinations. In order to maintain
576 the security of examinations, the department may employ the
577 procedures set forth in s. 455.228 to seek fines and injunctive
578 relief against an examinee who violates the provisions of s.
579 455.2175 or the rules adopted pursuant to this paragraph. The
580 department, or any agent thereof, may, for the purposes of
581 investigation, confiscate any written, photographic, or
582 recording material or device in the possession of the examinee
583 at the examination site which the department deems necessary to
584 enforce such provisions or rules.

585 (f) If the professional board with jurisdiction over an
586 examination concurs, the department may, for a fee, share with
587 any other state's licensing authority an examination developed

588 by or for the department unless prohibited by a contract entered
 589 into by the department for development or purchase of the
 590 examination. The department, with the concurrence of the
 591 appropriate board, shall establish guidelines that ensure
 592 security of a shared exam and shall require that any other
 593 state's licensing authority comply with those guidelines. Those
 594 guidelines shall be approved by the appropriate professional
 595 board. All fees paid by the user shall be applied to the
 596 department's examination and development program for professions
 597 regulated by this chapter. All fees paid by the user for
 598 professions not regulated by this chapter shall be applied to
 599 offset the fees for the development and administration of that
 600 profession's examination. If both a written and a practical
 601 examination are given, an applicant shall be required to retake
 602 only the portion of the examination for which he or she failed
 603 to achieve a passing grade, if he or she successfully passes
 604 that portion within a reasonable time of his or her passing the
 605 other portion.

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

608 455.2273 Disciplinary guidelines.--

609 (6) Notwithstanding s. 455.017, this section applies to
 610 disciplinary guidelines adopted by all boards or divisions
 611 within the department.

612 Section 18. Paragraph (b) of subsection (2) of section
 613 475.17, Florida Statutes, is amended to read:

614 475.17 Qualifications for practice.--

615 (2)

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

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

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

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

633
634 ~~This paragraph does not apply to a person employed as a real~~
635 ~~estate investigator by the Division of Real Estate, provided the~~
636 ~~person has been employed as a real estate investigator for at~~
637 ~~least 24 months. The person must be currently employed as a real~~
638 ~~estate investigator to sit for the real estate broker's~~
639 ~~examination and have held a valid and current sales associate's~~
640 ~~license for at least 12 months.~~

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

643 475.451 Schools teaching real estate practice.--

644 ~~(9) (a) Each school permitholder of a proprietary real~~
645 ~~estate school, each chief administrative person of such an~~
646 ~~institution, or each course sponsor shall deliver to the~~
647 ~~department, in a format acceptable to the department, a copy of~~
648 ~~the classroom course roster of courses that require satisfactory~~
649 ~~completion of an examination no later than 30 days beyond the~~
650 ~~end of the calendar month in which the course was completed.~~

651 ~~(b) The course roster shall consist of the institution or~~
652 ~~school name and permit number, if applicable, the instructor's~~
653 ~~name and permit number, if applicable, course title, beginning~~
654 ~~and ending dates of the course, number of course hours, course~~
655 ~~location, if applicable, each student's full name and license~~
656 ~~number, if applicable, each student's mailing address, and the~~
657 ~~numerical grade each student achieved. The course roster shall~~
658 ~~also include the signature of the school permitholder, the chief~~
659 ~~administrative person, or the course sponsor.~~

660 Section 20. Section 475.455, Florida Statutes, is amended
661 to read:

662 475.455 Exchange of disciplinary information.--The
663 commission shall inform the Division of Florida Land Sales,
664 Condominiums, Timeshares, and Mobile Homes of the Department of
665 Business and Professional Regulation of any disciplinary action
666 the commission has taken against any of its licensees. The
667 division shall inform the commission of any disciplinary action
668 the division has taken against any broker or sales associate
669 registered with the division.

670 Section 21. Subsection (6) of section 489.105, Florida
671 Statutes, is amended to read:

672 489.105 Definitions.--As used in this part:

673 (6) "Contracting" means, except as exempted in this part,
 674 engaging in business as a contractor and includes, but is not
 675 limited to, performance of any of the acts as set forth in
 676 subsection (3) which define types of contractors. The attempted
 677 sale of contracting services and the negotiation or bid for a
 678 contract on these services also constitutes contracting. If the
 679 services offered require licensure or agent qualification, the
 680 offering, negotiation for a bid, or attempted sale of these
 681 services requires the corresponding licensure. However, the term
 682 "contracting" shall not extend to an individual, partnership,
 683 corporation, trust, or other legal entity that offers to sell or
 684 sells completed residences on property on which the individual
 685 or business entity has any legal or equitable interest, or to
 686 the individual or business entity that offers to sell or sells
 687 manufactured or factory-built buildings that will be completed
 688 on site on property on which either party to a contract has any
 689 legal or equitable interest, if the services of a qualified
 690 contractor certified or registered pursuant to the requirements
 691 of this chapter have been or will be retained for the purpose of
 692 constructing or completing such residences.

693 Section 22. Section 489.511, Florida Statutes, is amended
 694 to read:

695 489.511 Certification; application; examinations;
 696 endorsement.--

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

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

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

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

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

707 ~~1.2. Be~~ Is of good moral character;

708 ~~2. Pass the certification examination, achieving a passing~~
709 ~~grade as established by board rule; and~~

710 ~~3. Meet~~ Meets eligibility requirements according to one of
711 the following criteria:

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

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

721 c. Has, within the 12 years immediately preceding the
722 filing of the application, at least 6 years of comprehensive
723 training, technical education, or supervisory experience
724 associated with an electrical or alarm system contracting
725 business, or at least 6 years of technical experience in
726 electrical or alarm system work with the Armed Forces or a
727 governmental entity;

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

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

734 ~~(c)~~~~(b)~~ For purposes of this subsection, "supervisor" means
735 a person having the experience gained while having the general
736 duty of overseeing the technical duties of the trade, provided
737 that such experience is gained by a person who is able to
738 perform the technical duties of the trade without supervision.

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

743 ~~(2)~~~~(3)~~ The board may determine by rule the number of times
744 per year the applicant may take the examination and after three
745 unsuccessful attempts may ~~On or after October 1, 1998, every~~
746 ~~applicant who is qualified shall be allowed to take the~~
747 ~~examination three times, notwithstanding the number of times the~~
748 ~~applicant has previously failed the examination. If an applicant~~
749 ~~fails the examination three times after October 1, 1998, the~~
750 ~~board shall~~ require the applicant to complete additional
751 college-level or technical education courses in the areas of
752 deficiency, as determined by the board, as a condition of future
753 eligibility to take the examination. ~~The applicant must also~~
754 ~~submit a new application that meets all certification~~
755 ~~requirements at the time of its submission and must pay all~~

756 ~~appropriate fees.~~

757 (3)~~(4)~~(a) "Good moral character" means a personal history
758 of honesty, fairness, and respect for the rights of others and
759 for laws of this state and nation.

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

764 1. There is a substantial connection between the lack of
765 good moral character of the individual and the professional
766 responsibilities of a certified contractor; and

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

769 (c) When an individual is found to be unqualified for
770 certification ~~examination~~ because of a lack of good moral
771 character, the board shall furnish such individual a statement
772 containing the findings of the board, a complete record of the
773 evidence upon which the determination was based, and a notice of
774 the rights of the individual to a rehearing and appeal.

775 (4)~~(5)~~ The board shall, by rule, designate those types of
776 specialty electrical or alarm system contractors who may be
777 certified under this part. The limit of the scope of work and
778 responsibility of a certified specialty contractor shall be
779 established by board rule. A certified specialty contractor
780 category exists as an optional statewide licensing category.
781 Qualification for certification in a specialty category created
782 by rule shall be the same as set forth in paragraph (1) (b)
783 ~~(2) (a)~~. The existence of a specialty category created by rule

784 does not itself create any licensing requirement; however,
 785 neither does its optional nature remove any licensure
 786 requirement established elsewhere in this part.

787 (5)~~(6)~~ The board shall certify as qualified for
 788 certification by endorsement any individual applying for
 789 certification who:

790 (a) Meets the requirements for certification as set forth
 791 in this section; has passed a national, regional, state, or
 792 United States territorial licensing examination that is
 793 substantially equivalent to the examination required by this
 794 part; and has satisfied the requirements set forth in s.
 795 489.521; or

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

801 (6)~~(7)~~ Upon the issuance of a certificate, any previously
 802 issued registered licenses for the classification in which the
 803 certification is issued are rendered void.

804 Section 23. Paragraph (b) of subsection (1) of section
 805 489.515, Florida Statutes, is amended to read:

806 489.515 Issuance of certificates; registrations.--

807 (1)

808 (b) The board shall certify as qualified for certification
 809 any person who satisfies the requirements of s. 489.511, ~~who~~
 810 ~~successfully passes the certification examination administered~~
 811 ~~by the department, achieving a passing grade as established by~~

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812 ~~board rule,~~ and who submits satisfactory evidence that he or she
 813 has obtained both workers' compensation insurance or an
 814 acceptable exemption certificate issued by the department and
 815 public liability and property damage insurance for the health,
 816 safety, and welfare of the public in amounts determined by rule
 817 of the board, and furnishes evidence of financial
 818 responsibility, credit, and business reputation of either
 819 himself or herself or the business organization he or she
 820 desires to qualify.

821 Section 24. Section 494.008, Florida Statutes, is amended
 822 to read:

823 494.008 Mortgages offered by land developers licensed
 824 ~~pursuant to the Florida Uniform Land Sales Practices Law;~~
 825 requirements; prohibitions.--No mortgage loan which has a face
 826 amount of \$35,000 or less and is secured by vacant land
 827 ~~registered under the Florida Uniform Land Sales Practices Law,~~
 828 ~~chapter 498,~~ shall be sold to a mortgagee, except a financial
 829 institution, by any person unless all of the following
 830 requirements are met:

831 (1) Each mortgage securing a note or other obligation sold
 832 or offered for sale shall be eligible for a recordation as a
 833 first mortgage.

834 (2) Each mortgage negotiated pursuant to this section must
 835 include a mortgagee's title insurance policy or an opinion of
 836 title, from an attorney who is licensed to practice law in this
 837 state, on each parcel of land which is described in the
 838 mortgage. The policy or opinion shall reflect that there are no
 839 other mortgages on the property. A notice stating the priority

840 of the mortgage shall be placed on the face of each mortgage in
 841 an amount over \$35,000 issued pursuant to this section.

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

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

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

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

858 (7) Willful failure to comply with any of the above
 859 provisions shall subject the person to the penalties of s.
 860 494.05.

861 Section 25. Section 498.009, Florida Statutes, is
 862 renumbered as section 718.50152, Florida Statutes.

863 Section 26. Section 498.011, Florida Statutes, is
 864 renumbered as section 718.50153, Florida Statutes, and amended
 865 to read:

866 718.50153 ~~498.011~~ Payment of per diem, mileage, and other
 867 expenses to division employees.--The amount of per diem and

868 mileage and expense money paid to employees shall be as provided
 869 in s. 112.061, except that the division shall establish by rule
 870 the standards for reimbursement of actual verified expenses
 871 incurred in connection with an on-site review ~~inspection~~ or
 872 investigation ~~of subdivided lands~~.

873 Section 27. Section 498.013, Florida Statutes, is
 874 renumbered as section 718.50154, Florida Statutes.

875 Section 28. Section 498.057, Florida Statutes, is
 876 renumbered as section 718.50155, Florida Statutes, and amended,
 877 to read:

878 718.50155 ~~498.057~~ Service of process.--

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

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

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

891 (2) If any person, including any nonresident of this
 892 state, allegedly engages in conduct prohibited by this chapter,
 893 or any rule or order of the division, and has not filed a
 894 consent to service of process, and personal jurisdiction over
 895 him or her cannot otherwise be obtained in this state, the

896 director shall be authorized to receive service of process in
 897 any noncriminal proceeding against that person or his or her
 898 successor which grows out of the conduct and which is brought by
 899 the division under this chapter or any rule or order of the
 900 division. The process shall have the same force and validity as
 901 if personally served. Notice shall be given as provided in
 902 subsection (1).

903 Section 29. Sections 498.001, 498.003, 498.005, 498.007,
 904 498.017, 498.019, 498.021, 498.022, 498.023, 498.024, 498.025,
 905 498.027, 498.028, 498.029, 498.031, 498.033, 498.035, 498.037,
 906 498.039, 498.041, 498.047, 498.049, 498.051, 498.053, 498.059,
 907 498.061, and 498.063, Florida Statutes, are repealed.

908 Section 30. Section 509.512, Florida Statutes, is amended
 909 to read:

910 509.512 Timeshare plan developer and exchange company
 911 exemption.--Sections 509.501-509.511 do not apply to a developer
 912 of a timeshare plan or an exchange company approved by the
 913 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 914 Mobile Homes pursuant to chapter 721, but only to the extent
 915 that the developer or exchange company engages in conduct
 916 regulated under chapter 721.

917 Section 31. Subsection (2) of section 517.301, Florida
 918 Statutes, is amended to read:

919 517.301 Fraudulent transactions; falsification or
 920 concealment of facts.--

921 (2) For purposes of ss. 517.311 and 517.312 and this
 922 section, the term "investment" means any commitment of money or
 923 property principally induced by a representation that an

924 economic benefit may be derived from such commitment, except
 925 that the term "~~investment~~" does not include a commitment of
 926 money or property for:

927 (a) The purchase of a business opportunity, business
 928 enterprise, or real property through a person licensed under
 929 chapter 475 or registered under former chapter 498; or

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

934 1. There are no specific representations or guarantees
 935 made by the offeror or seller as to the economic benefit to be
 936 derived from the purchase;

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

940 3. The seller has offered the purchaser a full refund
 941 policy in writing, exercisable by the purchaser within 10 days
 942 of the date of delivery of such tangible personal property,
 943 except that the amount of such refund may not ~~in no event shall~~
 944 exceed the bid price in effect at the time the property is
 945 returned to the seller. If the applicable sellers' market is
 946 closed at the time the property is returned to the seller for a
 947 refund, the amount of such refund shall be based on the bid
 948 price for such property at the next opening of such market.

949 Section 32. Subsection (4) of section 548.0065, Florida
 950 Statutes, is amended to read:

951 548.0065 Amateur matches; sanctioning and supervision;

952 health and safety standards; compliance checks; continuation,
 953 suspension, and revocation of sanctioning approval.--

954 (4) Any member of the commission or the executive director
 955 of the commission may suspend the approval of an amateur
 956 sanctioning organization for failure to supervise amateur
 957 matches or to enforce the approved health and safety standards
 958 required under this chapter, provided that the suspension
 959 complies with the procedures for summary suspensions in s.
 960 120.60(6). At any amateur boxing, ~~or~~ kickboxing, or mixed
 961 martial arts contest, any member of the commission or a
 962 representative of the commission may immediately suspend one or
 963 more matches in an event whenever it appears that the match or
 964 matches violate the health and safety standards established by
 965 rule as required by this chapter. A law enforcement officer may
 966 assist any member of the commission or a representative of the
 967 commission to enforce an order to stop a contest if called upon
 968 to do so by a member of the commission or a representative of
 969 the commission.

970 Section 33. Subsections (2), (3), and (4) of section
 971 548.008, Florida Statutes, are amended to read:

972 548.008 Prohibited competitions.--

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

975 (2)~~(3)~~ No professional match may be held in this state
 976 unless it meets the requirements for holding the match as
 977 provided in this chapter and the rules adopted by the
 978 commission.

979 (3)~~(4)~~(a) Any person participating in a match prohibited

980 | under this section, knowing the match to be prohibited, commits
 981 | a misdemeanor of the second degree, punishable as provided in s.
 982 | 775.082 or s. 775.083.

983 | (b) Any person holding, promoting, or sponsoring a match
 984 | prohibited under this section commits a felony of the third
 985 | degree, punishable as provided in s. 775.082, s. 775.083, or s.
 986 | 775.084.

987 | Section 34. Subsection (1) of section 548.041, Florida
 988 | Statutes, is amended to read:

989 | 548.041 Age, condition, and suspension of participants.--

990 | (1) A person may ~~shall~~ not be licensed as a participant,
 991 | and the license of a ~~any~~ participant shall be suspended or
 992 | revoked, if such person:

993 | (a) Is under the age of 18;

994 | (b) Has participated in a match in this state which was
 995 | not sanctioned by the commission or by a Native American
 996 | commission properly constituted under federal law; ~~or~~

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

999 | (d) Has not competed in a minimum number of amateur boxing
 1000 | events as determined by commission rule prior to licensure; or

1001 | (e) Has not participated in a minimum number of amateur
 1002 | mixed martial arts events as determined by commission rule prior
 1003 | to licensure.

1004 | Section 35. Subsection (1) of section 559.935, Florida
 1005 | Statutes, is amended to read:

1006 | 559.935 Exemptions.--

1007 | (1) This part does not apply to:

- 1008 (a) A bona fide employee of a seller of travel who is
 1009 engaged solely in the business of her or his employer;
- 1010 (b) Any direct common carrier of passengers or property
 1011 regulated by an agency of the Federal Government or employees of
 1012 such carrier when engaged solely in the transportation business
 1013 of the carrier as identified in the carrier's certificate;
- 1014 (c) An intrastate common carrier of passengers or property
 1015 selling only transportation as defined in the applicable state
 1016 or local registration or certification, or employees of such
 1017 carrier when engaged solely in the transportation business of
 1018 the carrier;
- 1019 (d) Hotels, motels, or other places of public
 1020 accommodation selling public accommodations, or employees of
 1021 such hotels, motels, or other places of public accommodation,
 1022 when engaged solely in making arrangements for lodging,
 1023 accommodations, or sightseeing tours within the state, or taking
 1024 reservations for the traveler with times, dates, locations, and
 1025 accommodations certain at the time the reservations are made,
 1026 provided that hotels and motels registered with the Department
 1027 of Business and Professional Regulation pursuant to chapter 509
 1028 are excluded from the provisions of this chapter;
- 1029 (e) Persons involved solely in the rental, leasing, or
 1030 sale of residential property;
- 1031 (f) Persons involved solely in the rental, leasing, or
 1032 sale of transportation vehicles;
- 1033 (g) Persons who make travel arrangements for themselves;
 1034 for their employees or agents; for distributors, franchisees, or
 1035 dealers of the persons' products or services; for entities which

1036 are financially related to the persons; or for the employees or
 1037 agents of the distributor, franchisee, or dealer or financially
 1038 related entity;

1039 (h) A developer of a timeshare plan or an exchange company
 1040 approved by the Division of Florida ~~Land Sales~~, Condominiums,
 1041 Timeshares, and Mobile Homes pursuant to chapter 721, but only
 1042 to the extent that the developer or exchange company engages in
 1043 conduct regulated under chapter 721; or

1044 (i) Persons or entities engaged solely in offering diving
 1045 services, including classes and sales or rentals of equipment,
 1046 when engaged in making any prearranged travel-related or
 1047 tourist-related services in conjunction with a primarily dive-
 1048 related event.

