

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, 498.021,
50 498.022, 498.023, 498.024, 498.025, 498.027, 498.028,
51 498.029, 498.031, 498.033, 498.035, 498.037, 498.039,
52 498.041, 498.047, 498.049, 498.051, 498.053, 498.059,
53 498.061, and 498.063, F.S., relating to regulation of land
54 sales practices; amending s. 548.0065, F.S.; including
55 amateur mixed martial arts in a provision relating to the
56 authority of the Florida State Boxing Commission to

57 suspend amateur matches for violation of certain health
58 and safety standards; amending s. 548.008, F.S.; removing
59 prohibition against holding amateur mixed martial arts
60 matches in this state; amending s. 548.041, F.S.;
61 providing additional licensure requirements for boxing
62 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 and renumbering and amending s. 498.019, F.S.;
80 consolidating and revising provisions relating to the
81 creation, purposes, and sources of funds of the Division
82 of Florida Condominiums, Timeshares, and Mobile Homes
83 Trust Fund; revising provisions to conform to the change
84 in division name; providing for the deposit of moneys

85 | resulting from an administrative final order; amending s.
 86 | 721.03, F.S.; clarifying that timeshare plan includes a
 87 | nonspecific multisite timeshare plan; amending ss. 73.073,
 88 | 190.009, 192.037, 213.053, 326.002, 326.006, 380.05,
 89 | 380.06, 380.0651, 381.0065, 455.116, 475.455, 494.008,
 90 | 509.512, 517.301, 559.935, 718.103, 718.105, 718.1255,
 91 | 718.5011, 718.502, 718.504, 718.508, 718.608, 719.103,
 92 | 719.1255, 719.501, 719.502, 719.504, 719.508, 719.608,
 93 | 720.301, 720.401, 721.05, 721.07, 721.08, 721.26, 721.28,
 94 | 721.301, 721.50, 723.003, 723.006, 723.009, and 723.0611,
 95 | F.S., to conform; providing an effective date.

96 |

97 | Be It Enacted by the Legislature of the State of Florida:

98 |

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

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

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

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

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

110 | (k) Division of Service Operations.

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

113 73.073 Eminent domain procedure with respect to
114 condominium common elements.--

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

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

140

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

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

148 190.009 Disclosure of public financing.--

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

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

157 Section 4. Paragraph (e) of subsection (6) of section
 158 192.037, Florida Statutes, is amended to read:

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

161 (6)

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

169 Section 5. Paragraph (i) of subsection (8) of section
 170 213.053, Florida Statutes, is amended to read:

171 213.053 Confidentiality and information sharing.--

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

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

178
 179 Disclosure of information under this subsection shall be
 180 pursuant to a written agreement between the executive director
 181 and the agency. Such agencies, governmental or nongovernmental,
 182 shall be bound by the same requirements of confidentiality as
 183 the Department of Revenue. Breach of confidentiality is a
 184 misdemeanor of the first degree, punishable as provided by s.
 185 775.082 or s. 775.083.

186 Section 6. Paragraph (d) of subsection (4) of section
 187 215.20, Florida Statutes, is amended to read:

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

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

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

196 1. The Administrative Trust Fund.

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

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

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

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

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

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

225 326.006 Powers and duties of division.--

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

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

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

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

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

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

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

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

277 380.05 Areas of critical state concern.--

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

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

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

298 380.06 Developments of regional impact.--

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

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

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

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

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

340 Section 11. Paragraph (a) of subsection (4) of section
 341 380.0651, Florida Statutes, is amended to read:

342 380.0651 Statewide guidelines and standards.--

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

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

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

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

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

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

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

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

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

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

383 | Section 12. Paragraph (c) of subsection (4) of section
 384 | 381.0065, Florida Statutes, is amended to read:

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

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

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

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

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

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

461 Section 13. Subsections (8) through (12) of section
462 450.33, Florida Statutes, are amended to read:

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

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

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

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

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

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

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

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

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

495 (10) Have authority to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

609 | 455.2273 Disciplinary guidelines.--

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

613 | Section 18. Paragraph (b) of subsection (2) of section
 614 | 475.17, Florida Statutes, is amended to read:

615 | 475.17 Qualifications for practice.--

616 | (2)

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

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

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

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

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

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

644 475.451 Schools teaching real estate practice.--

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

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

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

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

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

673 489.105 Definitions.--As used in this part:

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

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

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

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

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

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

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

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

708 ~~1.2. Be~~ Is of good moral character;

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

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

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

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

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

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

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

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

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

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

757 ~~appropriate fees.~~

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

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

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

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

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

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

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

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

791 (a) Meets the requirements for certification as set forth
 792 in this section; has passed a national, regional, state, or
 793 United States territorial licensing examination that is
 794 substantially equivalent to the examination required by this
 795 part; and has satisfied the requirements set forth in s.
 796 489.521; or

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

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

805 Section 23. Paragraph (b) of subsection (1) of section
 806 489.515, Florida Statutes, is amended to read:

807 489.515 Issuance of certificates; registrations.--

808 (1)

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

CS/CS/HB 601

2008

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

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

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

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

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

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

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

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

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

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

859 (7) Willful failure to comply with any of the above
 860 provisions shall subject the person to the penalties of s.
 861 494.05.

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

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

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

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

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

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

879 718.50155 ~~498.057~~ Service of process.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

952 548.0065 Amateur matches; sanctioning and supervision;

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

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

971 Section 33. Subsections (2), (3), and (4) of section
 972 548.008, Florida Statutes, are amended to read:

973 548.008 Prohibited competitions.--

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

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

980 (3)~~(4)~~(a) Any person participating in a match prohibited

981 under this section, knowing the match to be prohibited, commits
 982 a misdemeanor of the second degree, punishable as provided in s.
 983 775.082 or s. 775.083.

984 (b) Any person holding, promoting, or sponsoring a match
 985 prohibited under this section commits a felony of the third
 986 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 987 775.084.

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

990 548.041 Age, condition, and suspension of participants.--

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

994 (a) Is under the age of 18;

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

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

1000 (d) Has not competed in a minimum number of amateur boxing
 1001 events as determined by commission rule prior to licensure; or

1002 (e) Has not participated in a minimum number of amateur
 1003 mixed martial arts events as determined by commission rule prior
 1004 to licensure.

1005 Section 35. Subsection (1) of section 559.935, Florida
 1006 Statutes, is amended to read:

1007 559.935 Exemptions.--

1008 (1) This part does not apply to:

- 1009 (a) A bona fide employee of a seller of travel who is
 1010 engaged solely in the business of her or his employer;
- 1011 (b) Any direct common carrier of passengers or property
 1012 regulated by an agency of the Federal Government or employees of
 1013 such carrier when engaged solely in the transportation business
 1014 of the carrier as identified in the carrier's certificate;
- 1015 (c) An intrastate common carrier of passengers or property
 1016 selling only transportation as defined in the applicable state
 1017 or local registration or certification, or employees of such
 1018 carrier when engaged solely in the transportation business of
 1019 the carrier;
- 1020 (d) Hotels, motels, or other places of public
 1021 accommodation selling public accommodations, or employees of
 1022 such hotels, motels, or other places of public accommodation,
 1023 when engaged solely in making arrangements for lodging,
 1024 accommodations, or sightseeing tours within the state, or taking
 1025 reservations for the traveler with times, dates, locations, and
 1026 accommodations certain at the time the reservations are made,
 1027 provided that hotels and motels registered with the Department
 1028 of Business and Professional Regulation pursuant to chapter 509
 1029 are excluded from the provisions of this chapter;
- 1030 (e) Persons involved solely in the rental, leasing, or
 1031 sale of residential property;
- 1032 (f) Persons involved solely in the rental, leasing, or
 1033 sale of transportation vehicles;
- 1034 (g) Persons who make travel arrangements for themselves;
 1035 for their employees or agents; for distributors, franchisees, or
 1036 dealers of the persons' products or services; for entities which

1037 are financially related to the persons; or for the employees or
 1038 agents of the distributor, franchisee, or dealer or financially
 1039 related entity;

1040 (h) A developer of a timeshare plan or an exchange company
 1041 approved by the Division of Florida ~~Land Sales~~, Condominiums,
 1042 Timeshares, and Mobile Homes pursuant to chapter 721, but only
 1043 to the extent that the developer or exchange company engages in
 1044 conduct regulated under chapter 721; or

1045 (i) Persons or entities engaged solely in offering diving
 1046 services, including classes and sales or rentals of equipment,
 1047 when engaged in making any prearranged travel-related or
 1048 tourist-related services in conjunction with a primarily dive-
 1049 related event.

1050 Section 36. Subsection (17) of section 718.103, Florida
 1051 Statutes, is amended to read:

1052 718.103 Definitions.--As used in this chapter, the term:

1053 (17) "Division" means the Division of Florida ~~Land Sales~~,
 1054 Condominiums, Timeshares, and Mobile Homes of the Department of
 1055 Business and Professional Regulation.

1056 Section 37. Paragraph (c) of subsection (4) of section
 1057 718.105, Florida Statutes, is amended to read:

1058 718.105 Recording of declaration.--

1059 (4)

1060 (c) If the sum of money held by the clerk has not been
 1061 paid to the developer or association as provided in paragraph
 1062 (b) within ~~by~~ 3 years after the date the declaration was
 1063 originally recorded, the clerk ~~in his or her discretion~~ may
 1064 notify, in writing, the registered agent of the association that

1065 the sum is still available and the purpose for which it was
 1066 deposited. If the association does not record the certificate
 1067 within 90 days after the clerk has given the notice, the clerk
 1068 may disburse the money to the developer. If the developer cannot
 1069 be located, the clerk shall disburse the money to the Division
 1070 of Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile
 1071 Homes for deposit in the Division of Florida ~~Land Sales~~,
 1072 Condominiums, Timeshares, and Mobile Homes Trust Fund.

1073 Section 38. Subsection (4) of section 718.1255, Florida
 1074 Statutes, is amended to read:

1075 718.1255 Alternative dispute resolution; voluntary
 1076 mediation; mandatory nonbinding arbitration; legislative
 1077 findings.--

1078 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
 1079 DISPUTES.--The Division of Florida ~~Land Sales~~, Condominiums,
 1080 Timeshares, and Mobile Homes of the Department of Business and
 1081 Professional Regulation shall employ full-time attorneys to act
 1082 as arbitrators to conduct the arbitration hearings provided by
 1083 this chapter. The division may also certify attorneys who are
 1084 not employed by the division to act as arbitrators to conduct
 1085 the arbitration hearings provided by this section. No person may
 1086 be employed by the department as a full-time arbitrator unless
 1087 he or she is a member in good standing of The Florida Bar. The
 1088 department shall adopt ~~promulgate~~ rules of procedure to govern
 1089 such arbitration hearings including mediation incident thereto.
 1090 The decision of an arbitrator shall be final; however, ~~such~~ a
 1091 decision shall not be deemed final agency action. Nothing in
 1092 this provision shall be construed to foreclose parties from

CS/CS/HB 601

2008

1093 proceeding in a trial de novo unless the parties have agreed
1094 that the arbitration is binding. If ~~such~~ judicial proceedings
1095 are initiated, the final decision of the arbitrator shall be
1096 admissible in evidence in the trial de novo.

1097 (a) Prior to the institution of court litigation, a party
1098 to a dispute shall petition the division for nonbinding
1099 arbitration. The petition must be accompanied by a filing fee in
1100 the amount of \$50. Filing fees collected under this section must
1101 be used to defray the expenses of the alternative dispute
1102 resolution program.

1103 (b) The petition must recite, and have attached thereto,
1104 supporting proof that the petitioner gave the respondents:

- 1105 1. Advance written notice of the specific nature of the
1106 dispute;
- 1107 2. A demand for relief, and a reasonable opportunity to
1108 comply or to provide the relief; and
- 1109 3. Notice of the intention to file an arbitration petition
1110 or other legal action in the absence of a resolution of the
1111 dispute.

1112
1113 Failure to include the allegations or proof of compliance with
1114 these prerequisites requires dismissal of the petition without
1115 prejudice.

1116 (c) Upon receipt, the petition shall be promptly reviewed
1117 by the division to determine the existence of a dispute and
1118 compliance with the requirements of paragraphs (a) and (b). If
1119 emergency relief is required and is not available through
1120 arbitration, a motion to stay the arbitration may be filed. The

1121 motion must be accompanied by a verified petition alleging facts
 1122 that, if proven, would support entry of a temporary injunction,
 1123 and if an appropriate motion and supporting papers are filed,
 1124 the division may abate the arbitration pending a court hearing
 1125 and disposition of a motion for temporary injunction.

1126 (d) Upon determination by the division that a dispute
 1127 exists and that the petition substantially meets the
 1128 requirements of paragraphs (a) and (b) and any other applicable
 1129 rules, a copy of the petition shall ~~forthwith~~ be served by the
 1130 division upon all respondents.

1131 (e) ~~Either~~ Before or after the filing of the respondents'
 1132 answer to the petition, any party may request that the
 1133 arbitrator refer the case to mediation under this section and
 1134 any rules adopted by the division. Upon receipt of a request for
 1135 mediation, the division shall promptly contact the parties to
 1136 determine if there is agreement that mediation would be
 1137 appropriate. If all parties agree, the dispute must be referred
 1138 to mediation. Notwithstanding a lack of an agreement by all
 1139 parties, the arbitrator may refer a dispute to mediation at any
 1140 time.

1141 (f) Upon referral of a case to mediation, the parties must
 1142 select a mutually acceptable mediator. To assist in the
 1143 selection, the arbitrator shall provide the parties with a list
 1144 of both volunteer and paid mediators that have been certified by
 1145 the division under s. 718.501. If the parties are unable to
 1146 agree on a mediator within the time allowed by the arbitrator,
 1147 the arbitrator shall appoint a mediator from the list of
 1148 certified mediators. If a case is referred to mediation, the

1149 parties shall attend a mediation conference, as scheduled by the
1150 parties and the mediator. If any party fails to attend a duly
1151 noticed mediation conference, without the permission or approval
1152 of the arbitrator or mediator, the arbitrator must impose
1153 sanctions against the party, including the striking of any
1154 pleadings filed, the entry of an order of dismissal or default
1155 if appropriate, and the award of costs and attorneys' fees
1156 incurred by the other parties. Unless otherwise agreed to by the
1157 parties or as provided by order of the arbitrator, a party is
1158 deemed to have appeared at a mediation conference by the
1159 physical presence of the party or its representative having full
1160 authority to settle without further consultation, provided that
1161 an association may comply by having one or more representatives
1162 present with full authority to negotiate a settlement and
1163 recommend that the board of administration ratify and approve
1164 such a settlement within 5 days from the date of the mediation
1165 conference. The parties shall share equally the expense of
1166 mediation, unless they agree otherwise.

1167 (g) The purpose of mediation as provided for by this
1168 section is to present the parties with an opportunity to resolve
1169 the underlying dispute in good faith, and with a minimum
1170 expenditure of time and resources.

1171 (h) Mediation proceedings must generally be conducted in
1172 accordance with the Florida Rules of Civil Procedure, and these
1173 proceedings are privileged and confidential to the same extent
1174 as court-ordered mediation. Persons who are not parties to the
1175 dispute are not allowed to attend the mediation conference
1176 without the consent of all parties, with the exception of

1177 counsel for the parties and corporate representatives designated
1178 to appear for a party. If the mediator declares an impasse after
1179 a mediation conference has been held, the arbitration proceeding
1180 terminates, unless all parties agree in writing to continue the
1181 arbitration proceeding, in which case the arbitrator's decision
1182 shall be ~~either~~ binding or nonbinding, as agreed upon by the
1183 parties; in the arbitration proceeding, the arbitrator shall not
1184 consider any evidence relating to the unsuccessful mediation
1185 except in a proceeding to impose sanctions for failure to appear
1186 at the mediation conference. If the parties do not agree to
1187 continue arbitration, the arbitrator shall enter an order of
1188 dismissal, and either party may institute a suit in a court of
1189 competent jurisdiction. The parties may seek to recover any
1190 costs and attorneys' fees incurred in connection with
1191 arbitration and mediation proceedings under this section as part
1192 of the costs and fees that may be recovered by the prevailing
1193 party in any subsequent litigation.

1194 (i) Arbitration shall be conducted according to rules
1195 adopted ~~promulgated~~ by the division. The filing of a petition
1196 for arbitration shall toll the applicable statute of
1197 limitations.

1198 (j) At the request of any party to the arbitration, the
1199 ~~such~~ arbitrator shall issue subpoenas for the attendance of
1200 witnesses and the production of books, records, documents, and
1201 other evidence and any party on whose behalf a subpoena is
1202 issued may apply to the court for orders compelling such
1203 attendance and production. Subpoenas shall be served and shall
1204 be enforceable in the manner provided by the Florida Rules of

1205 Civil Procedure. Discovery may, in the discretion of the
1206 arbitrator, be permitted in the manner provided by the Florida
1207 Rules of Civil Procedure. Rules adopted by the division may
1208 authorize any reasonable sanctions except contempt for a
1209 violation of the arbitration procedural rules of the division or
1210 for the failure of a party to comply with a reasonable nonfinal
1211 order issued by an arbitrator which is not under judicial
1212 review.

1213 (k) The arbitration decision shall be presented to the
1214 parties in writing. An arbitration decision is final in those
1215 disputes in which the parties have agreed to be bound. An
1216 arbitration decision is also final if a complaint for a trial de
1217 novo is not filed in a court of competent jurisdiction in which
1218 the condominium is located within 30 days. The right to file for
1219 a trial de novo entitles the parties to file a complaint in the
1220 appropriate trial court for a judicial resolution of the
1221 dispute. The prevailing party in an arbitration proceeding shall
1222 be awarded the costs of the arbitration and reasonable
1223 attorney's fees in an amount determined by the arbitrator. Such
1224 an award shall include the costs and reasonable attorney's fees
1225 incurred in the arbitration proceeding as well as the costs and
1226 reasonable attorney's fees incurred in preparing for and
1227 attending any scheduled mediation.

1228 (l) The party who files a complaint for a trial de novo
1229 shall be assessed the other party's arbitration costs, court
1230 costs, and other reasonable costs, including attorney's fees,
1231 investigation expenses, and expenses for expert or other
1232 testimony or evidence incurred after the arbitration hearing if

1233 the judgment upon the trial de novo is not more favorable than
 1234 the arbitration decision. If the judgment is more favorable, the
 1235 party who filed a complaint for trial de novo shall be awarded
 1236 reasonable court costs and attorney's fees.

1237 (m) Any party to an arbitration proceeding may enforce an
 1238 arbitration award by filing a petition in a court of competent
 1239 jurisdiction in which the condominium is located. A petition may
 1240 not be granted unless the time for appeal by the filing of a
 1241 complaint for trial de novo has expired. If a complaint for a
 1242 trial de novo has been filed, a petition may not be granted with
 1243 respect to an arbitration award that has been stayed. If the
 1244 petition for enforcement is granted, the petitioner shall
 1245 recover reasonable attorney's fees and costs incurred in
 1246 enforcing the arbitration award. A mediation settlement may also
 1247 be enforced through the county or circuit court, as applicable,
 1248 and any costs and fees incurred in the enforcement of a
 1249 settlement agreement reached at mediation must be awarded to the
 1250 prevailing party in any enforcement action.

1251 Section 39. Section 718.501, Florida Statutes, is amended
 1252 to read:

1253 718.501 Powers and duties of Division of Florida ~~Land~~
 1254 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

1255 (1) The Division of Florida ~~Land Sales~~, Condominiums,
 1256 Timeshares, and Mobile Homes of the Department of Business and
 1257 Professional Regulation, referred to as the "division" in this
 1258 part, ~~in addition to other powers and duties prescribed by~~
 1259 ~~chapter 498~~, has the power to enforce and ensure compliance with
 1260 the provisions of this chapter and rules ~~promulgated pursuant~~

1261 ~~hereto~~ relating to the development, construction, sale, lease,
 1262 ownership, operation, and management of residential condominium
 1263 units. In performing its duties, the division has the following
 1264 powers and duties:

1265 (a) 1. The division may make necessary public or private
 1266 investigations within or outside this state to determine whether
 1267 any person has violated this chapter or any rule or order
 1268 hereunder, to aid in the enforcement of this chapter, or to aid
 1269 in the adoption of rules or forms hereunder.

1270 2. The division may submit any official written report,
 1271 worksheet, or other related paper, or a duly certified copy
 1272 thereof, compiled, prepared, drafted, or otherwise made by and
 1273 duly authenticated by a financial examiner or analyst to be
 1274 admitted as competent evidence in any hearing in which the
 1275 financial examiner or analyst is available for cross-examination
 1276 and attests under oath that such documents were prepared as a
 1277 result of an examination or inspection conducted pursuant to
 1278 this chapter.

1279 (b) The division may require or permit any person to file
 1280 a statement in writing, under oath or otherwise, as the division
 1281 determines, as to the facts and circumstances concerning a
 1282 matter to be investigated.

1283 (c) For the purpose of any investigation under this
 1284 chapter, the division director or any officer or employee
 1285 designated by the division director may administer oaths or
 1286 affirmations, subpoena witnesses and compel their attendance,
 1287 take evidence, and require the production of any matter which is
 1288 relevant to the investigation, including the existence,

1289 description, nature, custody, condition, and location of any
 1290 books, documents, or other tangible things and the identity and
 1291 location of persons having knowledge of relevant facts or any
 1292 other matter reasonably calculated to lead to the discovery of
 1293 material evidence. Upon the failure by a person to obey a
 1294 subpoena or to answer questions propounded by the investigating
 1295 officer and upon reasonable notice to all persons affected
 1296 thereby, the division may apply to the circuit court for an
 1297 order compelling compliance.

1298 (d) Notwithstanding any remedies available to unit owners
 1299 and associations, if the division has reasonable cause to
 1300 believe that a violation of any provision of this chapter or
 1301 related rule ~~promulgated pursuant hereto~~ has occurred, the
 1302 division may institute enforcement proceedings in its own name
 1303 against any developer, association, officer, or member of the
 1304 board of administration, or its assignees or agents, as follows:

1305 1. The division may permit a person whose conduct or
 1306 actions may be under investigation to waive formal proceedings
 1307 and enter into a consent proceeding whereby orders, rules, or
 1308 letters of censure or warning, whether formal or informal, may
 1309 be entered against the person.

1310 2. The division may issue an order requiring the
 1311 developer, association, officer, or member of the board of
 1312 administration, or its assignees or agents, to cease and desist
 1313 from the unlawful practice and take such affirmative action as
 1314 in the judgment of the division will carry out the purposes of
 1315 this chapter. ~~Such affirmative action may include, but is not~~
 1316 ~~limited to, an order requiring a developer to pay moneys~~

1317 ~~determined to be owed to a condominium association. If the~~
1318 division finds that a developer, association, officer, or member
1319 of the board of administration, or its assignees or agents, is
1320 violating or is about to violate any provision of this chapter,
1321 any rule adopted or order issued by the division, or any written
1322 agreement entered into with the division, and presents an
1323 immediate danger to the public requiring an immediate final
1324 order, it may issue an emergency cease and desist order reciting
1325 with particularity the facts underlying such findings. The
1326 emergency cease and desist order is effective for 90 days. If
1327 the division begins nonemergency cease and desist proceedings,
1328 the emergency cease and desist order remains effective until the
1329 conclusion of the proceedings under ss. 120.569 and 120.57.

1330 3. The division may bring an action in circuit court on
1331 behalf of a class of unit owners, lessees, or purchasers for
1332 declaratory relief, injunctive relief, or restitution.

1333 4. The division may petition the court for the appointment
1334 of a receiver or conservator. If appointed, the receiver or
1335 conservator may take action to implement the court order to
1336 ensure the performance of the order and to remedy any breach
1337 thereof. In addition to all other means provided by law for the
1338 enforcement of an injunction or temporary restraining order, the
1339 circuit court may impound or sequester the property of a party
1340 defendant, including books, papers, documents, and related
1341 records, and allow the examination and use of the property by
1342 the division and a court-appointed receiver or conservator.