1049 Section 36. Subsection (17) of section 718.103, Florida
 1050 Statutes, is amended to read:

1051 718.103 Definitions.--As used in this chapter, the term:

1052 (17) "Division" means the Division of Florida ~~Land Sales~~,
 1053 Condominiums, Timeshares, and Mobile Homes of the Department of
 1054 Business and Professional Regulation.

1055 Section 37. Paragraph (c) of subsection (4) of section
 1056 718.105, Florida Statutes, is amended to read:

1057 718.105 Recording of declaration.--

1058 (4)

1059 (c) If the sum of money held by the clerk has not been
 1060 paid to the developer or association as provided in paragraph
 1061 (b) within ~~by~~ 3 years after the date the declaration was
 1062 originally recorded, the clerk ~~in his or her discretion~~ may
 1063 notify, in writing, the registered agent of the association that

1064 the sum is still available and the purpose for which it was
 1065 deposited. If the association does not record the certificate
 1066 within 90 days after the clerk has given the notice, the clerk
 1067 may disburse the money to the developer. If the developer cannot
 1068 be located, the clerk shall disburse the money to the Division
 1069 of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile
 1070 Homes for deposit in the Division of Florida ~~Land Sales,~~
 1071 Condominiums, Timeshares, and Mobile Homes Trust Fund.

1072 Section 38. Subsection (4) of section 718.1255, Florida
 1073 Statutes, is amended to read:

1074 718.1255 Alternative dispute resolution; voluntary
 1075 mediation; mandatory nonbinding arbitration; legislative
 1076 findings.--

1077 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
 1078 DISPUTES.--The Division of Florida ~~Land Sales,~~ Condominiums,
 1079 Timeshares, and Mobile Homes of the Department of Business and
 1080 Professional Regulation shall employ full-time attorneys to act
 1081 as arbitrators to conduct the arbitration hearings provided by
 1082 this chapter. The division may also certify attorneys who are
 1083 not employed by the division to act as arbitrators to conduct
 1084 the arbitration hearings provided by this section. No person may
 1085 be employed by the department as a full-time arbitrator unless
 1086 he or she is a member in good standing of The Florida Bar. The
 1087 department shall adopt ~~promulgate~~ rules of procedure to govern
 1088 such arbitration hearings including mediation incident thereto.
 1089 The decision of an arbitrator shall be final; however, ~~such~~ a
 1090 decision shall not be deemed final agency action. Nothing in
 1091 this provision shall be construed to foreclose parties from

1092 proceeding in a trial de novo unless the parties have agreed
 1093 that the arbitration is binding. If ~~such~~ judicial proceedings
 1094 are initiated, the final decision of the arbitrator shall be
 1095 admissible in evidence in the trial de novo.

1096 (a) Prior to the institution of court litigation, a party
 1097 to a dispute shall petition the division for nonbinding
 1098 arbitration. The petition must be accompanied by a filing fee in
 1099 the amount of \$50. Filing fees collected under this section must
 1100 be used to defray the expenses of the alternative dispute
 1101 resolution program.

1102 (b) The petition must recite, and have attached thereto,
 1103 supporting proof that the petitioner gave the respondents:

- 1104 1. Advance written notice of the specific nature of the
 1105 dispute;
- 1106 2. A demand for relief, and a reasonable opportunity to
 1107 comply or to provide the relief; and
- 1108 3. Notice of the intention to file an arbitration petition
 1109 or other legal action in the absence of a resolution of the
 1110 dispute.

1111
 1112 Failure to include the allegations or proof of compliance with
 1113 these prerequisites requires dismissal of the petition without
 1114 prejudice.

1115 (c) Upon receipt, the petition shall be promptly reviewed
 1116 by the division to determine the existence of a dispute and
 1117 compliance with the requirements of paragraphs (a) and (b). If
 1118 emergency relief is required and is not available through
 1119 arbitration, a motion to stay the arbitration may be filed. The

1120 motion must be accompanied by a verified petition alleging facts
 1121 that, if proven, would support entry of a temporary injunction,
 1122 and if an appropriate motion and supporting papers are filed,
 1123 the division may abate the arbitration pending a court hearing
 1124 and disposition of a motion for temporary injunction.

1125 (d) Upon determination by the division that a dispute
 1126 exists and that the petition substantially meets the
 1127 requirements of paragraphs (a) and (b) and any other applicable
 1128 rules, a copy of the petition shall ~~forthwith~~ be served by the
 1129 division upon all respondents.

1130 (e) ~~Either~~ Before or after the filing of the respondents'
 1131 answer to the petition, any party may request that the
 1132 arbitrator refer the case to mediation under this section and
 1133 any rules adopted by the division. Upon receipt of a request for
 1134 mediation, the division shall promptly contact the parties to
 1135 determine if there is agreement that mediation would be
 1136 appropriate. If all parties agree, the dispute must be referred
 1137 to mediation. Notwithstanding a lack of an agreement by all
 1138 parties, the arbitrator may refer a dispute to mediation at any
 1139 time.

1140 (f) Upon referral of a case to mediation, the parties must
 1141 select a mutually acceptable mediator. To assist in the
 1142 selection, the arbitrator shall provide the parties with a list
 1143 of both volunteer and paid mediators that have been certified by
 1144 the division under s. 718.501. If the parties are unable to
 1145 agree on a mediator within the time allowed by the arbitrator,
 1146 the arbitrator shall appoint a mediator from the list of
 1147 certified mediators. If a case is referred to mediation, the

1148 parties shall attend a mediation conference, as scheduled by the
1149 parties and the mediator. If any party fails to attend a duly
1150 noticed mediation conference, without the permission or approval
1151 of the arbitrator or mediator, the arbitrator must impose
1152 sanctions against the party, including the striking of any
1153 pleadings filed, the entry of an order of dismissal or default
1154 if appropriate, and the award of costs and attorneys' fees
1155 incurred by the other parties. Unless otherwise agreed to by the
1156 parties or as provided by order of the arbitrator, a party is
1157 deemed to have appeared at a mediation conference by the
1158 physical presence of the party or its representative having full
1159 authority to settle without further consultation, provided that
1160 an association may comply by having one or more representatives
1161 present with full authority to negotiate a settlement and
1162 recommend that the board of administration ratify and approve
1163 such a settlement within 5 days from the date of the mediation
1164 conference. The parties shall share equally the expense of
1165 mediation, unless they agree otherwise.

1166 (g) The purpose of mediation as provided for by this
1167 section is to present the parties with an opportunity to resolve
1168 the underlying dispute in good faith, and with a minimum
1169 expenditure of time and resources.

1170 (h) Mediation proceedings must generally be conducted in
1171 accordance with the Florida Rules of Civil Procedure, and these
1172 proceedings are privileged and confidential to the same extent
1173 as court-ordered mediation. Persons who are not parties to the
1174 dispute are not allowed to attend the mediation conference
1175 without the consent of all parties, with the exception of

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1176 counsel for the parties and corporate representatives designated
1177 to appear for a party. If the mediator declares an impasse after
1178 a mediation conference has been held, the arbitration proceeding
1179 terminates, unless all parties agree in writing to continue the
1180 arbitration proceeding, in which case the arbitrator's decision
1181 shall be ~~either~~ binding or nonbinding, as agreed upon by the
1182 parties; in the arbitration proceeding, the arbitrator shall not
1183 consider any evidence relating to the unsuccessful mediation
1184 except in a proceeding to impose sanctions for failure to appear
1185 at the mediation conference. If the parties do not agree to
1186 continue arbitration, the arbitrator shall enter an order of
1187 dismissal, and either party may institute a suit in a court of
1188 competent jurisdiction. The parties may seek to recover any
1189 costs and attorneys' fees incurred in connection with
1190 arbitration and mediation proceedings under this section as part
1191 of the costs and fees that may be recovered by the prevailing
1192 party in any subsequent litigation.

1193 (i) Arbitration shall be conducted according to rules
1194 adopted ~~promulgated~~ by the division. The filing of a petition
1195 for arbitration shall toll the applicable statute of
1196 limitations.

1197 (j) At the request of any party to the arbitration, the
1198 ~~such~~ arbitrator shall issue subpoenas for the attendance of
1199 witnesses and the production of books, records, documents, and
1200 other evidence and any party on whose behalf a subpoena is
1201 issued may apply to the court for orders compelling such
1202 attendance and production. Subpoenas shall be served and shall
1203 be enforceable in the manner provided by the Florida Rules of

1204 Civil Procedure. Discovery may, in the discretion of the
1205 arbitrator, be permitted in the manner provided by the Florida
1206 Rules of Civil Procedure. Rules adopted by the division may
1207 authorize any reasonable sanctions except contempt for a
1208 violation of the arbitration procedural rules of the division or
1209 for the failure of a party to comply with a reasonable nonfinal
1210 order issued by an arbitrator which is not under judicial
1211 review.

1212 (k) The arbitration decision shall be presented to the
1213 parties in writing. An arbitration decision is final in those
1214 disputes in which the parties have agreed to be bound. An
1215 arbitration decision is also final if a complaint for a trial de
1216 novo is not filed in a court of competent jurisdiction in which
1217 the condominium is located within 30 days. The right to file for
1218 a trial de novo entitles the parties to file a complaint in the
1219 appropriate trial court for a judicial resolution of the
1220 dispute. The prevailing party in an arbitration proceeding shall
1221 be awarded the costs of the arbitration and reasonable
1222 attorney's fees in an amount determined by the arbitrator. Such
1223 an award shall include the costs and reasonable attorney's fees
1224 incurred in the arbitration proceeding as well as the costs and
1225 reasonable attorney's fees incurred in preparing for and
1226 attending any scheduled mediation.

1227 (l) The party who files a complaint for a trial de novo
1228 shall be assessed the other party's arbitration costs, court
1229 costs, and other reasonable costs, including attorney's fees,
1230 investigation expenses, and expenses for expert or other
1231 testimony or evidence incurred after the arbitration hearing if

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1232 the judgment upon the trial de novo is not more favorable than
 1233 the arbitration decision. If the judgment is more favorable, the
 1234 party who filed a complaint for trial de novo shall be awarded
 1235 reasonable court costs and attorney's fees.

1236 (m) Any party to an arbitration proceeding may enforce an
 1237 arbitration award by filing a petition in a court of competent
 1238 jurisdiction in which the condominium is located. A petition may
 1239 not be granted unless the time for appeal by the filing of a
 1240 complaint for trial de novo has expired. If a complaint for a
 1241 trial de novo has been filed, a petition may not be granted with
 1242 respect to an arbitration award that has been stayed. If the
 1243 petition for enforcement is granted, the petitioner shall
 1244 recover reasonable attorney's fees and costs incurred in
 1245 enforcing the arbitration award. A mediation settlement may also
 1246 be enforced through the county or circuit court, as applicable,
 1247 and any costs and fees incurred in the enforcement of a
 1248 settlement agreement reached at mediation must be awarded to the
 1249 prevailing party in any enforcement action.

1250 Section 39. Section 718.501, Florida Statutes, is amended
 1251 to read:

1252 718.501 Powers and duties of Division of Florida ~~Land~~
 1253 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

1254 (1) The Division of Florida ~~Land Sales~~, Condominiums,
 1255 Timeshares, and Mobile Homes of the Department of Business and
 1256 Professional Regulation, referred to as the "division" in this
 1257 part, ~~in addition to other powers and duties prescribed by~~
 1258 ~~chapter 498~~, has the power to enforce and ensure compliance with
 1259 the provisions of this chapter and rules ~~promulgated pursuant~~

1260 ~~hereto~~ relating to the development, construction, sale, lease,
 1261 ownership, operation, and management of residential condominium
 1262 units. In performing its duties, the division has the following
 1263 powers and duties:

1264 (a) 1. The division may make necessary public or private
 1265 investigations within or outside this state to determine whether
 1266 any person has violated this chapter or any rule or order
 1267 hereunder, to aid in the enforcement of this chapter, or to aid
 1268 in the adoption of rules or forms hereunder.

1269 2. The division may submit any official written report,
 1270 worksheet, or other related paper, or a duly certified copy
 1271 thereof, compiled, prepared, drafted, or otherwise made by and
 1272 duly authenticated by a financial examiner or analyst to be
 1273 admitted as competent evidence in any hearing in which the
 1274 financial examiner or analyst is available for cross-examination
 1275 and attests under oath that such documents were prepared as a
 1276 result of an examination or inspection conducted pursuant to
 1277 this chapter.

1278 (b) The division may require or permit any person to file
 1279 a statement in writing, under oath or otherwise, as the division
 1280 determines, as to the facts and circumstances concerning a
 1281 matter to be investigated.

1282 (c) For the purpose of any investigation under this
 1283 chapter, the division director or any officer or employee
 1284 designated by the division director may administer oaths or
 1285 affirmations, subpoena witnesses and compel their attendance,
 1286 take evidence, and require the production of any matter which is
 1287 relevant to the investigation, including the existence,

1288 description, nature, custody, condition, and location of any
 1289 books, documents, or other tangible things and the identity and
 1290 location of persons having knowledge of relevant facts or any
 1291 other matter reasonably calculated to lead to the discovery of
 1292 material evidence. Upon the failure by a person to obey a
 1293 subpoena or to answer questions propounded by the investigating
 1294 officer and upon reasonable notice to all persons affected
 1295 thereby, the division may apply to the circuit court for an
 1296 order compelling compliance.

1297 (d) Notwithstanding any remedies available to unit owners
 1298 and associations, if the division has reasonable cause to
 1299 believe that a violation of any provision of this chapter or
 1300 related rule ~~promulgated pursuant hereto~~ has occurred, the
 1301 division may institute enforcement proceedings in its own name
 1302 against any developer, association, officer, or member of the
 1303 board of administration, or its assignees or agents, as follows:

1304 1. The division may permit a person whose conduct or
 1305 actions may be under investigation to waive formal proceedings
 1306 and enter into a consent proceeding whereby orders, rules, or
 1307 letters of censure or warning, whether formal or informal, may
 1308 be entered against the person.

1309 2. The division may issue an order requiring the
 1310 developer, association, officer, or member of the board of
 1311 administration, or its assignees or agents, to cease and desist
 1312 from the unlawful practice and take such affirmative action as
 1313 in the judgment of the division will carry out the purposes of
 1314 this chapter. ~~Such affirmative action may include, but is not~~
 1315 ~~limited to, an order requiring a developer to pay moneys~~

1316 ~~determined to be owed to a condominium association.~~ If the
 1317 division finds that a developer, association, officer, or member
 1318 of the board of administration, or its assignees or agents, is
 1319 violating or is about to violate any provision of this chapter,
 1320 any rule adopted or order issued by the division, or any written
 1321 agreement entered into with the division, and presents an
 1322 immediate danger to the public requiring an immediate final
 1323 order, it may issue an emergency cease and desist order reciting
 1324 with particularity the facts underlying such findings. The
 1325 emergency cease and desist order is effective for 90 days. If
 1326 the division begins nonemergency cease and desist proceedings,
 1327 the emergency cease and desist order remains effective until the
 1328 conclusion of the proceedings under ss. 120.569 and 120.57.

1329 3. The division may bring an action in circuit court on
 1330 behalf of a class of unit owners, lessees, or purchasers for
 1331 declaratory relief, injunctive relief, or restitution.

1332 4. The division may petition the court for the appointment
 1333 of a receiver or conservator. If appointed, the receiver or
 1334 conservator may take action to implement the court order to
 1335 ensure the performance of the order and to remedy any breach
 1336 thereof. In addition to all other means provided by law for the
 1337 enforcement of an injunction or temporary restraining order, the
 1338 circuit court may impound or sequester the property of a party
 1339 defendant, including books, papers, documents, and related
 1340 records, and allow the examination and use of the property by
 1341 the division and a court-appointed receiver or conservator.

1342 5. The division may apply to the circuit court for an
 1343 order of restitution whereby the defendant in an action brought

1344 pursuant to subparagraph 4. shall be ordered to make restitution
 1345 of those sums shown by the division to have been obtained by the
 1346 defendant in violation of this chapter. Such restitution shall,
 1347 at the option of the court, be payable to the conservator or
 1348 receiver appointed pursuant to subparagraph 4. or directly to
 1349 the persons whose funds or assets were obtained in violation of
 1350 this chapter.

1351 ~~6.4.~~ The division may impose a civil penalty against a
 1352 developer or association, or its assignee or agent, for any
 1353 violation of this chapter or a rule adopted under this chapter
 1354 ~~promulgated pursuant hereto~~. The division may impose a civil
 1355 penalty individually against any officer or board member who
 1356 willfully and knowingly violates a provision of this chapter,
 1357 adopted a rule ~~adopted pursuant hereto~~, or a final order of the
 1358 division. The term "willfully and knowingly" means that the
 1359 division informed the officer or board member that his or her
 1360 action or intended action violates this chapter, a rule adopted
 1361 under this chapter, or a final order of the division and that
 1362 the officer or board member refused to comply with the
 1363 requirements of this chapter, a rule adopted under this chapter,
 1364 or a final order of the division. The division, prior to
 1365 initiating formal agency action under chapter 120, shall afford
 1366 the officer or board member an opportunity to voluntarily comply
 1367 with this chapter, a rule adopted under this chapter, or a final
 1368 order of the division. An officer or board member who complies
 1369 within 10 days is not subject to a civil penalty. A penalty may
 1370 be imposed on the basis of each day of continuing violation, but
 1371 in no event shall the penalty for any offense exceed \$5,000. By

1372 January 1, 1998, the division shall adopt, by rule, penalty
1373 guidelines applicable to possible violations or to categories of
1374 violations of this chapter or rules adopted by the division. The
1375 guidelines must specify a meaningful range of civil penalties
1376 for each such violation of the statute and rules and must be
1377 based upon the harm caused by the violation, the repetition of
1378 the violation, and upon such other factors deemed relevant by
1379 the division. For example, the division may consider whether the
1380 violations were committed by a developer or owner-controlled
1381 association, the size of the association, and other factors. The
1382 guidelines must designate the possible mitigating or aggravating
1383 circumstances that justify a departure from the range of
1384 penalties provided by the rules. It is the legislative intent
1385 that minor violations be distinguished from those which endanger
1386 the health, safety, or welfare of the condominium residents or
1387 other persons and that such guidelines provide reasonable and
1388 meaningful notice to the public of likely penalties that may be
1389 imposed for proscribed conduct. This subsection does not limit
1390 the ability of the division to informally dispose of
1391 administrative actions or complaints by stipulation, agreed
1392 settlement, or consent order. All amounts collected shall be
1393 deposited with the Chief Financial Officer to the credit of the
1394 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
1395 Mobile Homes Trust Fund. If a developer fails to pay the civil
1396 penalty, the division shall ~~thereupon~~ issue an order directing
1397 that such developer cease and desist from further operation
1398 until such time as the civil penalty is paid or may pursue
1399 enforcement of the penalty in a court of competent jurisdiction.

1400 If an association fails to pay the civil penalty, the division
 1401 shall ~~thereupon~~ pursue enforcement in a court of competent
 1402 jurisdiction, and the order imposing the civil penalty or the
 1403 cease and desist order will not become effective until 20 days
 1404 after the date of such order. Any action commenced by the
 1405 division shall be brought in the county in which the division
 1406 has its executive offices or in the county where the violation
 1407 occurred.

1408 7. In addition to subparagraph 6., the division may seek
 1409 the imposition of a civil penalty through the circuit court for
 1410 any violation for which the division may issue a notice to show
 1411 cause under paragraph (q). The civil penalty shall be at least
 1412 \$500 but no more than \$5,000 for each violation. The court may
 1413 also award to the prevailing party court costs and reasonable
 1414 attorney's fees and, if the division prevails, may also award
 1415 reasonable costs of investigation.

1416 (e) The division may ~~is authorized to~~ prepare and
 1417 disseminate a prospectus and other information to assist
 1418 prospective owners, purchasers, lessees, and developers of
 1419 residential condominiums in assessing the rights, privileges,
 1420 and duties pertaining thereto.

1421 (f) The division has authority to adopt rules pursuant to
 1422 ss. 120.536(1) and 120.54 to implement and enforce the
 1423 provisions of this chapter.

1424 (g) The division shall establish procedures for providing
 1425 notice to an association when the division is considering the
 1426 issuance of a declaratory statement with respect to the
 1427 declaration of condominium or any related document governing in

1428 such condominium community.

1429 (h) The division shall furnish each association which pays
 1430 the fees required by paragraph (2)(a) a copy of this act,
 1431 subsequent changes to this act on an annual basis, an amended
 1432 version of this act as it becomes available from the Secretary
 1433 of State's office on a biennial basis, and the rules adopted
 1434 ~~promulgated pursuant~~ thereto on an annual basis.

1435 (i) The division shall annually provide each association
 1436 with a summary of declaratory statements and formal legal
 1437 opinions relating to the operations of condominiums which were
 1438 rendered by the division during the previous year.

1439 (j) The division shall provide training programs for
 1440 condominium association board members and unit owners.

1441 (k) The division shall maintain a toll-free telephone
 1442 number accessible to condominium unit owners.

1443 (l) The division shall develop a program to certify both
 1444 volunteer and paid mediators to provide mediation of condominium
 1445 disputes. The division shall provide, upon request, a list of
 1446 such mediators to any association, unit owner, or other
 1447 participant in arbitration proceedings under s. 718.1255
 1448 requesting a copy of the list. The division shall include on the
 1449 list of volunteer mediators only the names of persons who have
 1450 received at least 20 hours of training in mediation techniques
 1451 or who have mediated at least 20 disputes. In order to become
 1452 initially certified by the division, paid mediators must be
 1453 certified by the Supreme Court to mediate court cases in ~~either~~
 1454 county or circuit courts. However, the division may adopt, by
 1455 rule, additional factors for the certification of paid

1456 mediators, which factors must be related to experience,
1457 education, or background. Any person initially certified as a
1458 paid mediator by the division must, in order to continue to be
1459 certified, comply with the factors or requirements imposed by
1460 rules adopted by the division.

1461 (m) When a complaint is made, the division shall conduct
1462 its inquiry with due regard to the interests of the affected
1463 parties. Within 30 days after receipt of a complaint, the
1464 division shall acknowledge the complaint in writing and notify
1465 the complainant whether the complaint is within the jurisdiction
1466 of the division and whether additional information is needed by
1467 the division from the complainant. The division shall conduct
1468 its investigation and shall, within 90 days after receipt of the
1469 original complaint or of timely requested additional
1470 information, take action upon the complaint. However, the
1471 failure to complete the investigation within 90 days does not
1472 prevent the division from continuing the investigation,
1473 accepting or considering evidence obtained or received after 90
1474 days, or taking administrative action if reasonable cause exists
1475 to believe that a violation of this chapter or a rule of the
1476 division has occurred. If an investigation is not completed
1477 within the time limits established in this paragraph, the
1478 division shall, on a monthly basis, notify the complainant in
1479 writing of the status of the investigation. When reporting its
1480 action to the complainant, the division shall inform the
1481 complainant of any right to a hearing pursuant to ss. 120.569
1482 and 120.57.

1483 (n) The division may:

1484 1. Contract with agencies in this state or other
 1485 jurisdictions to perform investigative functions; or

1486 2. Accept grants-in-aid from any source.

1487 (o) The division shall cooperate with similar agencies in
 1488 other jurisdictions to establish uniform filing procedures and
 1489 forms, public offering statements, advertising standards, and
 1490 rules and common administrative practices.

1491 (p) The division shall consider notice to a developer to
 1492 be complete when it is delivered to the developer's address
 1493 currently on file with the division.

1494 (q) In addition to its enforcement authority, the division
 1495 may issue a notice to show cause, which shall provide for a
 1496 hearing, upon written request, in accordance with chapter 120.

1497 (2) (a) Effective January 1, 1992, Each condominium
 1498 association which operates more than two units shall pay to the
 1499 division an annual fee in the amount of \$4 for each residential
 1500 unit in condominiums operated by the association. If the fee is
 1501 not paid by March 1, ~~then~~ the association shall be assessed a
 1502 penalty of 10 percent of the amount due, and the association
 1503 will not have standing to maintain or defend any action in the
 1504 courts of this state until the amount due, plus any penalty, is
 1505 paid.

1506 (b) All fees shall be deposited in the Division of Florida
 1507 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust
 1508 Fund as provided by law.

1509 Section 40. Subsection (1) of section 718.5011, Florida
 1510 Statutes, is amended to read:

1511 718.5011 Ombudsman; appointment; administration.--

1512 (1) There is created an Office of the Condominium
 1513 Ombudsman, to be located for administrative purposes within the
 1514 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
 1515 Mobile Homes. The functions of the office shall be funded by the
 1516 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
 1517 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief
 1518 of the division, and the office shall be set within the division
 1519 in the same manner as any other bureau is staffed and funded.

1520 Section 41. Paragraph (a) of subsection (2) of section
 1521 718.502, Florida Statutes, is amended to read:

1522 718.502 Filing prior to sale or lease.--

1523 (2)(a) Prior to filing as required by subsection (1), and
 1524 prior to acquiring an ownership, leasehold, or contractual
 1525 interest in the land upon which the condominium is to be
 1526 developed, a developer shall not offer a contract for purchase
 1527 of a unit or lease of a unit for more than 5 years. However, the
 1528 developer may accept deposits for reservations upon the approval
 1529 of a fully executed escrow agreement and reservation agreement
 1530 form properly filed with the Division of Florida ~~Land Sales,~~
 1531 Condominiums, Timeshares, and Mobile Homes. Each filing of a
 1532 proposed reservation program shall be accompanied by a filing
 1533 fee of \$250. Reservations shall not be taken on a proposed
 1534 condominium unless the developer has an ownership, leasehold, or
 1535 contractual interest in the land upon which the condominium is
 1536 to be developed. The division shall notify the developer within
 1537 20 days of receipt of the reservation filing of any deficiencies
 1538 contained therein. Such notification shall not preclude the
 1539 determination of reservation filing deficiencies at a later

1540 date, nor shall it relieve the developer of any responsibility
 1541 under the law. The escrow agreement and the reservation
 1542 agreement form shall include a statement of the right of the
 1543 prospective purchaser to an immediate unqualified refund of the
 1544 reservation deposit moneys upon written request to the escrow
 1545 agent by the prospective purchaser or the developer.

1546 Section 42. Section 718.504, Florida Statutes, is amended
 1547 to read:

1548 718.504 Prospectus or offering circular.--Every developer
 1549 of a residential condominium which contains more than 20
 1550 residential units, or which is part of a group of residential
 1551 condominiums which will be served by property to be used in
 1552 common by unit owners of more than 20 residential units, shall
 1553 prepare a prospectus or offering circular and file it with the
 1554 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 1555 Mobile Homes prior to entering into an enforceable contract of
 1556 purchase and sale of any unit or lease of a unit for more than 5
 1557 years and shall furnish a copy of the prospectus or offering
 1558 circular to each buyer. In addition to the prospectus or
 1559 offering circular, each buyer shall be furnished a separate page
 1560 entitled "Frequently Asked Questions and Answers," which shall
 1561 be in accordance with a format approved by the division and a
 1562 copy of the financial information required by s. 718.111. This
 1563 page shall, in readable language, inform prospective purchasers
 1564 regarding their voting rights and unit use restrictions,
 1565 including restrictions on the leasing of a unit; shall indicate
 1566 whether and in what amount the unit owners or the association is
 1567 obligated to pay rent or land use fees for recreational or other

1568 commonly used facilities; shall contain a statement identifying
 1569 that amount of assessment which, pursuant to the budget, would
 1570 be levied upon each unit type, exclusive of any special
 1571 assessments, and which shall further identify the basis upon
 1572 which assessments are levied, whether monthly, quarterly, or
 1573 otherwise; shall state and identify any court cases in which the
 1574 association is currently a party of record in which the
 1575 association may face liability in excess of \$100,000; and which
 1576 shall further state whether membership in a recreational
 1577 facilities association is mandatory, and if so, shall identify
 1578 the fees currently charged per unit type. The division shall by
 1579 rule require such other disclosure as in its judgment will
 1580 assist prospective purchasers. The prospectus or offering
 1581 circular may include more than one condominium, although not all
 1582 such units are being offered for sale as of the date of the
 1583 prospectus or offering circular. The prospectus or offering
 1584 circular must contain the following information:

1585 (1) The front cover or the first page must contain only:

1586 (a) The name of the condominium.

1587 (b) The following statements in conspicuous type:

1588 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
 1589 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

1590 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
 1591 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
 1592 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
 1593 MATERIALS.

1594 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
 1595 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS

1596 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
 1597 REPRESENTATIONS.

1598 (2) Summary: The next page must contain all statements
 1599 required to be in conspicuous type in the prospectus or offering
 1600 circular.

1601 (3) A separate index of the contents and exhibits of the
 1602 prospectus.

1603 (4) Beginning on the first page of the text (not including
 1604 the summary and index), a description of the condominium,
 1605 including, but not limited to, the following information:

1606 (a) Its name and location.

1607 (b) A description of the condominium property, including,
 1608 without limitation:

1609 1. The number of buildings, the number of units in each
 1610 building, the number of bathrooms and bedrooms in each unit, and
 1611 the total number of units, if the condominium is not a phase
 1612 condominium, or the maximum number of buildings that may be
 1613 contained within the condominium, the minimum and maximum
 1614 numbers of units in each building, the minimum and maximum
 1615 numbers of bathrooms and bedrooms that may be contained in each
 1616 unit, and the maximum number of units that may be contained
 1617 within the condominium, if the condominium is a phase
 1618 condominium.

1619 2. The page in the condominium documents where a copy of
 1620 the plot plan and survey of the condominium is located.

1621 3. The estimated latest date of completion of
 1622 constructing, finishing, and equipping. In lieu of a date, the
 1623 description shall include a statement that the estimated date of

1624 completion of the condominium is in the purchase agreement and a
 1625 reference to the article or paragraph containing that
 1626 information.

1627 (c) The maximum number of units that will use facilities
 1628 in common with the condominium. If the maximum number of units
 1629 will vary, a description of the basis for variation and the
 1630 minimum amount of dollars per unit to be spent for additional
 1631 recreational facilities or enlargement of such facilities. If
 1632 the addition or enlargement of facilities will result in a
 1633 material increase of a unit owner's maintenance expense or
 1634 rental expense, if any, the maximum increase and limitations
 1635 thereon shall be stated.

1636 (5) (a) A statement in conspicuous type describing whether
 1637 the condominium is created and being sold as fee simple
 1638 interests or as leasehold interests. If the condominium is
 1639 created or being sold on a leasehold, the location of the lease
 1640 in the disclosure materials shall be stated.

1641 (b) If timeshare estates are or may be created with
 1642 respect to any unit in the condominium, a statement in
 1643 conspicuous type stating that timeshare estates are created and
 1644 being sold in units in the condominium.

1645 (6) A description of the recreational and other commonly
 1646 used facilities that will be used only by unit owners of the
 1647 condominium, including, but not limited to, the following:

1648 (a) Each room and its intended purposes, location,
 1649 approximate floor area, and capacity in numbers of people.

1650 (b) Each swimming pool, as to its general location,
 1651 approximate size and depths, approximate deck size and capacity,

1652 and whether heated.

1653 (c) Additional facilities, as to the number of each
 1654 facility, its approximate location, approximate size, and
 1655 approximate capacity.

1656 (d) A general description of the items of personal
 1657 property and the approximate number of each item of personal
 1658 property that the developer is committing to furnish for each
 1659 room or other facility or, in the alternative, a representation
 1660 as to the minimum amount of expenditure that will be made to
 1661 purchase the personal property for the facility.

1662 (e) The estimated date when each room or other facility
 1663 will be available for use by the unit owners.

1664 (f)1. An identification of each room or other facility to
 1665 be used by unit owners that will not be owned by the unit owners
 1666 or the association;

1667 2. A reference to the location in the disclosure materials
 1668 of the lease or other agreements providing for the use of those
 1669 facilities; and

1670 3. A description of the terms of the lease or other
 1671 agreements, including the length of the term; the rent payable,
 1672 directly or indirectly, by each unit owner, and the total rent
 1673 payable to the lessor, stated in monthly and annual amounts for
 1674 the entire term of the lease; and a description of any option to
 1675 purchase the property leased under any such lease, including the
 1676 time the option may be exercised, the purchase price or how it
 1677 is to be determined, the manner of payment, and whether the
 1678 option may be exercised for a unit owner's share or only as to
 1679 the entire leased property.

1680 (g) A statement as to whether the developer may provide
 1681 additional facilities not described above; their general
 1682 locations and types; improvements or changes that may be made;
 1683 the approximate dollar amount to be expended; and the maximum
 1684 additional common expense or cost to the individual unit owners
 1685 that may be charged during the first annual period of operation
 1686 of the modified or added facilities.

1687
 1688 Descriptions as to locations, areas, capacities, numbers,
 1689 volumes, or sizes may be stated as approximations or minimums.

1690 (7) A description of the recreational and other facilities
 1691 that will be used in common with other condominiums, community
 1692 associations, or planned developments which require the payment
 1693 of the maintenance and expenses of such facilities, ~~either~~
 1694 directly or indirectly, by the unit owners. The description
 1695 shall include, but not be limited to, the following:

1696 (a) Each building and facility committed to be built.

1697 (b) Facilities not committed to be built except under
 1698 certain conditions, and a statement of those conditions or
 1699 contingencies.

1700 (c) As to each facility committed to be built, or which
 1701 will be committed to be built upon the happening of one of the
 1702 conditions in paragraph (b), a statement of whether it will be
 1703 owned by the unit owners having the use thereof or by an
 1704 association or other entity which will be controlled by them, or
 1705 others, and the location in the exhibits of the lease or other
 1706 document providing for use of those facilities.

1707 (d) The year in which each facility will be available for

1708 use by the unit owners or, in the alternative, the maximum
 1709 number of unit owners in the project at the time each of all of
 1710 the facilities is committed to be completed.

1711 (e) A general description of the items of personal
 1712 property, and the approximate number of each item of personal
 1713 property, that the developer is committing to furnish for each
 1714 room or other facility or, in the alternative, a representation
 1715 as to the minimum amount of expenditure that will be made to
 1716 purchase the personal property for the facility.

1717 (f) If there are leases, a description thereof, including
 1718 the length of the term, the rent payable, and a description of
 1719 any option to purchase.

1720
 1721 Descriptions shall include location, areas, capacities, numbers,
 1722 volumes, or sizes and may be stated as approximations or
 1723 minimums.

1724 (8) Recreation lease or associated club membership:

1725 (a) If any recreational facilities or other facilities
 1726 offered by the developer and available to, or to be used by,
 1727 unit owners are to be leased or have club membership associated,
 1728 the following statement in conspicuous type shall be included:

1729 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 1730 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 1731 CONDOMINIUM. There shall be a reference to the location in the
 1732 disclosure materials where the recreation lease or club
 1733 membership is described in detail.

1734 (b) If it is mandatory that unit owners pay a fee, rent,
 1735 dues, or other charges under a recreational facilities lease or

1736 club membership for the use of facilities, there shall be in
 1737 conspicuous type the applicable statement:

1738 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 1739 MANDATORY FOR UNIT OWNERS; or

1740 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 1741 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

1742 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
 1743 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
 1744 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
 1745 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

1746 4. A similar statement of the nature of the organization
 1747 or the manner in which the use rights are created, and that unit
 1748 owners are required to pay.

1749
 1750 Immediately following the applicable statement, the location in
 1751 the disclosure materials where the development is described in
 1752 detail shall be stated.