1343 5. The division may apply to the circuit court for an
1344 order of restitution whereby the defendant in an action brought

1345 pursuant to subparagraph 4. shall be ordered to make restitution
 1346 of those sums shown by the division to have been obtained by the
 1347 defendant in violation of this chapter. Such restitution shall,
 1348 at the option of the court, be payable to the conservator or
 1349 receiver appointed pursuant to subparagraph 4. or directly to
 1350 the persons whose funds or assets were obtained in violation of
 1351 this chapter.

1352 ~~6.4.~~ The division may impose a civil penalty against a
 1353 developer or association, or its assignee or agent, for any
 1354 violation of this chapter or a rule adopted under this chapter
 1355 ~~promulgated pursuant hereto~~. The division may impose a civil
 1356 penalty individually against any officer or board member who
 1357 willfully and knowingly violates a provision of this chapter,
 1358 adopted a rule ~~adopted pursuant hereto~~, or a final order of the
 1359 division. The term "willfully and knowingly" means that the
 1360 division informed the officer or board member that his or her
 1361 action or intended action violates this chapter, a rule adopted
 1362 under this chapter, or a final order of the division and that
 1363 the officer or board member refused to comply with the
 1364 requirements of this chapter, a rule adopted under this chapter,
 1365 or a final order of the division. The division, prior to
 1366 initiating formal agency action under chapter 120, shall afford
 1367 the officer or board member an opportunity to voluntarily comply
 1368 with this chapter, a rule adopted under this chapter, or a final
 1369 order of the division. An officer or board member who complies
 1370 within 10 days is not subject to a civil penalty. A penalty may
 1371 be imposed on the basis of each day of continuing violation, but
 1372 in no event shall the penalty for any offense exceed \$5,000. By

1373 January 1, 1998, the division shall adopt, by rule, penalty
 1374 guidelines applicable to possible violations or to categories of
 1375 violations of this chapter or rules adopted by the division. The
 1376 guidelines must specify a meaningful range of civil penalties
 1377 for each such violation of the statute and rules and must be
 1378 based upon the harm caused by the violation, the repetition of
 1379 the violation, and upon such other factors deemed relevant by
 1380 the division. For example, the division may consider whether the
 1381 violations were committed by a developer or owner-controlled
 1382 association, the size of the association, and other factors. The
 1383 guidelines must designate the possible mitigating or aggravating
 1384 circumstances that justify a departure from the range of
 1385 penalties provided by the rules. It is the legislative intent
 1386 that minor violations be distinguished from those which endanger
 1387 the health, safety, or welfare of the condominium residents or
 1388 other persons and that such guidelines provide reasonable and
 1389 meaningful notice to the public of likely penalties that may be
 1390 imposed for proscribed conduct. This subsection does not limit
 1391 the ability of the division to informally dispose of
 1392 administrative actions or complaints by stipulation, agreed
 1393 settlement, or consent order. All amounts collected shall be
 1394 deposited with the Chief Financial Officer to the credit of the
 1395 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
 1396 Mobile Homes Trust Fund. If a developer fails to pay the civil
 1397 penalty, the division shall ~~thereupon~~ issue an order directing
 1398 that such developer cease and desist from further operation
 1399 until such time as the civil penalty is paid or may pursue
 1400 enforcement of the penalty in a court of competent jurisdiction.

1401 If an association fails to pay the civil penalty, the division
 1402 shall ~~thereupon~~ pursue enforcement in a court of competent
 1403 jurisdiction, and the order imposing the civil penalty or the
 1404 cease and desist order will not become effective until 20 days
 1405 after the date of such order. Any action commenced by the
 1406 division shall be brought in the county in which the division
 1407 has its executive offices or in the county where the violation
 1408 occurred.

1409 7. In addition to subparagraph 6., the division may seek
 1410 the imposition of a civil penalty through the circuit court for
 1411 any violation for which the division may issue a notice to show
 1412 cause under paragraph (q). The civil penalty shall be at least
 1413 \$500 but no more than \$5,000 for each violation. The court may
 1414 also award to the prevailing party court costs and reasonable
 1415 attorney's fees and, if the division prevails, may also award
 1416 reasonable costs of investigation.

1417 (e) The division may ~~is authorized to~~ prepare and
 1418 disseminate a prospectus and other information to assist
 1419 prospective owners, purchasers, lessees, and developers of
 1420 residential condominiums in assessing the rights, privileges,
 1421 and duties pertaining thereto.

1422 (f) The division has authority to adopt rules pursuant to
 1423 ss. 120.536(1) and 120.54 to implement and enforce the
 1424 provisions of this chapter.

1425 (g) The division shall establish procedures for providing
 1426 notice to an association when the division is considering the
 1427 issuance of a declaratory statement with respect to the
 1428 declaration of condominium or any related document governing in

1429 such condominium community.

1430 (h) The division shall furnish each association which pays
 1431 the fees required by paragraph (2)(a) a copy of this act,
 1432 subsequent changes to this act on an annual basis, an amended
 1433 version of this act as it becomes available from the Secretary
 1434 of State's office on a biennial basis, and the rules adopted
 1435 ~~promulgated pursuant~~ thereto on an annual basis.

1436 (i) The division shall annually provide each association
 1437 with a summary of declaratory statements and formal legal
 1438 opinions relating to the operations of condominiums which were
 1439 rendered by the division during the previous year.

1440 (j) The division shall provide training programs for
 1441 condominium association board members and unit owners.

1442 (k) The division shall maintain a toll-free telephone
 1443 number accessible to condominium unit owners.

1444 (l) The division shall develop a program to certify both
 1445 volunteer and paid mediators to provide mediation of condominium
 1446 disputes. The division shall provide, upon request, a list of
 1447 such mediators to any association, unit owner, or other
 1448 participant in arbitration proceedings under s. 718.1255
 1449 requesting a copy of the list. The division shall include on the
 1450 list of volunteer mediators only the names of persons who have
 1451 received at least 20 hours of training in mediation techniques
 1452 or who have mediated at least 20 disputes. In order to become
 1453 initially certified by the division, paid mediators must be
 1454 certified by the Supreme Court to mediate court cases in ~~either~~
 1455 county or circuit courts. However, the division may adopt, by
 1456 rule, additional factors for the certification of paid

1457 mediators, which factors must be related to experience,
1458 education, or background. Any person initially certified as a
1459 paid mediator by the division must, in order to continue to be
1460 certified, comply with the factors or requirements imposed by
1461 rules adopted by the division.

1462 (m) When a complaint is made, the division shall conduct
1463 its inquiry with due regard to the interests of the affected
1464 parties. Within 30 days after receipt of a complaint, the
1465 division shall acknowledge the complaint in writing and notify
1466 the complainant whether the complaint is within the jurisdiction
1467 of the division and whether additional information is needed by
1468 the division from the complainant. The division shall conduct
1469 its investigation and shall, within 90 days after receipt of the
1470 original complaint or of timely requested additional
1471 information, take action upon the complaint. However, the
1472 failure to complete the investigation within 90 days does not
1473 prevent the division from continuing the investigation,
1474 accepting or considering evidence obtained or received after 90
1475 days, or taking administrative action if reasonable cause exists
1476 to believe that a violation of this chapter or a rule of the
1477 division has occurred. If an investigation is not completed
1478 within the time limits established in this paragraph, the
1479 division shall, on a monthly basis, notify the complainant in
1480 writing of the status of the investigation. When reporting its
1481 action to the complainant, the division shall inform the
1482 complainant of any right to a hearing pursuant to ss. 120.569
1483 and 120.57.

1484 (n) The division may:

1485 1. Contract with agencies in this state or other
 1486 jurisdictions to perform investigative functions; or

1487 2. Accept grants-in-aid from any source.

1488 (o) The division shall cooperate with similar agencies in
 1489 other jurisdictions to establish uniform filing procedures and
 1490 forms, public offering statements, advertising standards, and
 1491 rules and common administrative practices.

1492 (p) The division shall consider notice to a developer to
 1493 be complete when it is delivered to the developer's address
 1494 currently on file with the division.

1495 (q) In addition to its enforcement authority, the division
 1496 may issue a notice to show cause, which shall provide for a
 1497 hearing, upon written request, in accordance with chapter 120.

1498 (2) (a) Effective January 1, 1992, Each condominium
 1499 association which operates more than two units shall pay to the
 1500 division an annual fee in the amount of \$4 for each residential
 1501 unit in condominiums operated by the association. If the fee is
 1502 not paid by March 1, ~~then~~ the association shall be assessed a
 1503 penalty of 10 percent of the amount due, and the association
 1504 will not have standing to maintain or defend any action in the
 1505 courts of this state until the amount due, plus any penalty, is
 1506 paid.

1507 (b) All fees shall be deposited in the Division of Florida
 1508 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust
 1509 Fund as provided by law.

1510 Section 40. Subsection (1) of section 718.5011, Florida
 1511 Statutes, is amended to read:

1512 718.5011 Ombudsman; appointment; administration.--

1513 (1) There is created an Office of the Condominium
 1514 Ombudsman, to be located for administrative purposes within the
 1515 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 1516 Mobile Homes. The functions of the office shall be funded by the
 1517 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 1518 Mobile Homes Trust Fund. The ombudsman shall be a bureau chief
 1519 of the division, and the office shall be set within the division
 1520 in the same manner as any other bureau is staffed and funded.

1521 Section 41. Paragraph (a) of subsection (2) of section
 1522 718.502, Florida Statutes, is amended to read:

1523 718.502 Filing prior to sale or lease.--

1524 (2)(a) Prior to filing as required by subsection (1), and
 1525 prior to acquiring an ownership, leasehold, or contractual
 1526 interest in the land upon which the condominium is to be
 1527 developed, a developer shall not offer a contract for purchase
 1528 of a unit or lease of a unit for more than 5 years. However, the
 1529 developer may accept deposits for reservations upon the approval
 1530 of a fully executed escrow agreement and reservation agreement
 1531 form properly filed with the Division of Florida ~~Land Sales~~,
 1532 Condominiums, Timeshares, and Mobile Homes. Each filing of a
 1533 proposed reservation program shall be accompanied by a filing
 1534 fee of \$250. Reservations shall not be taken on a proposed
 1535 condominium unless the developer has an ownership, leasehold, or
 1536 contractual interest in the land upon which the condominium is
 1537 to be developed. The division shall notify the developer within
 1538 20 days of receipt of the reservation filing of any deficiencies
 1539 contained therein. Such notification shall not preclude the
 1540 determination of reservation filing deficiencies at a later

1541 date, nor shall it relieve the developer of any responsibility
 1542 under the law. The escrow agreement and the reservation
 1543 agreement form shall include a statement of the right of the
 1544 prospective purchaser to an immediate unqualified refund of the
 1545 reservation deposit moneys upon written request to the escrow
 1546 agent by the prospective purchaser or the developer.

1547 Section 42. Section 718.504, Florida Statutes, is amended
 1548 to read:

1549 718.504 Prospectus or offering circular.--Every developer
 1550 of a residential condominium which contains more than 20
 1551 residential units, or which is part of a group of residential
 1552 condominiums which will be served by property to be used in
 1553 common by unit owners of more than 20 residential units, shall
 1554 prepare a prospectus or offering circular and file it with the
 1555 Division of Florida ~~Land Sales~~, Condominiums, Timeshares, and
 1556 Mobile Homes prior to entering into an enforceable contract of
 1557 purchase and sale of any unit or lease of a unit for more than 5
 1558 years and shall furnish a copy of the prospectus or offering
 1559 circular to each buyer. In addition to the prospectus or
 1560 offering circular, each buyer shall be furnished a separate page
 1561 entitled "Frequently Asked Questions and Answers," which shall
 1562 be in accordance with a format approved by the division and a
 1563 copy of the financial information required by s. 718.111. This
 1564 page shall, in readable language, inform prospective purchasers
 1565 regarding their voting rights and unit use restrictions,
 1566 including restrictions on the leasing of a unit; shall indicate
 1567 whether and in what amount the unit owners or the association is
 1568 obligated to pay rent or land use fees for recreational or other

1569 commonly used facilities; shall contain a statement identifying
 1570 that amount of assessment which, pursuant to the budget, would
 1571 be levied upon each unit type, exclusive of any special
 1572 assessments, and which shall further identify the basis upon
 1573 which assessments are levied, whether monthly, quarterly, or
 1574 otherwise; shall state and identify any court cases in which the
 1575 association is currently a party of record in which the
 1576 association may face liability in excess of \$100,000; and which
 1577 shall further state whether membership in a recreational
 1578 facilities association is mandatory, and if so, shall identify
 1579 the fees currently charged per unit type. The division shall by
 1580 rule require such other disclosure as in its judgment will
 1581 assist prospective purchasers. The prospectus or offering
 1582 circular may include more than one condominium, although not all
 1583 such units are being offered for sale as of the date of the
 1584 prospectus or offering circular. The prospectus or offering
 1585 circular must contain the following information:

1586 (1) The front cover or the first page must contain only:

1587 (a) The name of the condominium.