1753 (c) If the developer, or any other person other than the
 1754 unit owners and other persons having use rights in the
 1755 facilities, reserves, or is entitled to receive, any rent, fee,
 1756 or other payment for the use of the facilities, then there shall
 1757 be the following statement in conspicuous type: THE UNIT OWNERS
 1758 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 1759 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately
 1760 following this statement, the location in the disclosure
 1761 materials where the rent or land use fees are described in
 1762 detail shall be stated.

1763 (d) If, in any recreation format, whether leasehold, club,

1764 or other, any person other than the association has the right to
 1765 a lien on the units to secure the payment of assessments, rent,
 1766 or other exactions, there shall appear a statement in
 1767 conspicuous type in substantially the following form:

1768 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 1769 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 1770 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
 1771 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

1772 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 1773 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 1774 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 1775 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE
 1776 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

1777
 1778 Immediately following the applicable statement, the location in
 1779 the disclosure materials where the lien or lien right is
 1780 described in detail shall be stated.

1781 (9) If the developer or any other person has the right to
 1782 increase or add to the recreational facilities at any time after
 1783 the establishment of the condominium whose unit owners have use
 1784 rights therein, without the consent of the unit owners or
 1785 associations being required, there shall appear a statement in
 1786 conspicuous type in substantially the following form:

1787 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
 1788 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
 1789 statement, the location in the disclosure materials where such
 1790 reserved rights are described shall be stated.

1791 (10) A statement of whether the developer's plan includes

1792 a program of leasing units rather than selling them, or leasing
 1793 units and selling them subject to such leases. If so, there
 1794 shall be a description of the plan, including the number and
 1795 identification of the units and the provisions and term of the
 1796 proposed leases, and a statement in boldfaced type that: THE
 1797 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

1798 (11) The arrangements for management of the association
 1799 and maintenance and operation of the condominium property and of
 1800 other property that will serve the unit owners of the
 1801 condominium property, and a description of the management
 1802 contract and all other contracts for these purposes having a
 1803 term in excess of 1 year, including the following:

- 1804 (a) The names of contracting parties.
- 1805 (b) The term of the contract.
- 1806 (c) The nature of the services included.
- 1807 (d) The compensation, stated on a monthly and annual
 1808 basis, and provisions for increases in the compensation.

1809 (e) A reference to the volumes and pages of the
 1810 condominium documents and of the exhibits containing copies of
 1811 such contracts.

1812
 1813 Copies of all described contracts shall be attached as exhibits.
 1814 If there is a contract for the management of the condominium
 1815 property, then a statement in conspicuous type in substantially
 1816 the following form shall appear, identifying the proposed or
 1817 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
 1818 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE
 1819 CONTRACT MANAGER). Immediately following this statement, the

1820 location in the disclosure materials of the contract for
 1821 management of the condominium property shall be stated.

1822 (12) If the developer or any other person or persons other
 1823 than the unit owners has the right to retain control of the
 1824 board of administration of the association for a period of time
 1825 which can exceed 1 year after the closing of the sale of a
 1826 majority of the units in that condominium to persons other than
 1827 successors or alternate developers, then a statement in
 1828 conspicuous type in substantially the following form shall be
 1829 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
 1830 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
 1831 HAVE BEEN SOLD. Immediately following this statement, the
 1832 location in the disclosure materials where this right to control
 1833 is described in detail shall be stated.

1834 (13) If there are any restrictions upon the sale,
 1835 transfer, conveyance, or leasing of a unit, then a statement in
 1836 conspicuous type in substantially the following form shall be
 1837 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
 1838 CONTROLLED. Immediately following this statement, the location
 1839 in the disclosure materials where the restriction, limitation,
 1840 or control on the sale, lease, or transfer of units is described
 1841 in detail shall be stated.

1842 (14) If the condominium is part of a phase project, the
 1843 following information shall be stated:

1844 (a) A statement in conspicuous type in substantially the
 1845 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
 1846 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
 1847 this statement, the location in the disclosure materials where

1848 the phasing is described shall be stated.

1849 (b) A summary of the provisions of the declaration which
1850 provide for the phasing.

1851 (c) A statement as to whether or not residential buildings
1852 and units which are added to the condominium may be
1853 substantially different from the residential buildings and units
1854 originally in the condominium. If the added residential
1855 buildings and units may be substantially different, there shall
1856 be a general description of the extent to which such added
1857 residential buildings and units may differ, and a statement in
1858 conspicuous type in substantially the following form shall be
1859 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM
1860 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
1861 UNITS IN THE CONDOMINIUM. Immediately following this statement,
1862 the location in the disclosure materials where the extent to
1863 which added residential buildings and units may substantially
1864 differ is described shall be stated.

1865 (d) A statement of the maximum number of buildings
1866 containing units, the maximum and minimum numbers of units in
1867 each building, the maximum number of units, and the minimum and
1868 maximum square footage of the units that may be contained within
1869 each parcel of land which may be added to the condominium.

1870 (15) If a condominium created on or after July 1, 2000, is
1871 or may become part of a multicondominium, the following
1872 information must be provided:

1873 (a) A statement in conspicuous type in substantially the
1874 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
1875 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL

1876 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
 1877 this statement, the location in the prospectus or offering
 1878 circular and its exhibits where the multicondominium aspects of
 1879 the offering are described must be stated.

1880 (b) A summary of the provisions in the declaration,
 1881 articles of incorporation, and bylaws which establish and
 1882 provide for the operation of the multicondominium, including a
 1883 statement as to whether unit owners in the condominium will have
 1884 the right to use recreational or other facilities located or
 1885 planned to be located in other condominiums operated by the same
 1886 association, and the manner of sharing the common expenses
 1887 related to such facilities.

1888 (c) A statement of the minimum and maximum number of
 1889 condominiums, and the minimum and maximum number of units in
 1890 each of those condominiums, which will or may be operated by the
 1891 association, and the latest date by which the exact number will
 1892 be finally determined.

1893 (d) A statement as to whether any of the condominiums in
 1894 the multicondominium may include units intended to be used for
 1895 nonresidential purposes and the purpose or purposes permitted
 1896 for such use.

1897 (e) A general description of the location and approximate
 1898 acreage of any land on which any additional condominiums to be
 1899 operated by the association may be located.

1900 (16) If the condominium is created by conversion of
 1901 existing improvements, the following information shall be
 1902 stated:

1903 (a) The information required by s. 718.616.

1904 (b) A caveat that there are no express warranties unless
 1905 they are stated in writing by the developer.

1906 (17) A summary of the restrictions, if any, to be imposed
 1907 on units concerning the use of any of the condominium property,
 1908 including statements as to whether there are restrictions upon
 1909 children and pets, and reference to the volumes and pages of the
 1910 condominium documents where such restrictions are found, or if
 1911 such restrictions are contained elsewhere, then a copy of the
 1912 documents containing the restrictions shall be attached as an
 1913 exhibit.

1914 (18) If there is any land that is offered by the developer
 1915 for use by the unit owners and that is neither owned by them nor
 1916 leased to them, the association, or any entity controlled by
 1917 unit owners and other persons having the use rights to such
 1918 land, a statement shall be made as to how such land will serve
 1919 the condominium. If any part of such land will serve the
 1920 condominium, the statement shall describe the land and the
 1921 nature and term of service, and the declaration or other
 1922 instrument creating such servitude shall be included as an
 1923 exhibit.

1924 (19) The manner in which utility and other services,
 1925 including, but not limited to, sewage and waste disposal, water
 1926 supply, and storm drainage, will be provided and the person or
 1927 entity furnishing them.

1928 (20) An explanation of the manner in which the
 1929 apportionment of common expenses and ownership of the common
 1930 elements has been determined.

1931 (21) An estimated operating budget for the condominium and

1932 the association, and a schedule of the unit owner's expenses
 1933 shall be attached as an exhibit and shall contain the following
 1934 information:

1935 (a) The estimated monthly and annual expenses of the
 1936 condominium and the association that are collected from unit
 1937 owners by assessments.

1938 (b) The estimated monthly and annual expenses of each unit
 1939 owner for a unit, other than common expenses paid by all unit
 1940 owners, payable by the unit owner to persons or entities other
 1941 than the association, as well as to the association, including
 1942 fees assessed pursuant to s. 718.113(1) for maintenance of
 1943 limited common elements where such costs are shared only by
 1944 those entitled to use the limited common element, and the total
 1945 estimated monthly and annual expense. There may be excluded from
 1946 this estimate expenses which are not provided for or
 1947 contemplated by the condominium documents, including, but not
 1948 limited to, the costs of private telephone; maintenance of the
 1949 interior of condominium units, which is not the obligation of
 1950 the association; maid or janitorial services privately
 1951 contracted for by the unit owners; utility bills billed directly
 1952 to each unit owner for utility services to his or her unit;
 1953 insurance premiums other than those incurred for policies
 1954 obtained by the condominium; and similar personal expenses of
 1955 the unit owner. A unit owner's estimated payments for
 1956 assessments shall also be stated in the estimated amounts for
 1957 the times when they will be due.

1958 (c) The estimated items of expenses of the condominium and
 1959 the association, except as excluded under paragraph (b),

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1960 including, but not limited to, the following items, which shall
 1961 be stated ~~either~~ as an association expense collectible by
 1962 assessments or as unit owners' expenses payable to persons other
 1963 than the association:

1964 1. Expenses for the association and condominium:

1965 a. Administration of the association.

1966 b. Management fees.

1967 c. Maintenance.

1968 d. Rent for recreational and other commonly used
 1969 facilities.

1970 e. Taxes upon association property.

1971 f. Taxes upon leased areas.

1972 g. Insurance.

1973 h. Security provisions.

1974 i. Other expenses.

1975 j. Operating capital.

1976 k. Reserves.

1977 1. Fees payable to the division.

1978 2. Expenses for a unit owner:

1979 a. Rent for the unit, if subject to a lease.

1980 b. Rent payable by the unit owner directly to the lessor
 1981 or agent under any recreational lease or lease for the use of
 1982 commonly used facilities, which use and payment is a mandatory
 1983 condition of ownership and is not included in the common expense
 1984 or assessments for common maintenance paid by the unit owners to
 1985 the association.

1986 (d) The following statement in conspicuous type: THE
 1987 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN

1988 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
 1989 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
 1990 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
 1991 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
 1992 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
 1993 THE OFFERING.

1994 (e) Each budget for an association prepared by a developer
 1995 consistent with this subsection shall be prepared in good faith
 1996 and shall reflect accurate estimated amounts for the required
 1997 items in paragraph (c) at the time of the filing of the offering
 1998 circular with the division, and subsequent increased amounts of
 1999 any item included in the association's estimated budget that are
 2000 beyond the control of the developer shall not be considered an
 2001 amendment that would give rise to rescission rights set forth in
 2002 s. 718.503(1)(a) or (b), nor shall such increases modify, void,
 2003 or otherwise affect any guarantee of the developer contained in
 2004 the offering circular or any purchase contract. It is the intent
 2005 of this paragraph to clarify existing law.

2006 (f) The estimated amounts shall be stated for a period of
 2007 at least 12 months and may distinguish between the period prior
 2008 to the time unit owners other than the developer elect a
 2009 majority of the board of administration and the period after
 2010 that date.

2011 (22) A schedule of estimated closing expenses to be paid
 2012 by a buyer or lessee of a unit and a statement of whether title
 2013 opinion or title insurance policy is available to the buyer and,
 2014 if so, at whose expense.

2015 (23) The identity of the developer and the chief operating

2016 officer or principal directing the creation and sale of the
 2017 condominium and a statement of its and his or her experience in
 2018 this field.

2019 (24) Copies of the following, to the extent they are
 2020 applicable, shall be included as exhibits:

2021 (a) The declaration of condominium, or the proposed
 2022 declaration if the declaration has not been recorded.

2023 (b) The articles of incorporation creating the
 2024 association.

2025 (c) The bylaws of the association.

2026 (d) The ground lease or other underlying lease of the
 2027 condominium.

2028 (e) The management agreement and all maintenance and other
 2029 contracts for management of the association and operation of the
 2030 condominium and facilities used by the unit owners having a
 2031 service term in excess of 1 year.

2032 (f) The estimated operating budget for the condominium and
 2033 the required schedule of unit owners' expenses.

2034 (g) A copy of the floor plan of the unit and the plot plan
 2035 showing the location of the residential buildings and the
 2036 recreation and other common areas.

2037 (h) The lease of recreational and other facilities that
 2038 will be used only by unit owners of the subject condominium.

2039 (i) The lease of facilities used by owners and others.

2040 (j) The form of unit lease, if the offer is of a
 2041 leasehold.

2042 (k) A declaration of servitude of properties serving the
 2043 condominium but not owned by unit owners or leased to them or

2044 the association.

2045 (l) The statement of condition of the existing building or
 2046 buildings, if the offering is of units in an operation being
 2047 converted to condominium ownership.

2048 (m) The statement of inspection for termite damage and
 2049 treatment of the existing improvements, if the condominium is a
 2050 conversion.

2051 (n) The form of agreement for sale or lease of units.

2052 (o) A copy of the agreement for escrow of payments made to
 2053 the developer prior to closing.

2054 (p) A copy of the documents containing any restrictions on
 2055 use of the property required by subsection (17).

2056 (25) Any prospectus or offering circular complying, prior
 2057 to the effective date of this act, with the provisions of former
 2058 ss. 711.69 and 711.802 may continue to be used without amendment
 2059 or may be amended to comply with ~~the provisions of~~ this chapter.

2060 (26) A brief narrative description of the location and
 2061 effect of all existing and intended easements located or to be
 2062 located on the condominium property other than those described
 2063 in the declaration.

2064 (27) If the developer is required by state or local
 2065 authorities to obtain acceptance or approval of any dock or
 2066 marina facilities intended to serve the condominium, a copy of
 2067 any such acceptance or approval acquired by the time of filing
 2068 with the division under s. 718.502(1) or a statement that such
 2069 acceptance or approval has not been acquired or received.

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2070 (28) Evidence demonstrating that the developer has an
 2071 ownership, leasehold, or contractual interest in the land upon
 2072 which the condominium is to be developed.

2073 Section 43. Section 718.508, Florida Statutes, is amended
 2074 to read:

2075 718.508 Regulation by Division of Hotels and
 2076 Restaurants.--In addition to the authority, regulation, or
 2077 control exercised by the Division of Florida ~~Land Sales,~~
 2078 Condominiums, Timeshares, and Mobile Homes pursuant to this act
 2079 with respect to condominiums, buildings included in a
 2080 condominium property are ~~shall be~~ subject to the authority,
 2081 regulation, or control of the Division of Hotels and Restaurants
 2082 of the Department of Business and Professional Regulation, to
 2083 the extent provided ~~for~~ in chapter 399.

2084 Section 44. Section 718.509, Florida Statutes, is amended,
 2085 to read:

2086 718.509 Division of Florida ~~Land Sales,~~ Condominiums,
 2087 Timeshares, and Mobile Homes Trust Fund.--

2088 (1) There is created within the State Treasury the
 2089 Division of Florida Condominiums, Timeshares, and Mobile Homes
 2090 Trust Fund to be used for the administration and operation of
 2091 this chapter and chapters 718, 719, 721, and 723 by the
 2092 division.

2093 (2) All moneys collected by the division from fees, fines,
 2094 or penalties or from costs awarded to the division by a court or
 2095 administrative final order shall be paid into the Division of
 2096 Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.
 2097 The Legislature shall appropriate funds from the trust fund

2098 sufficient to carry out the provisions of this chapter and the
 2099 provisions of law with respect to each category of business
 2100 covered by the trust fund. The division shall maintain separate
 2101 revenue accounts in the trust fund for each business regulated
 2102 by the division. The division shall provide for the
 2103 proportionate allocation among the accounts of expenses incurred
 2104 by the division in the performance of its duties with respect to
 2105 each business. As part of its normal budgetary process, the
 2106 division shall prepare an annual report of revenues and
 2107 allocated expenses related to the operation of each business
 2108 which may be used to determine fees charged by the division.
 2109 This subsection shall operate pursuant to s. 215.20. All funds
 2110 collected by the division and any amount paid for a fee or
 2111 penalty under this chapter shall be deposited in the State
 2112 Treasury to the credit of the Division of Florida Land Sales,
 2113 Condominiums, and Mobile Homes Trust Fund created by s. 498.019.

2114 Section 45. Paragraph (a) of subsection (2) of section
 2115 718.608, Florida Statutes, is amended to read:

2116 718.608 Notice of intended conversion; time of delivery;
 2117 content.--

2118 (2) (a) Each notice of intended conversion shall be dated
 2119 and in writing. The notice shall contain the following
 2120 statement, with the phrases of the following statement which
 2121 appear in upper case printed in conspicuous type:

2122
 2123 These apartments are being converted to condominium by
 2124 (name of developer) , the developer.

2125 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF

2126 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
 2127 AGREEMENT AS FOLLOWS:

2128 a. If you have continuously been a resident of these
 2129 apartments during the last 180 days and your rental agreement
 2130 expires during the next 270 days, you may extend your rental
 2131 agreement for up to 270 days after the date of this notice.

2132 b. If you have not been a continuous resident of these
 2133 apartments for the last 180 days and your rental agreement
 2134 expires during the next 180 days, you may extend your rental
 2135 agreement for up to 180 days after the date of this notice.

2136 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
 2137 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
 2138 DATE OF THIS NOTICE.

2139 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
 2140 you may extend your rental agreement for up to 45 days after the
 2141 date of this notice while you decide whether to extend your
 2142 rental agreement as explained above. To do so, you must notify
 2143 the developer in writing. You will then have the full 45 days to
 2144 decide whether to extend your rental agreement as explained
 2145 above.

2146 3. During the extension of your rental agreement you will
 2147 be charged the same rent that you are now paying.

2148 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
 2149 OF THE RENTAL AGREEMENT AS FOLLOWS:

2150 a. If your rental agreement began or was extended or
 2151 renewed after May 1, 1980, and your rental agreement, including
 2152 extensions and renewals, has an unexpired term of 180 days or
 2153 less, you may cancel your rental agreement upon 30 days' written

2154 notice and move. Also, upon 30 days' written notice, you may
 2155 cancel any extension of the rental agreement.

2156 b. If your rental agreement was not begun or was not
 2157 extended or renewed after May 1, 1980, you may not cancel the
 2158 rental agreement without the consent of the developer. If your
 2159 rental agreement, including extensions and renewals, has an
 2160 unexpired term of 180 days or less, you may, however, upon 30
 2161 days' written notice cancel any extension of the rental
 2162 agreement.

2163 5. All notices must be given in writing and sent by mail,
 2164 return receipt requested, or delivered in person to the
 2165 developer at this address: (name and address of developer) .

2166 6. If you have continuously been a resident of these
 2167 apartments during the last 180 days:

2168 a. You have the right to purchase your apartment and will
 2169 have 45 days to decide whether to purchase. If you do not buy
 2170 the unit at that price and the unit is later offered at a lower
 2171 price, you will have the opportunity to buy the unit at the
 2172 lower price. However, in all events your right to purchase the
 2173 unit ends when the rental agreement or any extension of the
 2174 rental agreement ends or when you waive this right in writing.

2175 b. Within 90 days you will be provided purchase
 2176 information relating to your apartment, including the price of
 2177 your unit and the condition of the building. If you do not
 2178 receive this information within 90 days, your rental agreement
 2179 and any extension will be extended 1 day for each day over 90
 2180 days until you are given the purchase information. If you do not
 2181 want this rental agreement extension, you must notify the

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2182 developer in writing.

2183 7. If you have any questions regarding this conversion or
 2184 the Condominium Act, you may contact the developer or the state
 2185 agency which regulates condominiums: The Division of Florida
 2186 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes,
 2187 (Tallahassee address and telephone number of division) .

2188 Section 46. Subsection (17) of section 719.103, Florida
 2189 Statutes, is amended to read:

2190 719.103 Definitions.--As used in this chapter:

2191 (17) "Division" means the Division of Florida ~~Land Sales,~~
 2192 Condominiums, Timeshares, and Mobile Homes of the Department of
 2193 Business and Professional Regulation.

2194 Section 47. Section 719.1255, Florida Statutes, is amended
 2195 to read:

2196 719.1255 Alternative resolution of disputes.--The Division
 2197 of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile
 2198 Homes of the Department of Business and Professional Regulation
 2199 shall provide for alternative dispute resolution in accordance
 2200 with s. 718.1255.

2201 Section 48. Section 719.501, Florida Statutes, is amended
 2202 to read:

2203 719.501 Powers and duties of Division of Florida ~~Land~~
 2204 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes.--

2205 (1) The Division of Florida ~~Land Sales,~~ Condominiums,
 2206 Timeshares, and Mobile Homes of the Department of Business and
 2207 Professional Regulation, referred to as the "division" in this
 2208 part, in addition to other powers and duties prescribed by
 2209 chapter 718 ~~498~~, has the power to enforce and ensure compliance

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2210 with ~~the provisions of~~ this chapter and adopted rules
2211 ~~promulgated pursuant hereto~~ relating to the development,
2212 construction, sale, lease, ownership, operation, and management
2213 of residential cooperative units. In performing its duties, the
2214 division shall have the following powers and duties:

2215 (a) The division may make necessary public or private
2216 investigations within or outside this state to determine whether
2217 any person has violated this chapter or any rule or order
2218 hereunder, to aid in the enforcement of this chapter, or to aid
2219 in the adoption of rules or forms hereunder.

2220 (b) The division may require or permit any person to file
2221 a statement in writing, under oath or otherwise, as the division
2222 determines, as to the facts and circumstances concerning a
2223 matter to be investigated.

2224 (c) For the purpose of any investigation under this
2225 chapter, the division director or any officer or employee
2226 designated by the division director may administer oaths or
2227 affirmations, subpoena witnesses and compel their attendance,
2228 take evidence, and require the production of any matter which is
2229 relevant to the investigation, including the existence,
2230 description, nature, custody, condition, and location of any
2231 books, documents, or other tangible things and the identity and
2232 location of persons having knowledge of relevant facts or any
2233 other matter reasonably calculated to lead to the discovery of
2234 material evidence. Upon failure by a person to obey a subpoena
2235 or to answer questions propounded by the investigating officer
2236 and upon reasonable notice to all persons affected thereby, the
2237 division may apply to the circuit court for an order compelling

2238 compliance.

2239 (d) Notwithstanding any remedies available to unit owners
 2240 and associations, if the division has reasonable cause to
 2241 believe that a violation of any provision of this chapter or
 2242 related rule ~~promulgated pursuant hereto~~ has occurred, the
 2243 division may institute enforcement proceedings in its own name
 2244 against a developer, association, officer, or member of the
 2245 board, or its assignees or agents, as follows:

2246 1. The division may permit a person whose conduct or
 2247 actions may be under investigation to waive formal proceedings
 2248 and enter into a consent proceeding whereby orders, rules, or
 2249 letters of censure or warning, whether formal or informal, may
 2250 be entered against the person.

2251 2. The division may issue an order requiring the
 2252 developer, association, officer, or member of the board, or its
 2253 assignees or agents, to cease and desist from the unlawful
 2254 practice and take such affirmative action as in the judgment of
 2255 the division will carry out the purposes of this chapter. Such
 2256 affirmative action may include, but is not limited to, an order
 2257 requiring a developer to pay moneys determined to be owed to a
 2258 condominium association.

2259 3. The division may bring an action in circuit court on
 2260 behalf of a class of unit owners, lessees, or purchasers for
 2261 declaratory relief, injunctive relief, or restitution.

2262 4. The division may impose a civil penalty against a
 2263 developer or association, or its assignees or agents, for any
 2264 violation of this chapter or related a rule ~~promulgated pursuant~~
 2265 ~~hereto~~. The division may impose a civil penalty individually

2266 against any officer or board member who willfully and knowingly
 2267 violates a provision of this chapter, a rule adopted pursuant to
 2268 this chapter, or a final order of the division. The term
 2269 "willfully and knowingly" means that the division informed the
 2270 officer or board member that his or her action or intended
 2271 action violates this chapter, a rule adopted under this chapter,
 2272 or a final order of the division, and that the officer or board
 2273 member refused to comply with the requirements of this chapter,
 2274 a rule adopted under this chapter, or a final order of the
 2275 division. The division, prior to initiating formal agency action
 2276 under chapter 120, shall afford the officer or board member an
 2277 opportunity to voluntarily comply with this chapter, a rule
 2278 adopted under this chapter, or a final order of the division. An
 2279 officer or board member who complies within 10 days is not
 2280 subject to a civil penalty. A penalty may be imposed on the
 2281 basis of each day of continuing violation, but in no event shall
 2282 the penalty for any offense exceed \$5,000. By January 1, 1998,
 2283 the division shall adopt, by rule, penalty guidelines applicable
 2284 to possible violations or to categories of violations of this
 2285 chapter or rules adopted by the division. The guidelines must
 2286 specify a meaningful range of civil penalties for each such
 2287 violation of the statute and rules and must be based upon the
 2288 harm caused by the violation, the repetition of the violation,
 2289 and upon such other factors deemed relevant by the division. For
 2290 example, the division may consider whether the violations were
 2291 committed by a developer or owner-controlled association, the
 2292 size of the association, and other factors. The guidelines must
 2293 designate the possible mitigating or aggravating circumstances

2294 that justify a departure from the range of penalties provided by
 2295 the rules. It is the legislative intent that minor violations be
 2296 distinguished from those which endanger the health, safety, or
 2297 welfare of the cooperative residents or other persons and that
 2298 such guidelines provide reasonable and meaningful notice to the
 2299 public of likely penalties that may be imposed for proscribed
 2300 conduct. This subsection does not limit the ability of the
 2301 division to informally dispose of administrative actions or
 2302 complaints by stipulation, agreed settlement, or consent order.
 2303 All amounts collected shall be deposited with the Chief
 2304 Financial Officer to the credit of the Division of Florida ~~Land~~
 2305 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If
 2306 a developer fails to pay the civil penalty, the division shall
 2307 thereupon issue an order directing that such developer cease and
 2308 desist from further operation until such time as the civil
 2309 penalty is paid or may pursue enforcement of the penalty in a
 2310 court of competent jurisdiction. If an association fails to pay
 2311 the civil penalty, the division shall thereupon pursue
 2312 enforcement in a court of competent jurisdiction, and the order
 2313 imposing the civil penalty or the cease and desist order shall
 2314 not become effective until 20 days after the date of such order.
 2315 Any action commenced by the division shall be brought in the
 2316 county in which the division has its executive offices or in the
 2317 county where the violation occurred.

2318 (e) The division may ~~is authorized to~~ prepare and
 2319 disseminate a prospectus and other information to assist
 2320 prospective owners, purchasers, lessees, and developers of
 2321 residential cooperatives in assessing the rights, privileges,

2322 and duties pertaining thereto.

2323 (f) The division has authority to adopt rules pursuant to
 2324 ss. 120.536(1) and 120.54 to implement and enforce the
 2325 provisions of this chapter.

2326 (g) The division shall establish procedures for providing
 2327 notice to an association when the division is considering the
 2328 issuance of a declaratory statement with respect to the
 2329 cooperative documents governing such cooperative community.

2330 (h) The division shall furnish each association which pays
 2331 the fees required by paragraph (2)(a) a copy of this act,
 2332 subsequent changes to this act on an annual basis, an amended
 2333 version of this act as it becomes available from the Secretary
 2334 of State's office on a biennial basis, and the rules adopted
 2335 ~~promulgated pursuant~~ thereto on an annual basis.

2336 (i) The division shall annually provide each association
 2337 with a summary of declaratory statements and formal legal
 2338 opinions relating to the operations of cooperatives which were
 2339 rendered by the division during the previous year.

2340 (j) The division shall adopt uniform accounting
 2341 principles, policies, and standards to be used by all
 2342 associations in the preparation and presentation of all
 2343 financial statements required by this chapter. The principles,
 2344 policies, and standards shall take into consideration the size
 2345 of the association and the total revenue collected by the
 2346 association.

2347 (k) The division shall provide training programs for
 2348 cooperative association board members and unit owners.

2349 (l) The division shall maintain a toll-free telephone

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2350 number accessible to cooperative unit owners.

2351 (m) When a complaint is made to the division, the division
2352 shall conduct its inquiry with reasonable dispatch and with due
2353 regard to the interests of the affected parties. Within 30 days
2354 after receipt of a complaint, the division shall acknowledge the
2355 complaint in writing and notify the complainant whether the
2356 complaint is within the jurisdiction of the division and whether
2357 additional information is needed by the division from the
2358 complainant. The division shall conduct its investigation and
2359 shall, within 90 days after receipt of the original complaint or
2360 timely requested additional information, take action upon the
2361 complaint. However, the failure to complete the investigation
2362 within 90 days does not prevent the division from continuing the
2363 investigation, accepting or considering evidence obtained or
2364 received after 90 days, or taking administrative action if
2365 reasonable cause exists to believe that a violation of this
2366 chapter or a rule of the division has occurred. If an
2367 investigation is not completed within the time limits
2368 established in this paragraph, the division shall, on a monthly
2369 basis, notify the complainant in writing of the status of the
2370 investigation. When reporting its action to the complainant, the
2371 division shall inform the complainant of any right to a hearing
2372 pursuant to ss. 120.569 and 120.57.

2373 (n) The division shall develop a program to certify both
2374 volunteer and paid mediators to provide mediation of cooperative
2375 disputes. The division shall provide, upon request, a list of
2376 such mediators to any association, unit owner, or other
2377 participant in arbitration proceedings under s. 718.1255

2378 requesting a copy of the list. The division shall include on the
 2379 list of voluntary mediators only persons who have received at
 2380 least 20 hours of training in mediation techniques or have
 2381 mediated at least 20 disputes. In order to become initially
 2382 certified by the division, paid mediators must be certified by
 2383 the Supreme Court to mediate court cases in ~~either~~ county or
 2384 circuit courts. However, the division may adopt, by rule,
 2385 additional factors for the certification of paid mediators,
 2386 which factors must be related to experience, education, or
 2387 background. Any person initially certified as a paid mediator by
 2388 the division must, in order to continue to be certified, comply
 2389 with the factors or requirements imposed by rules adopted by the
 2390 division.

2391 (2) (a) Each cooperative association shall pay to the
 2392 division, on or before January 1 of each year, an annual fee in
 2393 the amount of \$4 for each residential unit in cooperatives
 2394 operated by the association. If the fee is not paid by March 1,
 2395 then the association shall be assessed a penalty of 10 percent
 2396 of the amount due, and the association shall not have the
 2397 standing to maintain or defend any action in the courts of this
 2398 state until the amount due is paid.

2399 (b) All fees shall be deposited in the Division of Florida
 2400 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust
 2401 Fund as provided by law.

2402 Section 49. Section 719.501, Florida Statutes, is amended
 2403 to read:

2404 719.501 Powers and duties of Division of Florida ~~Land~~
 2405 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes.--

2406 (1) The Division of Florida ~~Land Sales~~, Condominiums,
 2407 Timeshares, and Mobile Homes of the Department of Business and
 2408 Professional Regulation, referred to as the "division" in this
 2409 part, in addition to other powers and duties prescribed by
 2410 chapter 718 ~~498~~, has the power to enforce and ensure compliance
 2411 with ~~the provisions of~~ this chapter and adopted rules
 2412 ~~promulgated pursuant hereto~~ relating to the development,
 2413 construction, sale, lease, ownership, operation, and management
 2414 of residential cooperative units. In performing its duties, the
 2415 division shall have the following powers and duties:

2416 (a) The division may make necessary public or private
 2417 investigations within or outside this state to determine whether
 2418 any person has violated this chapter or any rule or order
 2419 hereunder, to aid in the enforcement of this chapter, or to aid
 2420 in the adoption of rules or forms hereunder.

2421 (b) The division may require or permit any person to file
 2422 a statement in writing, under oath or otherwise, as the division
 2423 determines, as to the facts and circumstances concerning a
 2424 matter to be investigated.

2425 (c) For the purpose of any investigation under this
 2426 chapter, the division director or any officer or employee
 2427 designated by the division director may administer oaths or
 2428 affirmations, subpoena witnesses and compel their attendance,
 2429 take evidence, and require the production of any matter which is
 2430 relevant to the investigation, including the existence,
 2431 description, nature, custody, condition, and location of any
 2432 books, documents, or other tangible things and the identity and
 2433 location of persons having knowledge of relevant facts or any

2434 other matter reasonably calculated to lead to the discovery of
2435 material evidence. Upon failure by a person to obey a subpoena
2436 or to answer questions propounded by the investigating officer
2437 and upon reasonable notice to all persons affected thereby, the
2438 division may apply to the circuit court for an order compelling
2439 compliance.

2440 (d) Notwithstanding any remedies available to unit owners
2441 and associations, if the division has reasonable cause to
2442 believe that a violation of any provision of this chapter or
2443 related rule ~~promulgated pursuant hereto~~ has occurred, the
2444 division may institute enforcement proceedings in its own name
2445 against a developer, association, officer, or member of the
2446 board, or its assignees or agents, as follows:

2447 1. The division may permit a person whose conduct or
2448 actions may be under investigation to waive formal proceedings
2449 and enter into a consent proceeding whereby orders, rules, or
2450 letters of censure or warning, whether formal or informal, may
2451 be entered against the person.

2452 2. The division may issue an order requiring the
2453 developer, association, officer, or member of the board, or its
2454 assignees or agents, to cease and desist from the unlawful
2455 practice and take such affirmative action as in the judgment of
2456 the division will carry out the purposes of this chapter. Such
2457 affirmative action may include, but is not limited to, an order
2458 requiring a developer to pay moneys determined to be owed to a
2459 condominium association.

2460 3. The division may bring an action in circuit court on
2461 behalf of a class of unit owners, lessees, or purchasers for

2462 declaratory relief, injunctive relief, or restitution.

2463 4. The division may impose a civil penalty against a

2464 developer or association, or its assignees or agents, for any

2465 violation of this chapter or related a rule ~~promulgated pursuant~~

2466 ~~hereto~~. The division may impose a civil penalty individually

2467 against any officer or board member who willfully and knowingly

2468 violates a provision of this chapter, a rule adopted pursuant to

2469 this chapter, or a final order of the division. The term

2470 "willfully and knowingly" means that the division informed the

2471 officer or board member that his or her action or intended

2472 action violates this chapter, a rule adopted under this chapter,

2473 or a final order of the division, and that the officer or board

2474 member refused to comply with the requirements of this chapter,

2475 a rule adopted under this chapter, or a final order of the

2476 division. The division, prior to initiating formal agency action

2477 under chapter 120, shall afford the officer or board member an

2478 opportunity to voluntarily comply with this chapter, a rule

2479 adopted under this chapter, or a final order of the division. An

2480 officer or board member who complies within 10 days is not

2481 subject to a civil penalty. A penalty may be imposed on the

2482 basis of each day of continuing violation, but in no event shall

2483 the penalty for any offense exceed \$5,000. By January 1, 1998,

2484 the division shall adopt, by rule, penalty guidelines applicable

2485 to possible violations or to categories of violations of this

2486 chapter or rules adopted by the division. The guidelines must

2487 specify a meaningful range of civil penalties for each such

2488 violation of the statute and rules and must be based upon the

2489 harm caused by the violation, the repetition of the violation,

2490 and upon such other factors deemed relevant by the division. For
 2491 example, the division may consider whether the violations were
 2492 committed by a developer or owner-controlled association, the
 2493 size of the association, and other factors. The guidelines must
 2494 designate the possible mitigating or aggravating circumstances
 2495 that justify a departure from the range of penalties provided by
 2496 the rules. It is the legislative intent that minor violations be
 2497 distinguished from those which endanger the health, safety, or
 2498 welfare of the cooperative residents or other persons and that
 2499 such guidelines provide reasonable and meaningful notice to the
 2500 public of likely penalties that may be imposed for proscribed
 2501 conduct. This subsection does not limit the ability of the
 2502 division to informally dispose of administrative actions or
 2503 complaints by stipulation, agreed settlement, or consent order.
 2504 All amounts collected shall be deposited with the Chief
 2505 Financial Officer to the credit of the Division of Florida ~~Land~~
 2506 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If
 2507 a developer fails to pay the civil penalty, the division shall
 2508 thereupon issue an order directing that such developer cease and
 2509 desist from further operation until such time as the civil
 2510 penalty is paid or may pursue enforcement of the penalty in a
 2511 court of competent jurisdiction. If an association fails to pay
 2512 the civil penalty, the division shall thereupon pursue
 2513 enforcement in a court of competent jurisdiction, and the order
 2514 imposing the civil penalty or the cease and desist order shall
 2515 not become effective until 20 days after the date of such order.
 2516 Any action commenced by the division shall be brought in the
 2517 county in which the division has its executive offices or in the

2518 | county where the violation occurred.