1588 (b) The following statements in conspicuous type:

1589 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
 1590 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

1591 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
 1592 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
 1593 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
 1594 MATERIALS.

1595 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY
 1596 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS

1597 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
 1598 REPRESENTATIONS.

1599 (2) Summary: The next page must contain all statements
 1600 required to be in conspicuous type in the prospectus or offering
 1601 circular.

1602 (3) A separate index of the contents and exhibits of the
 1603 prospectus.

1604 (4) Beginning on the first page of the text (not including
 1605 the summary and index), a description of the condominium,
 1606 including, but not limited to, the following information:

1607 (a) Its name and location.

1608 (b) A description of the condominium property, including,
 1609 without limitation:

1610 1. The number of buildings, the number of units in each
 1611 building, the number of bathrooms and bedrooms in each unit, and
 1612 the total number of units, if the condominium is not a phase
 1613 condominium, or the maximum number of buildings that may be
 1614 contained within the condominium, the minimum and maximum
 1615 numbers of units in each building, the minimum and maximum
 1616 numbers of bathrooms and bedrooms that may be contained in each
 1617 unit, and the maximum number of units that may be contained
 1618 within the condominium, if the condominium is a phase
 1619 condominium.

1620 2. The page in the condominium documents where a copy of
 1621 the plot plan and survey of the condominium is located.

1622 3. The estimated latest date of completion of
 1623 constructing, finishing, and equipping. In lieu of a date, the
 1624 description shall include a statement that the estimated date of

1625 completion of the condominium is in the purchase agreement and a
 1626 reference to the article or paragraph containing that
 1627 information.

1628 (c) The maximum number of units that will use facilities
 1629 in common with the condominium. If the maximum number of units
 1630 will vary, a description of the basis for variation and the
 1631 minimum amount of dollars per unit to be spent for additional
 1632 recreational facilities or enlargement of such facilities. If
 1633 the addition or enlargement of facilities will result in a
 1634 material increase of a unit owner's maintenance expense or
 1635 rental expense, if any, the maximum increase and limitations
 1636 thereon shall be stated.

1637 (5) (a) A statement in conspicuous type describing whether
 1638 the condominium is created and being sold as fee simple
 1639 interests or as leasehold interests. If the condominium is
 1640 created or being sold on a leasehold, the location of the lease
 1641 in the disclosure materials shall be stated.

1642 (b) If timeshare estates are or may be created with
 1643 respect to any unit in the condominium, a statement in
 1644 conspicuous type stating that timeshare estates are created and
 1645 being sold in units in the condominium.

1646 (6) A description of the recreational and other commonly
 1647 used facilities that will be used only by unit owners of the
 1648 condominium, including, but not limited to, the following:

1649 (a) Each room and its intended purposes, location,
 1650 approximate floor area, and capacity in numbers of people.

1651 (b) Each swimming pool, as to its general location,
 1652 approximate size and depths, approximate deck size and capacity,

1653 and whether heated.

1654 (c) Additional facilities, as to the number of each
 1655 facility, its approximate location, approximate size, and
 1656 approximate capacity.

1657 (d) A general description of the items of personal
 1658 property and the approximate number of each item of personal
 1659 property that the developer is committing to furnish for each
 1660 room or other facility or, in the alternative, a representation
 1661 as to the minimum amount of expenditure that will be made to
 1662 purchase the personal property for the facility.

1663 (e) The estimated date when each room or other facility
 1664 will be available for use by the unit owners.

1665 (f)1. An identification of each room or other facility to
 1666 be used by unit owners that will not be owned by the unit owners
 1667 or the association;

1668 2. A reference to the location in the disclosure materials
 1669 of the lease or other agreements providing for the use of those
 1670 facilities; and

1671 3. A description of the terms of the lease or other
 1672 agreements, including the length of the term; the rent payable,
 1673 directly or indirectly, by each unit owner, and the total rent
 1674 payable to the lessor, stated in monthly and annual amounts for
 1675 the entire term of the lease; and a description of any option to
 1676 purchase the property leased under any such lease, including the
 1677 time the option may be exercised, the purchase price or how it
 1678 is to be determined, the manner of payment, and whether the
 1679 option may be exercised for a unit owner's share or only as to
 1680 the entire leased property.

1681 (g) A statement as to whether the developer may provide
1682 additional facilities not described above; their general
1683 locations and types; improvements or changes that may be made;
1684 the approximate dollar amount to be expended; and the maximum
1685 additional common expense or cost to the individual unit owners
1686 that may be charged during the first annual period of operation
1687 of the modified or added facilities.

1688
1689 Descriptions as to locations, areas, capacities, numbers,
1690 volumes, or sizes may be stated as approximations or minimums.

1691 (7) A description of the recreational and other facilities
1692 that will be used in common with other condominiums, community
1693 associations, or planned developments which require the payment
1694 of the maintenance and expenses of such facilities, ~~either~~
1695 directly or indirectly, by the unit owners. The description
1696 shall include, but not be limited to, the following:

1697 (a) Each building and facility committed to be built.

1698 (b) Facilities not committed to be built except under
1699 certain conditions, and a statement of those conditions or
1700 contingencies.

1701 (c) As to each facility committed to be built, or which
1702 will be committed to be built upon the happening of one of the
1703 conditions in paragraph (b), a statement of whether it will be
1704 owned by the unit owners having the use thereof or by an
1705 association or other entity which will be controlled by them, or
1706 others, and the location in the exhibits of the lease or other
1707 document providing for use of those facilities.

1708 (d) The year in which each facility will be available for

1709 use by the unit owners or, in the alternative, the maximum
 1710 number of unit owners in the project at the time each of all of
 1711 the facilities is committed to be completed.

1712 (e) A general description of the items of personal
 1713 property, and the approximate number of each item of personal
 1714 property, that the developer is committing to furnish for each
 1715 room or other facility or, in the alternative, a representation
 1716 as to the minimum amount of expenditure that will be made to
 1717 purchase the personal property for the facility.

1718 (f) If there are leases, a description thereof, including
 1719 the length of the term, the rent payable, and a description of
 1720 any option to purchase.

1721
 1722 Descriptions shall include location, areas, capacities, numbers,
 1723 volumes, or sizes and may be stated as approximations or
 1724 minimums.

1725 (8) Recreation lease or associated club membership:

1726 (a) If any recreational facilities or other facilities
 1727 offered by the developer and available to, or to be used by,
 1728 unit owners are to be leased or have club membership associated,
 1729 the following statement in conspicuous type shall be included:

1730 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 1731 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 1732 CONDOMINIUM. There shall be a reference to the location in the
 1733 disclosure materials where the recreation lease or club
 1734 membership is described in detail.

1735 (b) If it is mandatory that unit owners pay a fee, rent,
 1736 dues, or other charges under a recreational facilities lease or

1737 club membership for the use of facilities, there shall be in
 1738 conspicuous type the applicable statement:

1739 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 1740 MANDATORY FOR UNIT OWNERS; or

1741 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 1742 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

1743 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
 1744 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
 1745 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
 1746 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

1747 4. A similar statement of the nature of the organization
 1748 or the manner in which the use rights are created, and that unit
 1749 owners are required to pay.

1750
 1751 Immediately following the applicable statement, the location in
 1752 the disclosure materials where the development is described in
 1753 detail shall be stated.

1754 (c) If the developer, or any other person other than the
 1755 unit owners and other persons having use rights in the
 1756 facilities, reserves, or is entitled to receive, any rent, fee,
 1757 or other payment for the use of the facilities, then there shall
 1758 be the following statement in conspicuous type: THE UNIT OWNERS
 1759 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 1760 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately
 1761 following this statement, the location in the disclosure
 1762 materials where the rent or land use fees are described in
 1763 detail shall be stated.

1764 (d) If, in any recreation format, whether leasehold, club,

1765 or other, any person other than the association has the right to
 1766 a lien on the units to secure the payment of assessments, rent,
 1767 or other exactions, there shall appear a statement in
 1768 conspicuous type in substantially the following form:

1769 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 1770 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 1771 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
 1772 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

1773 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 1774 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 1775 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 1776 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE
 1777 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

1778
 1779 Immediately following the applicable statement, the location in
 1780 the disclosure materials where the lien or lien right is
 1781 described in detail shall be stated.

1782 (9) If the developer or any other person has the right to
 1783 increase or add to the recreational facilities at any time after
 1784 the establishment of the condominium whose unit owners have use
 1785 rights therein, without the consent of the unit owners or
 1786 associations being required, there shall appear a statement in
 1787 conspicuous type in substantially the following form:

1788 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
 1789 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
 1790 statement, the location in the disclosure materials where such
 1791 reserved rights are described shall be stated.

1792 (10) A statement of whether the developer's plan includes

1793 a program of leasing units rather than selling them, or leasing
 1794 units and selling them subject to such leases. If so, there
 1795 shall be a description of the plan, including the number and
 1796 identification of the units and the provisions and term of the
 1797 proposed leases, and a statement in boldfaced type that: THE
 1798 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

1799 (11) The arrangements for management of the association
 1800 and maintenance and operation of the condominium property and of
 1801 other property that will serve the unit owners of the
 1802 condominium property, and a description of the management
 1803 contract and all other contracts for these purposes having a
 1804 term in excess of 1 year, including the following:

- 1805 (a) The names of contracting parties.
- 1806 (b) The term of the contract.
- 1807 (c) The nature of the services included.
- 1808 (d) The compensation, stated on a monthly and annual
 1809 basis, and provisions for increases in the compensation.
- 1810 (e) A reference to the volumes and pages of the
 1811 condominium documents and of the exhibits containing copies of
 1812 such contracts.

1813
 1814 Copies of all described contracts shall be attached as exhibits.
 1815 If there is a contract for the management of the condominium
 1816 property, then a statement in conspicuous type in substantially
 1817 the following form shall appear, identifying the proposed or
 1818 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
 1819 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE
 1820 CONTRACT MANAGER). Immediately following this statement, the

1821 location in the disclosure materials of the contract for
 1822 management of the condominium property shall be stated.

1823 (12) If the developer or any other person or persons other
 1824 than the unit owners has the right to retain control of the
 1825 board of administration of the association for a period of time
 1826 which can exceed 1 year after the closing of the sale of a
 1827 majority of the units in that condominium to persons other than
 1828 successors or alternate developers, then a statement in
 1829 conspicuous type in substantially the following form shall be
 1830 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
 1831 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
 1832 HAVE BEEN SOLD. Immediately following this statement, the
 1833 location in the disclosure materials where this right to control
 1834 is described in detail shall be stated.

1835 (13) If there are any restrictions upon the sale,
 1836 transfer, conveyance, or leasing of a unit, then a statement in
 1837 conspicuous type in substantially the following form shall be
 1838 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
 1839 CONTROLLED. Immediately following this statement, the location
 1840 in the disclosure materials where the restriction, limitation,
 1841 or control on the sale, lease, or transfer of units is described
 1842 in detail shall be stated.

1843 (14) If the condominium is part of a phase project, the
 1844 following information shall be stated:

1845 (a) A statement in conspicuous type in substantially the
 1846 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
 1847 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
 1848 this statement, the location in the disclosure materials where

1849 the phasing is described shall be stated.