2519 | (e) The division may ~~is authorized to~~ prepare and
 2520 | disseminate a prospectus and other information to assist
 2521 | prospective owners, purchasers, lessees, and developers of
 2522 | residential cooperatives in assessing the rights, privileges,
 2523 | and duties pertaining thereto.

2524 | (f) The division has authority to adopt rules pursuant to
 2525 | ss. 120.536(1) and 120.54 to implement and enforce the
 2526 | provisions of this chapter.

2527 | (g) The division shall establish procedures for providing
 2528 | notice to an association when the division is considering the
 2529 | issuance of a declaratory statement with respect to the
 2530 | cooperative documents governing such cooperative community.

2531 | (h) The division shall furnish each association which pays
 2532 | the fees required by paragraph (2)(a) a copy of this act,
 2533 | subsequent changes to this act on an annual basis, an amended
 2534 | version of this act as it becomes available from the Secretary
 2535 | of State's office on a biennial basis, and the rules adopted
 2536 | ~~promulgated pursuant~~ thereto on an annual basis.

2537 | (i) The division shall annually provide each association
 2538 | with a summary of declaratory statements and formal legal
 2539 | opinions relating to the operations of cooperatives which were
 2540 | rendered by the division during the previous year.

2541 | (j) The division shall adopt uniform accounting
 2542 | principles, policies, and standards to be used by all
 2543 | associations in the preparation and presentation of all
 2544 | financial statements required by this chapter. The principles,
 2545 | policies, and standards shall take into consideration the size

2546 of the association and the total revenue collected by the
2547 association.

2548 (k) The division shall provide training programs for
2549 cooperative association board members and unit owners.

2550 (l) The division shall maintain a toll-free telephone
2551 number accessible to cooperative unit owners.

2552 (m) When a complaint is made to the division, the division
2553 shall conduct its inquiry with reasonable dispatch and with due
2554 regard to the interests of the affected parties. Within 30 days
2555 after receipt of a complaint, the division shall acknowledge the
2556 complaint in writing and notify the complainant whether the
2557 complaint is within the jurisdiction of the division and whether
2558 additional information is needed by the division from the
2559 complainant. The division shall conduct its investigation and
2560 shall, within 90 days after receipt of the original complaint or
2561 timely requested additional information, take action upon the
2562 complaint. However, the failure to complete the investigation
2563 within 90 days does not prevent the division from continuing the
2564 investigation, accepting or considering evidence obtained or
2565 received after 90 days, or taking administrative action if
2566 reasonable cause exists to believe that a violation of this
2567 chapter or a rule of the division has occurred. If an
2568 investigation is not completed within the time limits
2569 established in this paragraph, the division shall, on a monthly
2570 basis, notify the complainant in writing of the status of the
2571 investigation. When reporting its action to the complainant, the
2572 division shall inform the complainant of any right to a hearing
2573 pursuant to ss. 120.569 and 120.57.

2574 (n) The division shall develop a program to certify both
 2575 volunteer and paid mediators to provide mediation of cooperative
 2576 disputes. The division shall provide, upon request, a list of
 2577 such mediators to any association, unit owner, or other
 2578 participant in arbitration proceedings under s. 718.1255
 2579 requesting a copy of the list. The division shall include on the
 2580 list of voluntary mediators only persons who have received at
 2581 least 20 hours of training in mediation techniques or have
 2582 mediated at least 20 disputes. In order to become initially
 2583 certified by the division, paid mediators must be certified by
 2584 the Supreme Court to mediate court cases in ~~either~~ county or
 2585 circuit courts. However, the division may adopt, by rule,
 2586 additional factors for the certification of paid mediators,
 2587 which factors must be related to experience, education, or
 2588 background. Any person initially certified as a paid mediator by
 2589 the division must, in order to continue to be certified, comply
 2590 with the factors or requirements imposed by rules adopted by the
 2591 division.

2592 (2)(a) Each cooperative association shall pay to the
 2593 division, on or before January 1 of each year, an annual fee in
 2594 the amount of \$4 for each residential unit in cooperatives
 2595 operated by the association. If the fee is not paid by March 1,
 2596 then the association shall be assessed a penalty of 10 percent
 2597 of the amount due, and the association shall not have the
 2598 standing to maintain or defend any action in the courts of this
 2599 state until the amount due is paid.

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2600 (b) All fees shall be deposited in the Division of Florida
 2601 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust
 2602 Fund as provided by law.

2603 Section 50. Section 719.504, Florida Statutes, is amended
 2604 to read:

2605 719.504 Prospectus or offering circular.--Every developer
 2606 of a residential cooperative which contains more than 20
 2607 residential units, or which is part of a group of residential
 2608 cooperatives which will be served by property to be used in
 2609 common by unit owners of more than 20 residential units, shall
 2610 prepare a prospectus or offering circular and file it with the
 2611 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 2612 Mobile Homes prior to entering into an enforceable contract of
 2613 purchase and sale of any unit or lease of a unit for more than 5
 2614 years and shall furnish a copy of the prospectus or offering
 2615 circular to each buyer. In addition to the prospectus or
 2616 offering circular, each buyer shall be furnished a separate page
 2617 entitled "Frequently Asked Questions and Answers," which must be
 2618 in accordance with a format approved by the division. This page
 2619 must, in readable language: inform prospective purchasers
 2620 regarding their voting rights and unit use restrictions,
 2621 including restrictions on the leasing of a unit; indicate
 2622 whether and in what amount the unit owners or the association is
 2623 obligated to pay rent or land use fees for recreational or other
 2624 commonly used facilities; contain a statement identifying that
 2625 amount of assessment which, pursuant to the budget, would be
 2626 levied upon each unit type, exclusive of any special
 2627 assessments, and which identifies the basis upon which

2628 assessments are levied, whether monthly, quarterly, or
 2629 otherwise; state and identify any court cases in which the
 2630 association is currently a party of record in which the
 2631 association may face liability in excess of \$100,000; and state
 2632 whether membership in a recreational facilities association is
 2633 mandatory and, if so, identify the fees currently charged per
 2634 unit type. The division shall by rule require such other
 2635 disclosure as in its judgment will assist prospective
 2636 purchasers. The prospectus or offering circular may include more
 2637 than one cooperative, although not all such units are being
 2638 offered for sale as of the date of the prospectus or offering
 2639 circular. The prospectus or offering circular must contain the
 2640 following information:

2641 (1) The front cover or the first page must contain only:

2642 (a) The name of the cooperative.

2643 (b) The following statements in conspicuous type:

2644 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
 2645 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2646 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
 2647 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
 2648 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
 2649 MATERIALS.

2650 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
 2651 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
 2652 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
 2653 REPRESENTATIONS.

2654 (2) Summary: The next page must contain all statements
 2655 required to be in conspicuous type in the prospectus or offering

2656 circular.

2657 (3) A separate index of the contents and exhibits of the
 2658 prospectus.

2659 (4) Beginning on the first page of the text (not including
 2660 the summary and index), a description of the cooperative,
 2661 including, but not limited to, the following information:

2662 (a) Its name and location.

2663 (b) A description of the cooperative property, including,
 2664 without limitation:

2665 1. The number of buildings, the number of units in each
 2666 building, the number of bathrooms and bedrooms in each unit, and
 2667 the total number of units, if the cooperative is not a phase
 2668 cooperative; or, if the cooperative is a phase cooperative, the
 2669 maximum number of buildings that may be contained within the
 2670 cooperative, the minimum and maximum number of units in each
 2671 building, the minimum and maximum number of bathrooms and
 2672 bedrooms that may be contained in each unit, and the maximum
 2673 number of units that may be contained within the cooperative.

2674 2. The page in the cooperative documents where a copy of
 2675 the survey and plot plan of the cooperative is located.

2676 3. The estimated latest date of completion of
 2677 constructing, finishing, and equipping. In lieu of a date, a
 2678 statement that the estimated date of completion of the
 2679 cooperative is in the purchase agreement and a reference to the
 2680 article or paragraph containing that information.

2681 (c) The maximum number of units that will use facilities
 2682 in common with the cooperative. If the maximum number of units
 2683 will vary, a description of the basis for variation and the

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2684 minimum amount of dollars per unit to be spent for additional
2685 recreational facilities or enlargement of such facilities. If
2686 the addition or enlargement of facilities will result in a
2687 material increase of a unit owner's maintenance expense or
2688 rental expense, if any, the maximum increase and limitations
2689 thereon shall be stated.

2690 (5) (a) A statement in conspicuous type describing whether
2691 the cooperative is created and being sold as fee simple
2692 interests or as leasehold interests. If the cooperative is
2693 created or being sold on a leasehold, the location of the lease
2694 in the disclosure materials shall be stated.

2695 (b) If timeshare estates are or may be created with
2696 respect to any unit in the cooperative, a statement in
2697 conspicuous type stating that timeshare estates are created and
2698 being sold in such specified units in the cooperative.

2699 (6) A description of the recreational and other common
2700 areas that will be used only by unit owners of the cooperative,
2701 including, but not limited to, the following:

2702 (a) Each room and its intended purposes, location,
2703 approximate floor area, and capacity in numbers of people.

2704 (b) Each swimming pool, as to its general location,
2705 approximate size and depths, approximate deck size and capacity,
2706 and whether heated.

2707 (c) Additional facilities, as to the number of each
2708 facility, its approximate location, approximate size, and
2709 approximate capacity.

2710 (d) A general description of the items of personal
2711 property and the approximate number of each item of personal

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2712 property that the developer is committing to furnish for each
2713 room or other facility or, in the alternative, a representation
2714 as to the minimum amount of expenditure that will be made to
2715 purchase the personal property for the facility.

2716 (e) The estimated date when each room or other facility
2717 will be available for use by the unit owners.

2718 (f)1. An identification of each room or other facility to
2719 be used by unit owners that will not be owned by the unit owners
2720 or the association;

2721 2. A reference to the location in the disclosure materials
2722 of the lease or other agreements providing for the use of those
2723 facilities; and

2724 3. A description of the terms of the lease or other
2725 agreements, including the length of the term; the rent payable,
2726 directly or indirectly, by each unit owner, and the total rent
2727 payable to the lessor, stated in monthly and annual amounts for
2728 the entire term of the lease; and a description of any option to
2729 purchase the property leased under any such lease, including the
2730 time the option may be exercised, the purchase price or how it
2731 is to be determined, the manner of payment, and whether the
2732 option may be exercised for a unit owner's share or only as to
2733 the entire leased property.

2734 (g) A statement as to whether the developer may provide
2735 additional facilities not described above, their general
2736 locations and types, improvements or changes that may be made,
2737 the approximate dollar amount to be expended, and the maximum
2738 additional common expense or cost to the individual unit owners
2739 that may be charged during the first annual period of operation

2740 of the modified or added facilities.

2741

2742 Descriptions as to locations, areas, capacities, numbers,
2743 volumes, or sizes may be stated as approximations or minimums.

2744 (7) A description of the recreational and other facilities
2745 that will be used in common with other cooperatives, community
2746 associations, or planned developments which require the payment
2747 of the maintenance and expenses of such facilities, ~~either~~
2748 directly or indirectly, by the unit owners. The description
2749 shall include, but not be limited to, the following:

2750 (a) Each building and facility committed to be built.

2751 (b) Facilities not committed to be built except under
2752 certain conditions, and a statement of those conditions or
2753 contingencies.

2754 (c) As to each facility committed to be built, or which
2755 will be committed to be built upon the happening of one of the
2756 conditions in paragraph (b), a statement of whether it will be
2757 owned by the unit owners having the use thereof or by an
2758 association or other entity which will be controlled by them, or
2759 others, and the location in the exhibits of the lease or other
2760 document providing for use of those facilities.

2761 (d) The year in which each facility will be available for
2762 use by the unit owners or, in the alternative, the maximum
2763 number of unit owners in the project at the time each of all of
2764 the facilities is committed to be completed.

2765 (e) A general description of the items of personal
2766 property, and the approximate number of each item of personal
2767 property, that the developer is committing to furnish for each

2768 room or other facility or, in the alternative, a representation
 2769 as to the minimum amount of expenditure that will be made to
 2770 purchase the personal property for the facility.

2771 (f) If there are leases, a description thereof, including
 2772 the length of the term, the rent payable, and a description of
 2773 any option to purchase.

2774
 2775 Descriptions shall include location, areas, capacities, numbers,
 2776 volumes, or sizes and may be stated as approximations or
 2777 minimums.

2778 (8) Recreation lease or associated club membership:

2779 (a) If any recreational facilities or other common areas
 2780 offered by the developer and available to, or to be used by,
 2781 unit owners are to be leased or have club membership associated,
 2782 the following statement in conspicuous type shall be included:
 2783 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 2784 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 2785 COOPERATIVE. There shall be a reference to the location in the
 2786 disclosure materials where the recreation lease or club
 2787 membership is described in detail.

2788 (b) If it is mandatory that unit owners pay a fee, rent,
 2789 dues, or other charges under a recreational facilities lease or
 2790 club membership for the use of facilities, there shall be in
 2791 conspicuous type the applicable statement:

2792 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 2793 MANDATORY FOR UNIT OWNERS; or

2794 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 2795 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2796 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
 2797 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
 2798 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
 2799 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2800 4. A similar statement of the nature of the organization
 2801 or manner in which the use rights are created, and that unit
 2802 owners are required to pay.

2803
 2804 Immediately following the applicable statement, the location in
 2805 the disclosure materials where the development is described in
 2806 detail shall be stated.

2807 (c) If the developer, or any other person other than the
 2808 unit owners and other persons having use rights in the
 2809 facilities, reserves, or is entitled to receive, any rent, fee,
 2810 or other payment for the use of the facilities, then there shall
 2811 be the following statement in conspicuous type: THE UNIT OWNERS
 2812 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 2813 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this
 2814 statement, the location in the disclosure materials where the
 2815 rent or land use fees are described in detail shall be stated.

2816 (d) If, in any recreation format, whether leasehold, club,
 2817 or other, any person other than the association has the right to
 2818 a lien on the units to secure the payment of assessments, rent,
 2819 or other exactions, there shall appear a statement in
 2820 conspicuous type in substantially the following form:

2821 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2822 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 2823 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE

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2824 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or
 2825 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2826 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 2827 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 2828 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE
 2829 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2830
 2831 Immediately following the applicable statement, the location in
 2832 the disclosure materials where the lien or lien right is
 2833 described in detail shall be stated.

2834 (9) If the developer or any other person has the right to
 2835 increase or add to the recreational facilities at any time after
 2836 the establishment of the cooperative whose unit owners have use
 2837 rights therein, without the consent of the unit owners or
 2838 associations being required, there shall appear a statement in
 2839 conspicuous type in substantially the following form:

2840 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
 2841 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
 2842 statement, the location in the disclosure materials where such
 2843 reserved rights are described shall be stated.

2844 (10) A statement of whether the developer's plan includes
 2845 a program of leasing units rather than selling them, or leasing
 2846 units and selling them subject to such leases. If so, there
 2847 shall be a description of the plan, including the number and
 2848 identification of the units and the provisions and term of the
 2849 proposed leases, and a statement in boldfaced type that: THE
 2850 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2851 (11) The arrangements for management of the association

2852 and maintenance and operation of the cooperative property and of
 2853 other property that will serve the unit owners of the
 2854 cooperative property, and a description of the management
 2855 contract and all other contracts for these purposes having a
 2856 term in excess of 1 year, including the following:

- 2857 (a) The names of contracting parties.
- 2858 (b) The term of the contract.
- 2859 (c) The nature of the services included.
- 2860 (d) The compensation, stated on a monthly and annual
 2861 basis, and provisions for increases in the compensation.
- 2862 (e) A reference to the volumes and pages of the
 2863 cooperative documents and of the exhibits containing copies of
 2864 such contracts.

2865
 2866 Copies of all described contracts shall be attached as exhibits.
 2867 If there is a contract for the management of the cooperative
 2868 property, then a statement in conspicuous type in substantially
 2869 the following form shall appear, identifying the proposed or
 2870 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
 2871 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE
 2872 CONTRACT MANAGER). Immediately following this statement, the
 2873 location in the disclosure materials of the contract for
 2874 management of the cooperative property shall be stated.

2875 (12) If the developer or any other person or persons other
 2876 than the unit owners has the right to retain control of the
 2877 board of administration of the association for a period of time
 2878 which can exceed 1 year after the closing of the sale of a
 2879 majority of the units in that cooperative to persons other than

2880 successors or alternate developers, then a statement in
 2881 conspicuous type in substantially the following form shall be
 2882 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
 2883 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
 2884 HAVE BEEN SOLD. Immediately following this statement, the
 2885 location in the disclosure materials where this right to control
 2886 is described in detail shall be stated.

2887 (13) If there are any restrictions upon the sale,
 2888 transfer, conveyance, or leasing of a unit, then a statement in
 2889 conspicuous type in substantially the following form shall be
 2890 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
 2891 CONTROLLED. Immediately following this statement, the location
 2892 in the disclosure materials where the restriction, limitation,
 2893 or control on the sale, lease, or transfer of units is described
 2894 in detail shall be stated.

2895 (14) If the cooperative is part of a phase project, the
 2896 following shall be stated:

2897 (a) A statement in conspicuous type in substantially the
 2898 following form shall be included: THIS IS A PHASE COOPERATIVE.
 2899 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.
 2900 Immediately following this statement, the location in the
 2901 disclosure materials where the phasing is described shall be
 2902 stated.

2903 (b) A summary of the provisions of the declaration
 2904 providing for the phasing.

2905 (c) A statement as to whether or not residential buildings
 2906 and units which are added to the cooperative may be
 2907 substantially different from the residential buildings and units

2908 originally in the cooperative, and, if the added residential
 2909 buildings and units may be substantially different, there shall
 2910 be a general description of the extent to which such added
 2911 residential buildings and units may differ, and a statement in
 2912 conspicuous type in substantially the following form shall be
 2913 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE
 2914 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
 2915 UNITS IN THE COOPERATIVE. Immediately following this statement,
 2916 the location in the disclosure materials where the extent to
 2917 which added residential buildings and units may substantially
 2918 differ is described shall be stated.