1850 (b) A summary of the provisions of the declaration which
1851 provide for the phasing.

1852 (c) A statement as to whether or not residential buildings
1853 and units which are added to the condominium may be
1854 substantially different from the residential buildings and units
1855 originally in the condominium. If the added residential
1856 buildings and units may be substantially different, there shall
1857 be a general description of the extent to which such added
1858 residential buildings and units may differ, and a statement in
1859 conspicuous type in substantially the following form shall be
1860 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM
1861 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
1862 UNITS IN THE CONDOMINIUM. Immediately following this statement,
1863 the location in the disclosure materials where the extent to
1864 which added residential buildings and units may substantially
1865 differ is described shall be stated.

1866 (d) A statement of the maximum number of buildings
1867 containing units, the maximum and minimum numbers of units in
1868 each building, the maximum number of units, and the minimum and
1869 maximum square footage of the units that may be contained within
1870 each parcel of land which may be added to the condominium.

1871 (15) If a condominium created on or after July 1, 2000, is
1872 or may become part of a multicondominium, the following
1873 information must be provided:

1874 (a) A statement in conspicuous type in substantially the
1875 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
1876 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL

1877 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
1878 this statement, the location in the prospectus or offering
1879 circular and its exhibits where the multicondominium aspects of
1880 the offering are described must be stated.

1881 (b) A summary of the provisions in the declaration,
1882 articles of incorporation, and bylaws which establish and
1883 provide for the operation of the multicondominium, including a
1884 statement as to whether unit owners in the condominium will have
1885 the right to use recreational or other facilities located or
1886 planned to be located in other condominiums operated by the same
1887 association, and the manner of sharing the common expenses
1888 related to such facilities.

1889 (c) A statement of the minimum and maximum number of
1890 condominiums, and the minimum and maximum number of units in
1891 each of those condominiums, which will or may be operated by the
1892 association, and the latest date by which the exact number will
1893 be finally determined.

1894 (d) A statement as to whether any of the condominiums in
1895 the multicondominium may include units intended to be used for
1896 nonresidential purposes and the purpose or purposes permitted
1897 for such use.

1898 (e) A general description of the location and approximate
1899 acreage of any land on which any additional condominiums to be
1900 operated by the association may be located.

1901 (16) If the condominium is created by conversion of
1902 existing improvements, the following information shall be
1903 stated:

1904 (a) The information required by s. 718.616.

1905 (b) A caveat that there are no express warranties unless
 1906 they are stated in writing by the developer.

1907 (17) A summary of the restrictions, if any, to be imposed
 1908 on units concerning the use of any of the condominium property,
 1909 including statements as to whether there are restrictions upon
 1910 children and pets, and reference to the volumes and pages of the
 1911 condominium documents where such restrictions are found, or if
 1912 such restrictions are contained elsewhere, then a copy of the
 1913 documents containing the restrictions shall be attached as an
 1914 exhibit.

1915 (18) If there is any land that is offered by the developer
 1916 for use by the unit owners and that is neither owned by them nor
 1917 leased to them, the association, or any entity controlled by
 1918 unit owners and other persons having the use rights to such
 1919 land, a statement shall be made as to how such land will serve
 1920 the condominium. If any part of such land will serve the
 1921 condominium, the statement shall describe the land and the
 1922 nature and term of service, and the declaration or other
 1923 instrument creating such servitude shall be included as an
 1924 exhibit.

1925 (19) The manner in which utility and other services,
 1926 including, but not limited to, sewage and waste disposal, water
 1927 supply, and storm drainage, will be provided and the person or
 1928 entity furnishing them.

1929 (20) An explanation of the manner in which the
 1930 apportionment of common expenses and ownership of the common
 1931 elements has been determined.

1932 (21) An estimated operating budget for the condominium and

1933 the association, and a schedule of the unit owner's expenses
 1934 shall be attached as an exhibit and shall contain the following
 1935 information:

1936 (a) The estimated monthly and annual expenses of the
 1937 condominium and the association that are collected from unit
 1938 owners by assessments.

1939 (b) The estimated monthly and annual expenses of each unit
 1940 owner for a unit, other than common expenses paid by all unit
 1941 owners, payable by the unit owner to persons or entities other
 1942 than the association, as well as to the association, including
 1943 fees assessed pursuant to s. 718.113(1) for maintenance of
 1944 limited common elements where such costs are shared only by
 1945 those entitled to use the limited common element, and the total
 1946 estimated monthly and annual expense. There may be excluded from
 1947 this estimate expenses which are not provided for or
 1948 contemplated by the condominium documents, including, but not
 1949 limited to, the costs of private telephone; maintenance of the
 1950 interior of condominium units, which is not the obligation of
 1951 the association; maid or janitorial services privately
 1952 contracted for by the unit owners; utility bills billed directly
 1953 to each unit owner for utility services to his or her unit;
 1954 insurance premiums other than those incurred for policies
 1955 obtained by the condominium; and similar personal expenses of
 1956 the unit owner. A unit owner's estimated payments for
 1957 assessments shall also be stated in the estimated amounts for
 1958 the times when they will be due.

1959 (c) The estimated items of expenses of the condominium and
 1960 the association, except as excluded under paragraph (b),

1961 including, but not limited to, the following items, which shall
 1962 be stated ~~either~~ as an association expense collectible by
 1963 assessments or as unit owners' expenses payable to persons other
 1964 than the association:

1965 1. Expenses for the association and condominium:

1966 a. Administration of the association.

1967 b. Management fees.

1968 c. Maintenance.

1969 d. Rent for recreational and other commonly used
 1970 facilities.

1971 e. Taxes upon association property.

1972 f. Taxes upon leased areas.

1973 g. Insurance.

1974 h. Security provisions.

1975 i. Other expenses.

1976 j. Operating capital.

1977 k. Reserves.

1978 l. Fees payable to the division.

1979 2. Expenses for a unit owner:

1980 a. Rent for the unit, if subject to a lease.

1981 b. Rent payable by the unit owner directly to the lessor
 1982 or agent under any recreational lease or lease for the use of
 1983 commonly used facilities, which use and payment is a mandatory
 1984 condition of ownership and is not included in the common expense
 1985 or assessments for common maintenance paid by the unit owners to
 1986 the association.

1987 (d) The following statement in conspicuous type: THE
 1988 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN

1989 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
 1990 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
 1991 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
 1992 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
 1993 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
 1994 THE OFFERING.

1995 (e) Each budget for an association prepared by a developer
 1996 consistent with this subsection shall be prepared in good faith
 1997 and shall reflect accurate estimated amounts for the required
 1998 items in paragraph (c) at the time of the filing of the offering
 1999 circular with the division, and subsequent increased amounts of
 2000 any item included in the association's estimated budget that are
 2001 beyond the control of the developer shall not be considered an
 2002 amendment that would give rise to rescission rights set forth in
 2003 s. 718.503(1)(a) or (b), nor shall such increases modify, void,
 2004 or otherwise affect any guarantee of the developer contained in
 2005 the offering circular or any purchase contract. It is the intent
 2006 of this paragraph to clarify existing law.

2007 (f) The estimated amounts shall be stated for a period of
 2008 at least 12 months and may distinguish between the period prior
 2009 to the time unit owners other than the developer elect a
 2010 majority of the board of administration and the period after
 2011 that date.

2012 (22) A schedule of estimated closing expenses to be paid
 2013 by a buyer or lessee of a unit and a statement of whether title
 2014 opinion or title insurance policy is available to the buyer and,
 2015 if so, at whose expense.

2016 (23) The identity of the developer and the chief operating

2017 officer or principal directing the creation and sale of the
 2018 condominium and a statement of its and his or her experience in
 2019 this field.

2020 (24) Copies of the following, to the extent they are
 2021 applicable, shall be included as exhibits:

2022 (a) The declaration of condominium, or the proposed
 2023 declaration if the declaration has not been recorded.

2024 (b) The articles of incorporation creating the
 2025 association.

2026 (c) The bylaws of the association.

2027 (d) The ground lease or other underlying lease of the
 2028 condominium.

2029 (e) The management agreement and all maintenance and other
 2030 contracts for management of the association and operation of the
 2031 condominium and facilities used by the unit owners having a
 2032 service term in excess of 1 year.

2033 (f) The estimated operating budget for the condominium and
 2034 the required schedule of unit owners' expenses.

2035 (g) A copy of the floor plan of the unit and the plot plan
 2036 showing the location of the residential buildings and the
 2037 recreation and other common areas.

2038 (h) The lease of recreational and other facilities that
 2039 will be used only by unit owners of the subject condominium.

2040 (i) The lease of facilities used by owners and others.

2041 (j) The form of unit lease, if the offer is of a
 2042 leasehold.

2043 (k) A declaration of servitude of properties serving the
 2044 condominium but not owned by unit owners or leased to them or

2045 the association.

2046 (l) The statement of condition of the existing building or
 2047 buildings, if the offering is of units in an operation being
 2048 converted to condominium ownership.

2049 (m) The statement of inspection for termite damage and
 2050 treatment of the existing improvements, if the condominium is a
 2051 conversion.

2052 (n) The form of agreement for sale or lease of units.

2053 (o) A copy of the agreement for escrow of payments made to
 2054 the developer prior to closing.

2055 (p) A copy of the documents containing any restrictions on
 2056 use of the property required by subsection (17).

2057 (25) Any prospectus or offering circular complying, prior
 2058 to the effective date of this act, with the provisions of former
 2059 ss. 711.69 and 711.802 may continue to be used without amendment
 2060 or may be amended to comply with ~~the provisions of~~ this chapter.

2061 (26) A brief narrative description of the location and
 2062 effect of all existing and intended easements located or to be
 2063 located on the condominium property other than those described
 2064 in the declaration.

2065 (27) If the developer is required by state or local
 2066 authorities to obtain acceptance or approval of any dock or
 2067 marina facilities intended to serve the condominium, a copy of
 2068 any such acceptance or approval acquired by the time of filing
 2069 with the division under s. 718.502(1) or a statement that such
 2070 acceptance or approval has not been acquired or received.

2071 (28) Evidence demonstrating that the developer has an
 2072 ownership, leasehold, or contractual interest in the land upon
 2073 which the condominium is to be developed.

2074 Section 43. Section 718.508, Florida Statutes, is amended
 2075 to read:

2076 718.508 Regulation by Division of Hotels and
 2077 Restaurants.--In addition to the authority, regulation, or
 2078 control exercised by the Division of Florida ~~Land Sales,~~
 2079 Condominiums, Timeshares, and Mobile Homes pursuant to this act
 2080 with respect to condominiums, buildings included in a
 2081 condominium property are ~~shall be~~ subject to the authority,
 2082 regulation, or control of the Division of Hotels and Restaurants
 2083 of the Department of Business and Professional Regulation, to
 2084 the extent provided ~~for~~ in chapter 399.

2085 Section 44. Section 718.509, Florida Statutes, is amended,
 2086 and section 498.019, Florida Statutes, is transferred,
 2087 renumbered as subsections (1) and (2) of that section, and
 2088 amended, to read:

2089 718.509 Division of Florida ~~Land Sales,~~ Condominiums,
 2090 Timeshares, and Mobile Homes Trust Fund.--~~All funds collected by~~
 2091 ~~the division and any amount paid for a fee or penalty under this~~
 2092 ~~chapter shall be deposited in the State Treasury to the credit~~
 2093 ~~of the Division of Florida Land Sales, Condominiums, and Mobile~~
 2094 ~~Homes Trust Fund created by s. 498.019.~~

2095 ~~498.019 Division of Florida Land Sales, Condominiums, and~~
 2096 ~~Mobile Homes Trust Fund.~~

2097 (1) There is created within the State Treasury the
 2098 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and

2099 Mobile Homes Trust Fund to be used for the administration and
 2100 operation of this chapter and chapters 718, 719, 721, and 723 by
 2101 the division.