2919 (d) A statement of the maximum number of buildings
 2920 containing units, the maximum and minimum number of units in
 2921 each building, the maximum number of units, and the minimum and
 2922 maximum square footage of the units that may be contained within
 2923 each parcel of land which may be added to the cooperative.

2924 (15) If the cooperative is created by conversion of
 2925 existing improvements, the following information shall be
 2926 stated:

2927 (a) The information required by s. 719.616.

2928 (b) A caveat that there are no express warranties unless
 2929 they are stated in writing by the developer.

2930 (16) A summary of the restrictions, if any, to be imposed
 2931 on units concerning the use of any of the cooperative property,
 2932 including statements as to whether there are restrictions upon
 2933 children and pets, and reference to the volumes and pages of the
 2934 cooperative documents where such restrictions are found, or if
 2935 such restrictions are contained elsewhere, then a copy of the

2936 documents containing the restrictions shall be attached as an
 2937 exhibit.

2938 (17) If there is any land that is offered by the developer
 2939 for use by the unit owners and that is neither owned by them nor
 2940 leased to them, the association, or any entity controlled by
 2941 unit owners and other persons having the use rights to such
 2942 land, a statement shall be made as to how such land will serve
 2943 the cooperative. If any part of such land will serve the
 2944 cooperative, the statement shall describe the land and the
 2945 nature and term of service, and the cooperative documents or
 2946 other instrument creating such servitude shall be included as an
 2947 exhibit.

2948 (18) The manner in which utility and other services,
 2949 including, but not limited to, sewage and waste disposal, water
 2950 supply, and storm drainage, will be provided and the person or
 2951 entity furnishing them.

2952 (19) An explanation of the manner in which the
 2953 apportionment of common expenses and ownership of the common
 2954 areas have been determined.

2955 (20) An estimated operating budget for the cooperative and
 2956 the association, and a schedule of the unit owner's expenses
 2957 shall be attached as an exhibit and shall contain the following
 2958 information:

2959 (a) The estimated monthly and annual expenses of the
 2960 cooperative and the association that are collected from unit
 2961 owners by assessments.

2962 (b) The estimated monthly and annual expenses of each unit
 2963 owner for a unit, other than assessments payable to the

2964 association, payable by the unit owner to persons or entities
2965 other than the association, and the total estimated monthly and
2966 annual expense. There may be excluded from this estimate
2967 expenses that are personal to unit owners, which are not
2968 uniformly incurred by all unit owners, or which are not provided
2969 for or contemplated by the cooperative documents, including, but
2970 not limited to, the costs of private telephone; maintenance of
2971 the interior of cooperative units, which is not the obligation
2972 of the association; maid or janitorial services privately
2973 contracted for by the unit owners; utility bills billed directly
2974 to each unit owner for utility services to his or her unit;
2975 insurance premiums other than those incurred for policies
2976 obtained by the cooperative; and similar personal expenses of
2977 the unit owner. A unit owner's estimated payments for
2978 assessments shall also be stated in the estimated amounts for
2979 the times when they will be due.

2980 (c) The estimated items of expenses of the cooperative and
2981 the association, except as excluded under paragraph (b),
2982 including, but not limited to, the following items, which shall
2983 be stated ~~either~~ as an association expense collectible by
2984 assessments or as unit owners' expenses payable to persons other
2985 than the association:

- 2986 1. Expenses for the association and cooperative:
- 2987 a. Administration of the association.
- 2988 b. Management fees.
- 2989 c. Maintenance.
- 2990 d. Rent for recreational and other commonly used areas.
- 2991 e. Taxes upon association property.

- 2992 f. Taxes upon leased areas.
- 2993 g. Insurance.
- 2994 h. Security provisions.
- 2995 i. Other expenses.
- 2996 j. Operating capital.
- 2997 k. Reserves.
- 2998 1. Fee payable to the division.
- 2999 2. Expenses for a unit owner:
 - 3000 a. Rent for the unit, if subject to a lease.
 - 3001 b. Rent payable by the unit owner directly to the lessor
 - 3002 or agent under any recreational lease or lease for the use of
 - 3003 commonly used areas, which use and payment are a mandatory
 - 3004 condition of ownership and are not included in the common
 - 3005 expense or assessments for common maintenance paid by the unit
 - 3006 owners to the association.

3007 (d) The following statement in conspicuous type: THE
 3008 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
 3009 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
 3010 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
 3011 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
 3012 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
 3013 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
 3014 THE OFFERING.

3015 (e) Each budget for an association prepared by a developer
 3016 consistent with this subsection shall be prepared in good faith
 3017 and shall reflect accurate estimated amounts for the required
 3018 items in paragraph (c) at the time of the filing of the offering
 3019 circular with the division, and subsequent increased amounts of

3020 any item included in the association's estimated budget that are
 3021 beyond the control of the developer shall not be considered an
 3022 amendment that would give rise to rescission rights set forth in
 3023 s. 719.503(1)(a) or (b), nor shall such increases modify, void,
 3024 or otherwise affect any guarantee of the developer contained in
 3025 the offering circular or any purchase contract. It is the intent
 3026 of this paragraph to clarify existing law.

3027 (f) The estimated amounts shall be stated for a period of
 3028 at least 12 months and may distinguish between the period prior
 3029 to the time unit owners other than the developer elect a
 3030 majority of the board of administration and the period after
 3031 that date.

3032 (21) A schedule of estimated closing expenses to be paid
 3033 by a buyer or lessee of a unit and a statement of whether title
 3034 opinion or title insurance policy is available to the buyer and,
 3035 if so, at whose expense.

3036 (22) The identity of the developer and the chief operating
 3037 officer or principal directing the creation and sale of the
 3038 cooperative and a statement of its and his or her experience in
 3039 this field.

3040 (23) Copies of the following, to the extent they are
 3041 applicable, shall be included as exhibits:

3042 (a) The cooperative documents, or the proposed cooperative
 3043 documents if the documents have not been recorded.

3044 (b) The articles of incorporation creating the
 3045 association.

3046 (c) The bylaws of the association.

3047 (d) The ground lease or other underlying lease of the

3048 cooperative.

3049 (e) The management agreement and all maintenance and other
 3050 contracts for management of the association and operation of the
 3051 cooperative and facilities used by the unit owners having a
 3052 service term in excess of 1 year.

3053 (f) The estimated operating budget for the cooperative and
 3054 the required schedule of unit owners' expenses.

3055 (g) A copy of the floor plan of the unit and the plot plan
 3056 showing the location of the residential buildings and the
 3057 recreation and other common areas.

3058 (h) The lease of recreational and other facilities that
 3059 will be used only by unit owners of the subject cooperative.

3060 (i) The lease of facilities used by owners and others.

3061 (j) The form of unit lease, if the offer is of a
 3062 leasehold.

3063 (k) A declaration of servitude of properties serving the
 3064 cooperative but not owned by unit owners or leased to them or
 3065 the association.

3066 (l) The statement of condition of the existing building or
 3067 buildings, if the offering is of units in an operation being
 3068 converted to cooperative ownership.

3069 (m) The statement of inspection for termite damage and
 3070 treatment of the existing improvements, if the cooperative is a
 3071 conversion.

3072 (n) The form of agreement for sale or lease of units.

3073 (o) A copy of the agreement for escrow of payments made to
 3074 the developer prior to closing.

3075 (p) A copy of the documents containing any restrictions on

3076 use of the property required by subsection (16).

3077 (24) Any prospectus or offering circular complying with
 3078 the provisions of former ss. 711.69 and 711.802 may continue to
 3079 be used without amendment, or may be amended to comply with ~~the~~
 3080 ~~provisions of~~ this chapter.

3081 (25) A brief narrative description of the location and
 3082 effect of all existing and intended easements located or to be
 3083 located on the cooperative property other than those in the
 3084 declaration.

3085 (26) If the developer is required by state or local
 3086 authorities to obtain acceptance or approval of any dock or
 3087 marina facility intended to serve the cooperative, a copy of
 3088 such acceptance or approval acquired by the time of filing with
 3089 the division pursuant to s. 719.502 or a statement that such
 3090 acceptance has not been acquired or received.

3091 (27) Evidence demonstrating that the developer has an
 3092 ownership, leasehold, or contractual interest in the land upon
 3093 which the cooperative is to be developed.

3094 Section 51. Section 719.508, Florida Statutes, is amended
 3095 to read:

3096 719.508 Regulation by Division of Hotels and
 3097 Restaurants.--In addition to the authority, regulation, or
 3098 control exercised by the Division of Florida ~~Land Sales,~~
 3099 Condominiums, Timeshares, and Mobile Homes pursuant to this act
 3100 with respect to cooperatives, buildings included in a
 3101 cooperative property shall be subject to the authority,
 3102 regulation, or control of the Division of Hotels and Restaurants

3103 of the Department of Business and Professional Regulation, to
 3104 the extent provided ~~for~~ in chapters 399 and 509.

3105 Section 52. Paragraph (a) of subsection (2) of section
 3106 719.608, Florida Statutes, is amended to read:

3107 719.608 Notice of intended conversion; time of delivery;
 3108 content.--

3109 (2)(a) Each notice of intended conversion shall be dated
 3110 and in writing. The notice shall contain the following
 3111 statement, with the phrases of the following statement which
 3112 appear in upper case printed in conspicuous type:

3113
 3114 These apartments are being converted to cooperative by
 3115 (name of developer) , the developer.

3116 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
 3117 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
 3118 AGREEMENT AS FOLLOWS:

3119 a. If you have continuously been a resident of these
 3120 apartments during the last 180 days and your rental agreement
 3121 expires during the next 270 days, you may extend your rental
 3122 agreement for up to 270 days after the date of this notice.

3123 b. If you have not been a continuous resident of these
 3124 apartments for the last 180 days and your rental agreement
 3125 expires during the next 180 days, you may extend your rental
 3126 agreement for up to 180 days after the date of this notice.

3127 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
 3128 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
 3129 DATE OF THIS NOTICE.

3130 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,

3131 | you may extend your rental agreement for up to 45 days after the
 3132 | date of this notice while you decide whether to extend your
 3133 | rental agreement as explained above. To do so, you must notify
 3134 | the developer in writing. You will then have the full 45 days to
 3135 | decide whether to extend your rental agreement as explained
 3136 | above.

3137 | 3. During the extension of your rental agreement you will
 3138 | be charged the same rent that you are now paying.

3139 | 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
 3140 | OF THE RENTAL AGREEMENT AS FOLLOWS:

3141 | a. If your rental agreement began or was extended or
 3142 | renewed after May 1, 1980, and your rental agreement, including
 3143 | extensions and renewals, has an unexpired term of 180 days or
 3144 | less, you may cancel your rental agreement upon 30 days' written
 3145 | notice and move. Also, upon 30 days' written notice, you may
 3146 | cancel any extension of the rental agreement.

3147 | b. If your rental agreement was not begun or was not
 3148 | extended or renewed after May 1, 1980, you may not cancel the
 3149 | rental agreement without the consent of the developer. If your
 3150 | rental agreement, including extensions and renewals, has an
 3151 | unexpired term of 180 days or less, you may, however, upon 30
 3152 | days' written notice cancel any extension of the rental
 3153 | agreement.

3154 | 5. All notices must be given in writing and sent by mail,
 3155 | return receipt requested, or delivered in person to the
 3156 | developer at this address: (name and address of developer) .

3157 | 6. If you have continuously been a resident of these
 3158 | apartments during the last 180 days:

3159 a. You have the right to purchase your apartment and will
 3160 have 45 days to decide whether to purchase. If you do not buy
 3161 the unit at that price and the unit is later offered at a lower
 3162 price, you will have the opportunity to buy the unit at the
 3163 lower price. However, in all events your right to purchase the
 3164 unit ends when the rental agreement or any extension of the
 3165 rental agreement ends or when you waive this right in writing.

3166 b. Within 90 days you will be provided purchase
 3167 information relating to your apartment, including the price of
 3168 your unit and the condition of the building. If you do not
 3169 receive this information within 90 days, your rental agreement
 3170 and any extension will be extended 1 day for each day over 90
 3171 days until you are given the purchase information. If you do not
 3172 want this rental agreement extension, you must notify the
 3173 developer in writing.

3174 7. If you have any questions regarding this conversion or
 3175 the Cooperative Act, you may contact the developer or the state
 3176 agency which regulates cooperatives: The Division of Florida
 3177 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,
 3178 (Tallahassee address and telephone number of division) .

3179 Section 53. Subsection (7) of section 720.301, Florida
 3180 Statutes, is amended to read:

3181 720.301 Definitions.--As used in this chapter, the term:

3182 (7) "Division" means the Division of Florida ~~Land Sales~~,
 3183 Condominiums, Timeshares, and Mobile Homes in the Department of
 3184 Business and Professional Regulation.

3185 Section 54. Subsection (2) of section 720.401, Florida
 3186 Statutes, is amended to read:

3187 720.401 Prospective purchasers subject to association
 3188 membership requirement; disclosure required; covenants;
 3189 assessments; contract cancellation.--

3190 (2) This section does not apply to any association
 3191 regulated under chapter 718, chapter 719, chapter 721, or
 3192 chapter 723 ~~or to a subdivider registered under chapter 498~~; and
 3193 also does not apply if disclosure regarding the association is
 3194 otherwise made in connection with the requirements of chapter
 3195 718, chapter 719, chapter 721, or chapter 723.

3196 Section 55. Paragraph (c) of subsection (1) of section
 3197 721.03, Florida Statutes, is amended to read:

3198 721.03 Scope of chapter.--

3199 (1) This chapter applies to all timeshare plans consisting
 3200 of more than seven timeshare periods over a period of at least 3
 3201 years in which the accommodations and facilities, if any, are
 3202 located within this state or offered within this state; provided
 3203 that:

3204 (c) All timeshare accommodations or facilities which are
 3205 located outside the state but offered for sale in this state
 3206 shall be governed by the following:

3207 1. The offering for sale in this state of timeshare
 3208 accommodations and facilities located outside the state is
 3209 subject only to the provisions of ss. 721.01-721.12, 721.18,
 3210 721.20, 721.21, 721.26, 721.28, and part II.

3211 2. The division shall not require a developer of timeshare
 3212 accommodations or facilities located outside of this state to
 3213 make changes in any timeshare instrument to conform to the
 3214 provisions of s. 721.07 or s. 721.55. The division shall have

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3215 the power to require disclosure of those provisions of the
3216 timeshare instrument that do not conform to s. 721.07 or s.
3217 721.55 as the director determines is necessary to fairly,
3218 meaningfully, and effectively disclose all aspects of the
3219 timeshare plan.

3220 3. Except as provided in this subparagraph, the division
3221 shall have no authority to determine whether any person has
3222 complied with another state's laws or to disapprove any filing
3223 out-of-state, timeshare instrument, or component site document,
3224 based solely upon the lack or degree of timeshare regulation in
3225 another state. The division may require a developer to obtain
3226 and provide to the division existing documentation relating to
3227 an out-of-state filing, timeshare instrument, or component site
3228 document and prove compliance of same with the laws of that
3229 state. In this regard, the division may accept any evidence of
3230 the approval or acceptance of any out-of-state filing, timeshare
3231 instrument, or component site document by another state in lieu
3232 of requiring a developer to file the out-of-state filing,
3233 timeshare instrument, or component site document with the
3234 division pursuant to this section, or the division may accept an
3235 opinion letter from an attorney or law firm opining as to the
3236 compliance of such out-of-state filing, timeshare instrument, or
3237 component site document with the laws of another state. The
3238 division may refuse to approve the inclusion of any out-of-state
3239 filing, timeshare instrument, or component site document as part
3240 of a public offering statement based upon the inability of the
3241 developer to establish the compliance of same with the laws of
3242 another state.

3243 4. The division is authorized to enter into an agreement
 3244 with another state for the purpose of facilitating the
 3245 processing of out-of-state timeshare instruments or other
 3246 component site documents pursuant to this chapter and for the
 3247 purpose of facilitating the referral of consumer complaints to
 3248 the appropriate state.

3249 5. Notwithstanding any other provision of this paragraph,
 3250 the offer, in this state, of an additional interest to existing
 3251 purchasers in the same timeshare plan or the same component site
 3252 of a multisite timeshare plan, the same nonspecific multisite
 3253 timeshare plan, with accommodations and facilities located
 3254 outside of this state shall not be subject to the provisions of
 3255 this chapter if the offer complies with the provisions of s.
 3256 721.11(4).

3257 Section 56. Subsection (11) of section 721.05, Florida
 3258 Statutes, is amended to read:

3259 721.05 Definitions.--As used in this chapter, the term:

3260 (11) "Division" means the Division of Florida ~~Land Sales,~~
 3261 Condominiums, Timeshares, and Mobile Homes of the Department of
 3262 Business and Professional Regulation.

3263 Section 57. Paragraph (d) of subsection (2) of section
 3264 721.07, Florida Statutes, is amended to read:

3265 721.07 Public offering statement.--Prior to offering any
 3266 timeshare plan, the developer must submit a filed public
 3267 offering statement to the division for approval as prescribed by
 3268 s. 721.03, s. 721.55, or this section. Until the division
 3269 approves such filing, any contract regarding the sale of that
 3270 timeshare plan is subject to cancellation by the purchaser

3271 pursuant to s. 721.10.

3272 (2)

3273 (d) A developer shall have the authority to deliver to
 3274 purchasers any purchaser public offering statement that is not
 3275 yet approved by the division, provided that the following shall
 3276 apply:

3277 1. At the time the developer delivers an unapproved
 3278 purchaser public offering statement to a purchaser pursuant to
 3279 this paragraph, the developer shall deliver a fully completed
 3280 and executed copy of the purchase contract required by s. 721.06
 3281 that contains the following statement in conspicuous type in
 3282 substantially the following form which shall replace the
 3283 statements required by s. 721.06(1)(g):

3284

3285 The developer is delivering to you a public offering statement
 3286 that has been filed with but not yet approved by the Division of
 3287 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes.
 3288 Any revisions to the unapproved public offering statement you
 3289 have received must be delivered to you, but only if the
 3290 revisions materially alter or modify the offering in a manner
 3291 adverse to you. After the division approves the public offering
 3292 statement, you will receive notice of the approval from the
 3293 developer and the required revisions, if any.