2102 (2) All moneys collected by the division from fees, fines,
 2103 or penalties or from costs awarded to the division by a court or
 2104 administrative final order shall be paid into the Division of
 2105 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes
 2106 Trust Fund. The Legislature shall appropriate funds from this
 2107 trust fund sufficient to carry out the provisions of this
 2108 chapter and the provisions of law with respect to each category
 2109 of business covered by the ~~this~~ trust fund. The division shall
 2110 maintain separate revenue accounts in the trust fund for each of
 2111 the businesses regulated by the division. The division shall
 2112 provide for the proportionate allocation among the accounts of
 2113 expenses incurred by the division in the performance of its
 2114 duties with respect to each of these businesses. As part of its
 2115 normal budgetary process, the division shall prepare an annual
 2116 report of revenue and allocated expenses related to the
 2117 operation of each of these businesses which may be used to
 2118 determine fees charged by the division. This subsection shall
 2119 operate pursuant to the provisions of s. 215.20.

2120 Section 45. Paragraph (a) of subsection (2) of section
 2121 718.608, Florida Statutes, is amended to read:

2122 718.608 Notice of intended conversion; time of delivery;
 2123 content.--

2124 (2) (a) Each notice of intended conversion shall be dated
 2125 and in writing. The notice shall contain the following
 2126 statement, with the phrases of the following statement which

2127 appear in upper case printed in conspicuous type:

2128

2129 These apartments are being converted to condominium by
2130 (name of developer) , the developer.

2131 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
2132 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
2133 AGREEMENT AS FOLLOWS:

2134 a. If you have continuously been a resident of these
2135 apartments during the last 180 days and your rental agreement
2136 expires during the next 270 days, you may extend your rental
2137 agreement for up to 270 days after the date of this notice.

2138 b. If you have not been a continuous resident of these
2139 apartments for the last 180 days and your rental agreement
2140 expires during the next 180 days, you may extend your rental
2141 agreement for up to 180 days after the date of this notice.

2142 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
2143 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
2144 DATE OF THIS NOTICE.

2145 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
2146 you may extend your rental agreement for up to 45 days after the
2147 date of this notice while you decide whether to extend your
2148 rental agreement as explained above. To do so, you must notify
2149 the developer in writing. You will then have the full 45 days to
2150 decide whether to extend your rental agreement as explained
2151 above.

2152 3. During the extension of your rental agreement you will
2153 be charged the same rent that you are now paying.

2154 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION

2155 OF THE RENTAL AGREEMENT AS FOLLOWS:

2156 a. If your rental agreement began or was extended or
 2157 renewed after May 1, 1980, and your rental agreement, including
 2158 extensions and renewals, has an unexpired term of 180 days or
 2159 less, you may cancel your rental agreement upon 30 days' written
 2160 notice and move. Also, upon 30 days' written notice, you may
 2161 cancel any extension of the rental agreement.

2162 b. If your rental agreement was not begun or was not
 2163 extended or renewed after May 1, 1980, you may not cancel the
 2164 rental agreement without the consent of the developer. If your
 2165 rental agreement, including extensions and renewals, has an
 2166 unexpired term of 180 days or less, you may, however, upon 30
 2167 days' written notice cancel any extension of the rental
 2168 agreement.

2169 5. All notices must be given in writing and sent by mail,
 2170 return receipt requested, or delivered in person to the
 2171 developer at this address: (name and address of developer) .

2172 6. If you have continuously been a resident of these
 2173 apartments during the last 180 days:

2174 a. You have the right to purchase your apartment and will
 2175 have 45 days to decide whether to purchase. If you do not buy
 2176 the unit at that price and the unit is later offered at a lower
 2177 price, you will have the opportunity to buy the unit at the
 2178 lower price. However, in all events your right to purchase the
 2179 unit ends when the rental agreement or any extension of the
 2180 rental agreement ends or when you waive this right in writing.

2181 b. Within 90 days you will be provided purchase
 2182 information relating to your apartment, including the price of

2183 | your unit and the condition of the building. If you do not
 2184 | receive this information within 90 days, your rental agreement
 2185 | and any extension will be extended 1 day for each day over 90
 2186 | days until you are given the purchase information. If you do not
 2187 | want this rental agreement extension, you must notify the
 2188 | developer in writing.

2189 | 7. If you have any questions regarding this conversion or
 2190 | the Condominium Act, you may contact the developer or the state
 2191 | agency which regulates condominiums: The Division of Florida
 2192 | ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes,
 2193 | (Tallahassee address and telephone number of division) .

2194 | Section 46. Subsection (17) of section 719.103, Florida
 2195 | Statutes, is amended to read:

2196 | 719.103 Definitions.--As used in this chapter:

2197 | (17) "Division" means the Division of Florida ~~Land Sales,~~
 2198 | Condominiums, Timeshares, and Mobile Homes of the Department of
 2199 | Business and Professional Regulation.

2200 | Section 47. Section 719.1255, Florida Statutes, is amended
 2201 | to read:

2202 | 719.1255 Alternative resolution of disputes.--The Division
 2203 | of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile
 2204 | Homes of the Department of Business and Professional Regulation
 2205 | shall provide for alternative dispute resolution in accordance
 2206 | with s. 718.1255.

2207 | Section 48. Section 719.501, Florida Statutes, is amended
 2208 | to read:

2209 | 719.501 Powers and duties of Division of Florida ~~Land~~
 2210 | ~~Sales,~~ Condominiums, Timeshares, and Mobile Homes.--

2211 (1) The Division of Florida ~~Land Sales~~, Condominiums,
 2212 Timeshares, and Mobile Homes of the Department of Business and
 2213 Professional Regulation, referred to as the "division" in this
 2214 part, in addition to other powers and duties prescribed by
 2215 chapter 718 ~~498~~, has the power to enforce and ensure compliance
 2216 with ~~the provisions of~~ this chapter and adopted rules
 2217 ~~promulgated pursuant hereto~~ relating to the development,
 2218 construction, sale, lease, ownership, operation, and management
 2219 of residential cooperative units. In performing its duties, the
 2220 division shall have the following powers and duties:

2221 (a) The division may make necessary public or private
 2222 investigations within or outside this state to determine whether
 2223 any person has violated this chapter or any rule or order
 2224 hereunder, to aid in the enforcement of this chapter, or to aid
 2225 in the adoption of rules or forms hereunder.

2226 (b) The division may require or permit any person to file
 2227 a statement in writing, under oath or otherwise, as the division
 2228 determines, as to the facts and circumstances concerning a
 2229 matter to be investigated.

2230 (c) For the purpose of any investigation under this
 2231 chapter, the division director or any officer or employee
 2232 designated by the division director may administer oaths or
 2233 affirmations, subpoena witnesses and compel their attendance,
 2234 take evidence, and require the production of any matter which is
 2235 relevant to the investigation, including the existence,
 2236 description, nature, custody, condition, and location of any
 2237 books, documents, or other tangible things and the identity and
 2238 location of persons having knowledge of relevant facts or any

2239 other matter reasonably calculated to lead to the discovery of
2240 material evidence. Upon failure by a person to obey a subpoena
2241 or to answer questions propounded by the investigating officer
2242 and upon reasonable notice to all persons affected thereby, the
2243 division may apply to the circuit court for an order compelling
2244 compliance.

2245 (d) Notwithstanding any remedies available to unit owners
2246 and associations, if the division has reasonable cause to
2247 believe that a violation of any provision of this chapter or
2248 related rule ~~promulgated pursuant hereto~~ has occurred, the
2249 division may institute enforcement proceedings in its own name
2250 against a developer, association, officer, or member of the
2251 board, or its assignees or agents, as follows:

2252 1. The division may permit a person whose conduct or
2253 actions may be under investigation to waive formal proceedings
2254 and enter into a consent proceeding whereby orders, rules, or
2255 letters of censure or warning, whether formal or informal, may
2256 be entered against the person.

2257 2. The division may issue an order requiring the
2258 developer, association, officer, or member of the board, or its
2259 assignees or agents, to cease and desist from the unlawful
2260 practice and take such affirmative action as in the judgment of
2261 the division will carry out the purposes of this chapter. Such
2262 affirmative action may include, but is not limited to, an order
2263 requiring a developer to pay moneys determined to be owed to a
2264 condominium association.

2265 3. The division may bring an action in circuit court on
2266 behalf of a class of unit owners, lessees, or purchasers for

2267 declaratory relief, injunctive relief, or restitution.
 2268 4. The division may impose a civil penalty against a
 2269 developer or association, or its assignees or agents, for any
 2270 violation of this chapter or related a rule ~~promulgated pursuant~~
 2271 ~~hereto~~. The division may impose a civil penalty individually
 2272 against any officer or board member who willfully and knowingly
 2273 violates a provision of this chapter, a rule adopted pursuant to
 2274 this chapter, or a final order of the division. The term
 2275 "willfully and knowingly" means that the division informed the
 2276 officer or board member that his or her action or intended
 2277 action violates this chapter, a rule adopted under this chapter,
 2278 or a final order of the division, and that the officer or board
 2279 member refused to comply with the requirements of this chapter,
 2280 a rule adopted under this chapter, or a final order of the
 2281 division. The division, prior to initiating formal agency action
 2282 under chapter 120, shall afford the officer or board member an
 2283 opportunity to voluntarily comply with this chapter, a rule
 2284 adopted under this chapter, or a final order of the division. An
 2285 officer or board member who complies within 10 days is not
 2286 subject to a civil penalty. A penalty may be imposed on the
 2287 basis of each day of continuing violation, but in no event shall
 2288 the penalty for any offense exceed \$5,000. By January 1, 1998,
 2289 the division shall adopt, by rule, penalty guidelines applicable
 2290 to possible violations or to categories of violations of this
 2291 chapter or rules adopted by the division. The guidelines must
 2292 specify a meaningful range of civil penalties for each such
 2293 violation of the statute and rules and must be based upon the
 2294 harm caused by the violation, the repetition of the violation,

2295 and upon such other factors deemed relevant by the division. For
 2296 example, the division may consider whether the violations were
 2297 committed by a developer or owner-controlled association, the
 2298 size of the association, and other factors. The guidelines must
 2299 designate the possible mitigating or aggravating circumstances
 2300 that justify a departure from the range of penalties provided by
 2301 the rules. It is the legislative intent that minor violations be
 2302 distinguished from those which endanger the health, safety, or
 2303 welfare of the cooperative residents or other persons and that
 2304 such guidelines provide reasonable and meaningful notice to the
 2305 public of likely penalties that may be imposed for proscribed
 2306 conduct. This subsection does not limit the ability of the
 2307 division to informally dispose of administrative actions or
 2308 complaints by stipulation, agreed settlement, or consent order.
 2309 All amounts collected shall be deposited with the Chief
 2310 Financial Officer to the credit of the Division of Florida ~~Land~~
 2311 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If
 2312 a developer fails to pay the civil penalty, the division shall
 2313 thereupon issue an order directing that such developer cease and
 2314 desist from further operation until such time as the civil
 2315 penalty is paid or may pursue enforcement of the penalty in a
 2316 court of competent jurisdiction. If an association fails to pay
 2317 the civil penalty, the division shall thereupon pursue
 2318 enforcement in a court of competent jurisdiction, and the order
 2319 imposing the civil penalty or the cease and desist order shall
 2320 not become effective until 20 days after the date of such order.
 2321 Any action commenced by the division shall be brought in the
 2322 county in which the division has its executive offices or in the

2323 county where the violation occurred.

2324 (e) The division may ~~is authorized to~~ prepare and
 2325 disseminate a prospectus and other information to assist
 2326 prospective owners, purchasers, lessees, and developers of
 2327 residential cooperatives in assessing the rights, privileges,
 2328 and duties pertaining thereto.

2329 (f) The division has authority to adopt rules pursuant to
 2330 ss. 120.536(1) and 120.54 to implement and enforce the
 2331 provisions of this chapter.

2332 (g) The division shall establish procedures for providing
 2333 notice to an association when the division is considering the
 2334 issuance of a declaratory statement with respect to the
 2335 cooperative documents governing such cooperative community.

2336 (h) The division shall furnish each association which pays
 2337 the fees required by paragraph (2)(a) a copy of this act,
 2338 subsequent changes to this act on an annual basis, an amended
 2339 version of this act as it becomes available from the Secretary
 2340 of State's office on a biennial basis, and the rules adopted
 2341 ~~promulgated pursuant~~ thereto on an annual basis.

2342 (i) The division shall annually provide each association
 2343 with a summary of declaratory statements and formal legal
 2344 opinions relating to the operations of cooperatives which were
 2345 rendered by the division during the previous year.

2346 (j) The division shall adopt uniform accounting
 2347 principles, policies, and standards to be used by all
 2348 associations in the preparation and presentation of all
 2349 financial statements required by this chapter. The principles,
 2350 policies, and standards shall take into consideration the size

2351 of the association and the total revenue collected by the
2352 association.

2353 (k) The division shall provide training programs for
2354 cooperative association board members and unit owners.

2355 (l) The division shall maintain a toll-free telephone
2356 number accessible to cooperative unit owners.

2357 (m) When a complaint is made to the division, the division
2358 shall conduct its inquiry with reasonable dispatch and with due
2359 regard to the interests of the affected parties. Within 30 days
2360 after receipt of a complaint, the division shall acknowledge the
2361 complaint in writing and notify the complainant whether the
2362 complaint is within the jurisdiction of the division and whether
2363 additional information is needed by the division from the
2364 complainant. The division shall conduct its investigation and
2365 shall, within 90 days after receipt of the original complaint or
2366 timely requested additional information, take action upon the
2367 complaint. However, the failure to complete the investigation
2368 within 90 days does not prevent the division from continuing the
2369 investigation, accepting or considering evidence obtained or
2370 received after 90 days, or taking administrative action if
2371 reasonable cause exists to believe that a violation of this
2372 chapter or a rule of the division has occurred. If an
2373 investigation is not completed within the time limits
2374 established in this paragraph, the division shall, on a monthly
2375 basis, notify the complainant in writing of the status of the
2376 investigation. When reporting its action to the complainant, the
2377 division shall inform the complainant of any right to a hearing
2378 pursuant to ss. 120.569 and 120.57.

2379 (n) The division shall develop a program to certify both
 2380 volunteer and paid mediators to provide mediation of cooperative
 2381 disputes. The division shall provide, upon request, a list of
 2382 such mediators to any association, unit owner, or other
 2383 participant in arbitration proceedings under s. 718.1255
 2384 requesting a copy of the list. The division shall include on the
 2385 list of voluntary mediators only persons who have received at
 2386 least 20 hours of training in mediation techniques or have
 2387 mediated at least 20 disputes. In order to become initially
 2388 certified by the division, paid mediators must be certified by
 2389 the Supreme Court to mediate court cases in ~~either~~ county or
 2390 circuit courts. However, the division may adopt, by rule,
 2391 additional factors for the certification of paid mediators,
 2392 which factors must be related to experience, education, or
 2393 background. Any person initially certified as a paid mediator by
 2394 the division must, in order to continue to be certified, comply
 2395 with the factors or requirements imposed by rules adopted by the
 2396 division.

2397 (2)(a) Each cooperative association shall pay to the
 2398 division, on or before January 1 of each year, an annual fee in
 2399 the amount of \$4 for each residential unit in cooperatives
 2400 operated by the association. If the fee is not paid by March 1,
 2401 then the association shall be assessed a penalty of 10 percent
 2402 of the amount due, and the association shall not have the
 2403 standing to maintain or defend any action in the courts of this
 2404 state until the amount due is paid.

2405 (b) All fees shall be deposited in the Division of Florida
 2406 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes Trust
 2407 Fund as provided by law.

2408 Section 49. Section 719.501, Florida Statutes, is amended
 2409 to read:

2410 719.501 Powers and duties of Division of Florida ~~Land~~
 2411 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes.--

2412 (1) The Division of Florida ~~Land Sales~~, Condominiums,
 2413 Timeshares, and Mobile Homes of the Department of Business and
 2414 Professional Regulation, referred to as the "division" in this
 2415 part, in addition to other powers and duties prescribed by
 2416 chapter 718 ~~498~~, has the power to enforce and ensure compliance
 2417 with ~~the provisions of~~ this chapter and adopted rules
 2418 ~~promulgated pursuant hereto~~ relating to the development,
 2419 construction, sale, lease, ownership, operation, and management
 2420 of residential cooperative units. In performing its duties, the
 2421 division shall have the following powers and duties:

2422 (a) The division may make necessary public or private
 2423 investigations within or outside this state to determine whether
 2424 any person has violated this chapter or any rule or order
 2425 hereunder, to aid in the enforcement of this chapter, or to aid
 2426 in the adoption of rules or forms hereunder.

2427 (b) The division may require or permit any person to file
 2428 a statement in writing, under oath or otherwise, as the division
 2429 determines, as to the facts and circumstances concerning a
 2430 matter to be investigated.

2431 (c) For the purpose of any investigation under this
 2432 chapter, the division director or any officer or employee

2433 designated by the division director may administer oaths or
2434 affirmations, subpoena witnesses and compel their attendance,
2435 take evidence, and require the production of any matter which is
2436 relevant to the investigation, including the existence,
2437 description, nature, custody, condition, and location of any
2438 books, documents, or other tangible things and the identity and
2439 location of persons having knowledge of relevant facts or any
2440 other matter reasonably calculated to lead to the discovery of
2441 material evidence. Upon failure by a person to obey a subpoena
2442 or to answer questions propounded by the investigating officer
2443 and upon reasonable notice to all persons affected thereby, the
2444 division may apply to the circuit court for an order compelling
2445 compliance.

2446 (d) Notwithstanding any remedies available to unit owners
2447 and associations, if the division has reasonable cause to
2448 believe that a violation of any provision of this chapter or
2449 related rule ~~promulgated pursuant hereto~~ has occurred, the
2450 division may institute enforcement proceedings in its own name
2451 against a developer, association, officer, or member of the
2452 board, or its assignees or agents, as follows:

2453 1. The division may permit a person whose conduct or
2454 actions may be under investigation to waive formal proceedings
2455 and enter into a consent proceeding whereby orders, rules, or
2456 letters of censure or warning, whether formal or informal, may
2457 be entered against the person.

2458 2. The division may issue an order requiring the
2459 developer, association, officer, or member of the board, or its
2460 assignees or agents, to cease and desist from the unlawful

2461 practice and take such affirmative action as in the judgment of
 2462 the division will carry out the purposes of this chapter. Such
 2463 affirmative action may include, but is not limited to, an order
 2464 requiring a developer to pay moneys determined to be owed to a
 2465 condominium association.

2466 3. The division may bring an action in circuit court on
 2467 behalf of a class of unit owners, lessees, or purchasers for
 2468 declaratory relief, injunctive relief, or restitution.

2469 4. The division may impose a civil penalty against a
 2470 developer or association, or its assignees or agents, for any
 2471 violation of this chapter or related a rule ~~promulgated pursuant~~
 2472 ~~hereto~~. The division may impose a civil penalty individually
 2473 against any officer or board member who willfully and knowingly
 2474 violates a provision of this chapter, a rule adopted pursuant to
 2475 this chapter, or a final order of the division. The term
 2476 "willfully and knowingly" means that the division informed the
 2477 officer or board member that his or her action or intended
 2478 action violates this chapter, a rule adopted under this chapter,
 2479 or a final order of the division, and that the officer or board
 2480 member refused to comply with the requirements of this chapter,
 2481 a rule adopted under this chapter, or a final order of the
 2482 division. The division, prior to initiating formal agency action
 2483 under chapter 120, shall afford the officer or board member an
 2484 opportunity to voluntarily comply with this chapter, a rule
 2485 adopted under this chapter, or a final order of the division. An
 2486 officer or board member who complies within 10 days is not
 2487 subject to a civil penalty. A penalty may be imposed on the
 2488 basis of each day of continuing violation, but in no event shall

2489 the penalty for any offense exceed \$5,000. By January 1, 1998,
2490 the division shall adopt, by rule, penalty guidelines applicable
2491 to possible violations or to categories of violations of this
2492 chapter or rules adopted by the division. The guidelines must
2493 specify a meaningful range of civil penalties for each such
2494 violation of the statute and rules and must be based upon the
2495 harm caused by the violation, the repetition of the violation,
2496 and upon such other factors deemed relevant by the division. For
2497 example, the division may consider whether the violations were
2498 committed by a developer or owner-controlled association, the
2499 size of the association, and other factors. The guidelines must
2500 designate the possible mitigating or aggravating circumstances
2501 that justify a departure from the range of penalties provided by
2502 the rules. It is the legislative intent that minor violations be
2503 distinguished from those which endanger the health, safety, or
2504 welfare of the cooperative residents or other persons and that
2505 such guidelines provide reasonable and meaningful notice to the
2506 public of likely penalties that may be imposed for proscribed
2507 conduct. This subsection does not limit the ability of the
2508 division to informally dispose of administrative actions or
2509 complaints by stipulation, agreed settlement, or consent order.
2510 All amounts collected shall be deposited with the Chief
2511 Financial Officer to the credit of the Division of Florida ~~Land~~
2512 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund. If
2513 a developer fails to pay the civil penalty, the division shall
2514 thereupon issue an order directing that such developer cease and
2515 desist from further operation until such time as the civil
2516 penalty is paid or may pursue enforcement of the penalty in a

2517 court of competent jurisdiction. If an association fails to pay
 2518 the civil penalty, the division shall thereupon pursue
 2519 enforcement in a court of competent jurisdiction, and the order
 2520 imposing the civil penalty or the cease and desist order shall
 2521 not become effective until 20 days after the date of such order.
 2522 Any action commenced by the division shall be brought in the
 2523 county in which the division has its executive offices or in the
 2524 county where the violation occurred.

2525 (e) The division may ~~is authorized to~~ prepare and
 2526 disseminate a prospectus and other information to assist
 2527 prospective owners, purchasers, lessees, and developers of
 2528 residential cooperatives in assessing the rights, privileges,
 2529 and duties pertaining thereto.

2530 (f) The division has authority to adopt rules pursuant to
 2531 ss. 120.536(1) and 120.54 to implement and enforce the
 2532 provisions of this chapter.

2533 (g) The division shall establish procedures for providing
 2534 notice to an association when the division is considering the
 2535 issuance of a declaratory statement with respect to the
 2536 cooperative documents governing such cooperative community.

2537 (h) The division shall furnish each association which pays
 2538 the fees required by paragraph (2) (a) a copy of this act,
 2539 subsequent changes to this act on an annual basis, an amended
 2540 version of this act as it becomes available from the Secretary
 2541 of State's office on a biennial basis, and the rules adopted
 2542 ~~promulgated pursuant~~ thereto on an annual basis.

2543 (i) The division shall annually provide each association
 2544 with a summary of declaratory statements and formal legal

2545 | opinions relating to the operations of cooperatives which were
2546 | rendered by the division during the previous year.

2547 | (j) The division shall adopt uniform accounting
2548 | principles, policies, and standards to be used by all
2549 | associations in the preparation and presentation of all
2550 | financial statements required by this chapter. The principles,
2551 | policies, and standards shall take into consideration the size
2552 | of the association and the total revenue collected by the
2553 | association.

2554 | (k) The division shall provide training programs for
2555 | cooperative association board members and unit owners.

2556 | (l) The division shall maintain a toll-free telephone
2557 | number accessible to cooperative unit owners.

2558 | (m) When a complaint is made to the division, the division
2559 | shall conduct its inquiry with reasonable dispatch and with due
2560 | regard to the interests of the affected parties. Within 30 days
2561 | after receipt of a complaint, the division shall acknowledge the
2562 | complaint in writing and notify the complainant whether the
2563 | complaint is within the jurisdiction of the division and whether
2564 | additional information is needed by the division from the
2565 | complainant. The division shall conduct its investigation and
2566 | shall, within 90 days after receipt of the original complaint or
2567 | timely requested additional information, take action upon the
2568 | complaint. However, the failure to complete the investigation
2569 | within 90 days does not prevent the division from continuing the
2570 | investigation, accepting or considering evidence obtained or
2571 | received after 90 days, or taking administrative action if
2572 | reasonable cause exists to believe that a violation of this

2573 chapter or a rule of the division has occurred. If an
 2574 investigation is not completed within the time limits
 2575 established in this paragraph, the division shall, on a monthly
 2576 basis, notify the complainant in writing of the status of the
 2577 investigation. When reporting its action to the complainant, the
 2578 division shall inform the complainant of any right to a hearing
 2579 pursuant to ss. 120.569 and 120.57.