3294

3295 Your statutory right to cancel this transaction without any
 3296 penalty or obligation expires 10 calendar days after the date
 3297 you signed your purchase contract or the date on which you
 3298 receive the last of all documents required to be given to you

3299 pursuant to section 721.07(6), Florida Statutes, or 10 calendar
 3300 days after you receive revisions required to be delivered to
 3301 you, if any, whichever is later. If you decide to cancel this
 3302 contract, you must notify the seller in writing of your intent
 3303 to cancel. Your notice of cancellation shall be effective upon
 3304 the date sent and shall be sent to (Name of Seller) at
 3305 (Address of Seller) . Any attempt to obtain a waiver of your
 3306 cancellation right is void and of no effect. While you may
 3307 execute all closing documents in advance, the closing, as
 3308 evidenced by delivery of the deed or other document, before
 3309 expiration of your 10-day cancellation period, is prohibited.

3310
 3311 2. After receipt of approval from the division and prior
 3312 to closing, if any revisions made to the documents contained in
 3313 the purchaser public offering statement materially alter or
 3314 modify the offering in a manner adverse to a purchaser, the
 3315 developer shall send the purchaser such revisions together with
 3316 a notice containing a statement in conspicuous type in
 3317 substantially the following form:

3318
 3319 The unapproved public offering statement previously delivered to
 3320 you, together with the enclosed revisions, has been approved by
 3321 the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares,
 3322 and Mobile Homes. Accordingly, your cancellation right expires
 3323 10 calendar days after you sign your purchase contract or 10
 3324 calendar days after you receive these revisions, whichever is
 3325 later. If you have any questions regarding your cancellation
 3326 rights, you may contact the division at [insert division's

3327 current address].

3328

3329 3. After receipt of approval from the division and prior
 3330 to closing, if no revisions have been made to the documents
 3331 contained in the unapproved purchaser public offering statement,
 3332 or if such revisions do not materially alter or modify the
 3333 offering in a manner adverse to a purchaser, the developer shall
 3334 send the purchaser a notice containing a statement in
 3335 conspicuous type in substantially the following form:

3336

3337 The unapproved public offering statement previously delivered to
 3338 you has been approved by the Division of Florida ~~Land Sales,~~
 3339 Condominiums, Timeshares, and Mobile Homes. Revisions made to
 3340 the unapproved public offering statement, if any, are ~~either~~ not
 3341 required to be delivered to you or are not deemed by the
 3342 developer, in its opinion, to materially alter or modify the
 3343 offering in a manner that is adverse to you. Accordingly, your
 3344 cancellation right expired 10 days after you signed your
 3345 purchase contract. A complete copy of the approved public
 3346 offering statement is available through the managing entity for
 3347 inspection as part of the books and records of the plan. If you
 3348 have any questions regarding your cancellation rights, you may
 3349 contact the division at [insert division's current address].

3350 Section 58. Subsection (8) of section 721.08, Florida
 3351 Statutes, is amended to read:

3352 721.08 Escrow accounts; nondisturbance instruments;
 3353 alternate security arrangements; transfer of legal title.--

3354 (8) An escrow agent holding escrowed funds pursuant to
 3355 this chapter that have not been claimed for a period of 5 years
 3356 after the date of deposit shall make at least one reasonable
 3357 attempt to deliver such unclaimed funds to the purchaser who
 3358 submitted such funds to escrow. In making such attempt, an
 3359 escrow agent is entitled to rely on a purchaser's last known
 3360 address as set forth in the books and records of the escrow
 3361 agent and is not required to conduct any further search for the
 3362 purchaser. If an escrow agent's attempt to deliver unclaimed
 3363 funds to any purchaser is unsuccessful, the escrow agent may
 3364 deliver such unclaimed funds to the division and the division
 3365 shall deposit such unclaimed funds in the Division of Florida
 3366 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust
 3367 Fund, 30 days after giving notice in a publication of general
 3368 circulation in the county in which the timeshare property
 3369 containing the purchaser's timeshare interest is located. The
 3370 purchaser may claim the same at any time prior to the delivery
 3371 of such funds to the division. After delivery of such funds to
 3372 the division, the purchaser shall have no more rights to the
 3373 unclaimed funds. The escrow agent shall not be liable for any
 3374 claims from any party arising out of the escrow agent's delivery
 3375 of the unclaimed funds to the division pursuant to this section.

3376 Section 59. Section 721.26, Florida Statutes, is amended
 3377 to read:

3378 721.26 Regulation by division.--The division has the power
 3379 to enforce and ensure compliance with ~~the provisions of this~~
 3380 chapter, except for parts III and IV, using the powers provided
 3381 in this chapter, as well as the powers prescribed in chapters

3382 ~~498, 718,~~ and 719. In performing its duties, the division shall
 3383 have the following powers and duties:

3384 (1) To aid in the enforcement of this chapter, or any
 3385 division rule adopted or order ~~promulgated or~~ issued pursuant to
 3386 this chapter, the division may make necessary public or private
 3387 investigations within or outside this state to determine whether
 3388 any person has violated or is about to violate this chapter, or
 3389 any division rule adopted or order ~~promulgated or~~ issued
 3390 pursuant to this chapter.

3391 (2) The division may require or permit any person to file
 3392 a written statement under oath or otherwise, as the division
 3393 determines, as to the facts and circumstances concerning a
 3394 matter under investigation.

3395 (3) For the purpose of any investigation under this
 3396 chapter, the director of the division or any officer or employee
 3397 designated by the director may administer oaths or affirmations,
 3398 subpoena witnesses and compel their attendance, take evidence,
 3399 and require the production of any matter which is relevant to
 3400 the investigation, including the identity, existence,
 3401 description, nature, custody, condition, and location of any
 3402 books, documents, or other tangible things and the identity and
 3403 location of persons having knowledge of relevant facts or any
 3404 other matter reasonably calculated to lead to the discovery of
 3405 material evidence. Failure to obey a subpoena or to answer
 3406 questions propounded by the investigating officer and upon
 3407 reasonable notice to all persons affected thereby shall be a
 3408 violation of this chapter. In addition to the other enforcement
 3409 powers authorized in this subsection, the division may, ~~at its~~

3410 ~~discretion,~~ apply to the circuit court for an order compelling
 3411 compliance.

3412 (4) The division may prepare and disseminate a prospectus
 3413 and other information to assist prospective purchasers, sellers,
 3414 and managing entities of timeshare plans in assessing the
 3415 rights, privileges, and duties pertaining thereto.

3416 (5) Notwithstanding any remedies available to purchasers,
 3417 if the division has reasonable cause to believe that a violation
 3418 of this chapter, or of any division rule adopted or order
 3419 ~~promulgated or~~ issued pursuant to this chapter, has occurred,
 3420 the division may institute enforcement proceedings in its own
 3421 name against any regulated party, as such term is defined in
 3422 this subsection:

3423 (a)1. "Regulated party," for purposes of this section,
 3424 means any developer, exchange company, seller, managing entity,
 3425 owners' association, owners' association director, owners'
 3426 association officer, manager, management firm, escrow agent,
 3427 trustee, any respective assignees or agents, or any other person
 3428 having duties or obligations pursuant to this chapter.

3429 2. Any person who materially participates in any offer or
 3430 disposition of any interest in, or the management or operation
 3431 of, a timeshare plan in violation of this chapter or relevant
 3432 rules involving fraud, deception, false pretenses,
 3433 misrepresentation, or false advertising or the disbursement,
 3434 concealment, or diversion of any funds or assets, which conduct
 3435 adversely affects the interests of a purchaser, and which person
 3436 directly or indirectly controls a regulated party or is a
 3437 general partner, officer, director, agent, or employee of such

3438 regulated party, shall be jointly and severally liable under
 3439 this subsection with such regulated party, unless such person
 3440 did not know, and in the exercise of reasonable care could not
 3441 have known, of the existence of the facts giving rise to the
 3442 violation of this chapter. A right of contribution shall exist
 3443 among jointly and severally liable persons pursuant to this
 3444 paragraph.

3445 (b) The division may permit any person whose conduct or
 3446 actions may be under investigation to waive formal proceedings
 3447 and enter into a consent proceeding whereby an order, rule, or
 3448 letter of censure or warning, whether formal or informal, may be
 3449 entered against that person.

3450 (c) The division may issue an order requiring a regulated
 3451 party to cease and desist from an unlawful practice under this
 3452 chapter and take such affirmative action as in the judgment of
 3453 the division will carry out the purposes of this chapter.

3454 (d)1. The division may bring an action in circuit court
 3455 for declaratory or injunctive relief or for other appropriate
 3456 relief, including restitution.

3457 2. The division shall have broad authority and discretion
 3458 to petition the circuit court to appoint a receiver with respect
 3459 to any managing entity which fails to perform its duties and
 3460 obligations under this chapter with respect to the operation of
 3461 a timeshare plan. The circumstances giving rise to an
 3462 appropriate petition for receivership under this subparagraph
 3463 include, but are not limited to:

3464 a. Damage to or destruction of any of the accommodations
 3465 or facilities of a timeshare plan, where the managing entity has

3466 failed to repair or reconstruct same.

3467 b. A breach of fiduciary duty by the managing entity,
 3468 including, but not limited to, undisclosed self-dealing or
 3469 failure to timely assess, collect, or disburse the common
 3470 expenses of the timeshare plan.

3471 c. Failure of the managing entity to operate the timeshare
 3472 plan in accordance with the timeshare instrument and this
 3473 chapter.

3474
 3475 If, under the circumstances, it appears that the events giving
 3476 rise to the petition for receivership cannot be reasonably and
 3477 timely corrected in a cost-effective manner consistent with the
 3478 timeshare instrument, the receiver may petition the circuit
 3479 court to implement such amendments or revisions to the timeshare
 3480 instrument as may be necessary to enable the managing entity to
 3481 resume effective operation of the timeshare plan, or to enter an
 3482 order terminating the timeshare plan, or to enter such further
 3483 orders regarding the disposition of the timeshare property as
 3484 the court deems appropriate, including the disposition and sale
 3485 of the timeshare property held by the owners' association or the
 3486 purchasers. In the event of a receiver's sale, all rights,
 3487 title, and interest held by the owners' association or any
 3488 purchaser shall be extinguished and title shall vest in the
 3489 buyer. This provision applies to timeshare estates, personal
 3490 property timeshare interests, and timeshare licenses. All
 3491 reasonable costs and fees of the receiver relating to the
 3492 receivership shall become common expenses of the timeshare plan
 3493 upon order of the court.

3494 3. The division may revoke its approval of any filing for
 3495 any timeshare plan for which a petition for receivership has
 3496 been filed pursuant to this paragraph.

3497 (e)1. The division may impose a penalty against any
 3498 regulated party for a violation of this chapter or any rule
 3499 adopted thereunder. A penalty may be imposed on the basis of
 3500 each day of continuing violation, but in no event may the
 3501 penalty for any offense exceed \$10,000. All accounts collected
 3502 shall be deposited with the Chief Financial Officer to the
 3503 credit of the Division of Florida ~~Land Sales,~~ Condominiums,
 3504 Timeshares, and Mobile Homes Trust Fund.

3505 2.a. If a regulated party fails to pay a penalty, the
 3506 division shall thereupon issue an order directing that such
 3507 regulated party cease and desist from further operation until
 3508 such time as the penalty is paid; or the division may pursue
 3509 enforcement of the penalty in a court of competent jurisdiction.

3510 b. If an owners' association or managing entity fails to
 3511 pay a civil penalty, the division may pursue enforcement in a
 3512 court of competent jurisdiction.

3513 (f) In order to permit the regulated party an opportunity
 3514 ~~either~~ to appeal such decision administratively or to seek
 3515 relief in a court of competent jurisdiction, the order imposing
 3516 the penalty or the cease and desist order shall not become
 3517 effective until 20 days after the date of such order.

3518 (g) Any action commenced by the division shall be brought
 3519 in the county in which the division has its executive offices or
 3520 in the county where the violation occurred.

3521 (h) Notice to any regulated party shall be complete when

3522 delivered by United States mail, return receipt requested, to
 3523 the party's address currently on file with the division or to
 3524 such other address at which the division is able to locate the
 3525 party. Every regulated party has an affirmative duty to notify
 3526 the division of any change of address at least 5 business days
 3527 prior to such change.

3528 (6) The division has authority to adopt rules pursuant to
 3529 ss. 120.536(1) and 120.54 to implement and enforce the
 3530 provisions of this chapter.

3531 (7) (a) The use of any unfair or deceptive act or practice
 3532 by any person in connection with the sales or other operations
 3533 of an exchange program or timeshare plan is a violation of this
 3534 chapter.

3535 (b) Any violation of the Florida Deceptive and Unfair
 3536 Trade Practices Act, ss. 501.201 et seq., relating to the
 3537 creation, promotion, sale, operation, or management of any
 3538 timeshare plan shall also be a violation of this chapter.

3539 (c) The division may ~~is authorized to~~ institute
 3540 proceedings against any such person and take any appropriate
 3541 action authorized in this section in connection therewith,
 3542 notwithstanding any remedies available to purchasers.

3543 (8) The failure of any person to comply with any order of
 3544 the division is a violation of this chapter.

3545 Section 60. Section 721.28, Florida Statutes, is amended
 3546 to read:

3547 721.28 Division of Florida ~~Land Sales,~~ Condominiums,
 3548 Timeshares, and Mobile Homes Trust Fund.--All funds collected by
 3549 the division and any amounts paid as fees or penalties under

3550 | this chapter shall be deposited in the State Treasury to the
 3551 | credit of the Division of Florida ~~Land Sales~~, Condominiums,
 3552 | Timeshares, and Mobile Homes Trust Fund created by s. 718.509
 3553 | ~~498.019~~.

3554 | Section 61. Paragraph (c) of subsection (1) of section
 3555 | 721.301, Florida Statutes, is amended to read:

3556 | 721.301 Florida Timesharing, Vacation Club, and
 3557 | Hospitality Program.--

3558 | (1)

3559 | (c) The director may designate funds from the Division of
 3560 | Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes
 3561 | Trust Fund, not to exceed \$50,000 annually, to support the
 3562 | projects and proposals undertaken pursuant to paragraph (b). All
 3563 | state trust funds to be expended pursuant to this section must
 3564 | be matched equally with private moneys and shall comprise no
 3565 | more than half of the total moneys expended annually.

3566 | Section 62. Section 721.50, Florida Statutes, is amended
 3567 | to read:

3568 | 721.50 Short title.--This part may be cited as the
 3569 | "McAllister Act" in recognition and appreciation for the years
 3570 | of extraordinary and insightful contributions by Mr. Bryan C.
 3571 | McAllister, Examinations Supervisor of the former, Division of
 3572 | Florida Land Sales, Condominiums, and Mobile Homes.

3573 | Section 63. Subsection (1) of section 723.003, Florida
 3574 | Statutes, is amended to read:

3575 | 723.003 Definitions.--As used in this chapter, the
 3576 | following words and terms have the following meanings unless
 3577 | clearly indicated otherwise:

3578 (1) The term "division" means the Division of Florida ~~Land~~
 3579 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the
 3580 Department of Business and Professional Regulation.

3581 Section 64. Paragraph (e) of subsection (5) of section
 3582 723.006, Florida Statutes, is amended to read:

3583 723.006 Powers and duties of division.--In performing its
 3584 duties, the division has the following powers and duties:

3585 (5) Notwithstanding any remedies available to mobile home
 3586 owners, mobile home park owners, and homeowners' associations,
 3587 if the division has reasonable cause to believe that a violation
 3588 of any provision of this chapter or related ~~any rule promulgated~~
 3589 ~~pursuant hereto~~ has occurred, the division may institute
 3590 enforcement proceedings in its own name against a developer,
 3591 mobile home park owner, or homeowners' association, or its
 3592 assignee or agent, as follows:

3593 (e)1. The division may impose a civil penalty against a
 3594 mobile home park owner or homeowners' association, or its
 3595 assignee or agent, for any violation of this chapter, a properly
 3596 adopted ~~promulgated~~ park rule or regulation, or a rule adopted
 3597 ~~or regulation promulgated~~ pursuant hereto. A penalty may be
 3598 imposed on the basis of each separate violation and, if the
 3599 violation is a continuing one, for each day of continuing
 3600 violation, but in no event may the penalty for each separate
 3601 violation or for each day of continuing violation exceed \$5,000.
 3602 All amounts collected shall be deposited with the Chief
 3603 Financial Officer to the credit of the Division of Florida ~~Land~~
 3604 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund.

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3605 2. If a violator fails to pay the civil penalty, the
 3606 division shall thereupon issue an order directing that such
 3607 violator cease and desist from further violation until such time
 3608 as the civil penalty is paid or may pursue enforcement of the
 3609 penalty in a court of competent jurisdiction. If a homeowners'
 3610 association fails to pay the civil penalty, the division shall
 3611 thereupon pursue enforcement in a court of competent
 3612 jurisdiction, and the order imposing the civil penalty or the
 3613 cease and desist order shall not become effective until 20 days
 3614 after the date of such order. Any action commenced by the
 3615 division shall be brought in the county in which the division
 3616 has its executive offices or in which the violation occurred.

3617 Section 65. Section 723.009, Florida Statutes, is amended
 3618 to read:

3619 723.009 Division of Florida ~~Land Sales~~, Condominiums,
 3620 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the
 3621 fees, penalties, and fines imposed pursuant to this chapter
 3622 shall be deposited into the Division of Florida ~~Land Sales~~,
 3623 Condominiums, Timeshares, and Mobile Homes Trust Fund created by
 3624 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the
 3625 Legislature pursuant to chapter 216, may be used to defray the
 3626 expenses incurred by the division in administering the
 3627 provisions of this chapter.

3628 Section 66. Paragraph (c) of subsection (2) of section
 3629 723.0611, Florida Statutes, is amended to read:

3630 723.0611 Florida Mobile Home Relocation Corporation.--
 3631 (2)

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3632 (c) The corporation shall, for purposes of s. 768.28, be
3633 considered an agency of the state. Agents or employees of the
3634 corporation, members of the board of directors of the
3635 corporation, or representatives of the Division of Florida ~~Land~~
3636 ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes shall be
3637 considered officers, employees, or agents of the state, and
3638 actions against them and the corporation shall be governed by s.
3639 768.28.

3640 Section 67. This act shall take effect July 1, 2008.