2580 (n) The division shall develop a program to certify both
 2581 volunteer and paid mediators to provide mediation of cooperative
 2582 disputes. The division shall provide, upon request, a list of
 2583 such mediators to any association, unit owner, or other
 2584 participant in arbitration proceedings under s. 718.1255
 2585 requesting a copy of the list. The division shall include on the
 2586 list of voluntary mediators only persons who have received at
 2587 least 20 hours of training in mediation techniques or have
 2588 mediated at least 20 disputes. In order to become initially
 2589 certified by the division, paid mediators must be certified by
 2590 the Supreme Court to mediate court cases in ~~either~~ county or
 2591 circuit courts. However, the division may adopt, by rule,
 2592 additional factors for the certification of paid mediators,
 2593 which factors must be related to experience, education, or
 2594 background. Any person initially certified as a paid mediator by
 2595 the division must, in order to continue to be certified, comply
 2596 with the factors or requirements imposed by rules adopted by the
 2597 division.

2598 (2) (a) Each cooperative association shall pay to the
 2599 division, on or before January 1 of each year, an annual fee in
 2600 the amount of \$4 for each residential unit in cooperatives

2601 operated by the association. If the fee is not paid by March 1,
 2602 then the association shall be assessed a penalty of 10 percent
 2603 of the amount due, and the association shall not have the
 2604 standing to maintain or defend any action in the courts of this
 2605 state until the amount due is paid.

2606 (b) All fees shall be deposited in the Division of Florida
 2607 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust
 2608 Fund as provided by law.

2609 Section 50. Section 719.504, Florida Statutes, is amended
 2610 to read:

2611 719.504 Prospectus or offering circular.--Every developer
 2612 of a residential cooperative which contains more than 20
 2613 residential units, or which is part of a group of residential
 2614 cooperatives which will be served by property to be used in
 2615 common by unit owners of more than 20 residential units, shall
 2616 prepare a prospectus or offering circular and file it with the
 2617 Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and
 2618 Mobile Homes prior to entering into an enforceable contract of
 2619 purchase and sale of any unit or lease of a unit for more than 5
 2620 years and shall furnish a copy of the prospectus or offering
 2621 circular to each buyer. In addition to the prospectus or
 2622 offering circular, each buyer shall be furnished a separate page
 2623 entitled "Frequently Asked Questions and Answers," which must be
 2624 in accordance with a format approved by the division. This page
 2625 must, in readable language: inform prospective purchasers
 2626 regarding their voting rights and unit use restrictions,
 2627 including restrictions on the leasing of a unit; indicate
 2628 whether and in what amount the unit owners or the association is

2629 obligated to pay rent or land use fees for recreational or other
 2630 commonly used facilities; contain a statement identifying that
 2631 amount of assessment which, pursuant to the budget, would be
 2632 levied upon each unit type, exclusive of any special
 2633 assessments, and which identifies the basis upon which
 2634 assessments are levied, whether monthly, quarterly, or
 2635 otherwise; state and identify any court cases in which the
 2636 association is currently a party of record in which the
 2637 association may face liability in excess of \$100,000; and state
 2638 whether membership in a recreational facilities association is
 2639 mandatory and, if so, identify the fees currently charged per
 2640 unit type. The division shall by rule require such other
 2641 disclosure as in its judgment will assist prospective
 2642 purchasers. The prospectus or offering circular may include more
 2643 than one cooperative, although not all such units are being
 2644 offered for sale as of the date of the prospectus or offering
 2645 circular. The prospectus or offering circular must contain the
 2646 following information:

2647 (1) The front cover or the first page must contain only:

2648 (a) The name of the cooperative.

2649 (b) The following statements in conspicuous type:

2650 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT
 2651 MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2652 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
 2653 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,
 2654 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES
 2655 MATERIALS.

2656 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY

2657 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS
 2658 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT
 2659 REPRESENTATIONS.

2660 (2) Summary: The next page must contain all statements
 2661 required to be in conspicuous type in the prospectus or offering
 2662 circular.

2663 (3) A separate index of the contents and exhibits of the
 2664 prospectus.

2665 (4) Beginning on the first page of the text (not including
 2666 the summary and index), a description of the cooperative,
 2667 including, but not limited to, the following information:

2668 (a) Its name and location.

2669 (b) A description of the cooperative property, including,
 2670 without limitation:

2671 1. The number of buildings, the number of units in each
 2672 building, the number of bathrooms and bedrooms in each unit, and
 2673 the total number of units, if the cooperative is not a phase
 2674 cooperative; or, if the cooperative is a phase cooperative, the
 2675 maximum number of buildings that may be contained within the
 2676 cooperative, the minimum and maximum number of units in each
 2677 building, the minimum and maximum number of bathrooms and
 2678 bedrooms that may be contained in each unit, and the maximum
 2679 number of units that may be contained within the cooperative.

2680 2. The page in the cooperative documents where a copy of
 2681 the survey and plot plan of the cooperative is located.

2682 3. The estimated latest date of completion of
 2683 constructing, finishing, and equipping. In lieu of a date, a
 2684 statement that the estimated date of completion of the

2685 cooperative is in the purchase agreement and a reference to the
2686 article or paragraph containing that information.

2687 (c) The maximum number of units that will use facilities
2688 in common with the cooperative. If the maximum number of units
2689 will vary, a description of the basis for variation and the
2690 minimum amount of dollars per unit to be spent for additional
2691 recreational facilities or enlargement of such facilities. If
2692 the addition or enlargement of facilities will result in a
2693 material increase of a unit owner's maintenance expense or
2694 rental expense, if any, the maximum increase and limitations
2695 thereon shall be stated.

2696 (5) (a) A statement in conspicuous type describing whether
2697 the cooperative is created and being sold as fee simple
2698 interests or as leasehold interests. If the cooperative is
2699 created or being sold on a leasehold, the location of the lease
2700 in the disclosure materials shall be stated.

2701 (b) If timeshare estates are or may be created with
2702 respect to any unit in the cooperative, a statement in
2703 conspicuous type stating that timeshare estates are created and
2704 being sold in such specified units in the cooperative.

2705 (6) A description of the recreational and other common
2706 areas that will be used only by unit owners of the cooperative,
2707 including, but not limited to, the following:

2708 (a) Each room and its intended purposes, location,
2709 approximate floor area, and capacity in numbers of people.

2710 (b) Each swimming pool, as to its general location,
2711 approximate size and depths, approximate deck size and capacity,
2712 and whether heated.

2713 (c) Additional facilities, as to the number of each
 2714 facility, its approximate location, approximate size, and
 2715 approximate capacity.

2716 (d) A general description of the items of personal
 2717 property and the approximate number of each item of personal
 2718 property that the developer is committing to furnish for each
 2719 room or other facility or, in the alternative, a representation
 2720 as to the minimum amount of expenditure that will be made to
 2721 purchase the personal property for the facility.

2722 (e) The estimated date when each room or other facility
 2723 will be available for use by the unit owners.

2724 (f)1. An identification of each room or other facility to
 2725 be used by unit owners that will not be owned by the unit owners
 2726 or the association;

2727 2. A reference to the location in the disclosure materials
 2728 of the lease or other agreements providing for the use of those
 2729 facilities; and

2730 3. A description of the terms of the lease or other
 2731 agreements, including the length of the term; the rent payable,
 2732 directly or indirectly, by each unit owner, and the total rent
 2733 payable to the lessor, stated in monthly and annual amounts for
 2734 the entire term of the lease; and a description of any option to
 2735 purchase the property leased under any such lease, including the
 2736 time the option may be exercised, the purchase price or how it
 2737 is to be determined, the manner of payment, and whether the
 2738 option may be exercised for a unit owner's share or only as to
 2739 the entire leased property.

2740 (g) A statement as to whether the developer may provide

2741 additional facilities not described above, their general
2742 locations and types, improvements or changes that may be made,
2743 the approximate dollar amount to be expended, and the maximum
2744 additional common expense or cost to the individual unit owners
2745 that may be charged during the first annual period of operation
2746 of the modified or added facilities.

2747
2748 Descriptions as to locations, areas, capacities, numbers,
2749 volumes, or sizes may be stated as approximations or minimums.

2750 (7) A description of the recreational and other facilities
2751 that will be used in common with other cooperatives, community
2752 associations, or planned developments which require the payment
2753 of the maintenance and expenses of such facilities, ~~either~~
2754 directly or indirectly, by the unit owners. The description
2755 shall include, but not be limited to, the following:

2756 (a) Each building and facility committed to be built.

2757 (b) Facilities not committed to be built except under
2758 certain conditions, and a statement of those conditions or
2759 contingencies.

2760 (c) As to each facility committed to be built, or which
2761 will be committed to be built upon the happening of one of the
2762 conditions in paragraph (b), a statement of whether it will be
2763 owned by the unit owners having the use thereof or by an
2764 association or other entity which will be controlled by them, or
2765 others, and the location in the exhibits of the lease or other
2766 document providing for use of those facilities.

2767 (d) The year in which each facility will be available for
2768 use by the unit owners or, in the alternative, the maximum

2769 number of unit owners in the project at the time each of all of
 2770 the facilities is committed to be completed.

2771 (e) A general description of the items of personal
 2772 property, and the approximate number of each item of personal
 2773 property, that the developer is committing to furnish for each
 2774 room or other facility or, in the alternative, a representation
 2775 as to the minimum amount of expenditure that will be made to
 2776 purchase the personal property for the facility.

2777 (f) If there are leases, a description thereof, including
 2778 the length of the term, the rent payable, and a description of
 2779 any option to purchase.

2780
 2781 Descriptions shall include location, areas, capacities, numbers,
 2782 volumes, or sizes and may be stated as approximations or
 2783 minimums.

2784 (8) Recreation lease or associated club membership:

2785 (a) If any recreational facilities or other common areas
 2786 offered by the developer and available to, or to be used by,
 2787 unit owners are to be leased or have club membership associated,
 2788 the following statement in conspicuous type shall be included:
 2789 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 2790 COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 2791 COOPERATIVE. There shall be a reference to the location in the
 2792 disclosure materials where the recreation lease or club
 2793 membership is described in detail.

2794 (b) If it is mandatory that unit owners pay a fee, rent,
 2795 dues, or other charges under a recreational facilities lease or
 2796 club membership for the use of facilities, there shall be in

2797 conspicuous type the applicable statement:

2798 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 2799 MANDATORY FOR UNIT OWNERS; or

2800 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 2801 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

2802 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
 2803 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
 2804 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
 2805 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

2806 4. A similar statement of the nature of the organization
 2807 or manner in which the use rights are created, and that unit
 2808 owners are required to pay.

2809

2810 Immediately following the applicable statement, the location in
 2811 the disclosure materials where the development is described in
 2812 detail shall be stated.

2813 (c) If the developer, or any other person other than the
 2814 unit owners and other persons having use rights in the
 2815 facilities, reserves, or is entitled to receive, any rent, fee,
 2816 or other payment for the use of the facilities, then there shall
 2817 be the following statement in conspicuous type: THE UNIT OWNERS
 2818 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 2819 RECREATIONAL OR OTHER COMMON AREAS. Immediately following this
 2820 statement, the location in the disclosure materials where the
 2821 rent or land use fees are described in detail shall be stated.

2822 (d) If, in any recreation format, whether leasehold, club,
 2823 or other, any person other than the association has the right to
 2824 a lien on the units to secure the payment of assessments, rent,

2825 or other exactions, there shall appear a statement in
 2826 conspicuous type in substantially the following form:

2827 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2828 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 2829 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
 2830 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2831 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 2832 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 2833 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 2834 OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE
 2835 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

2836
 2837 Immediately following the applicable statement, the location in
 2838 the disclosure materials where the lien or lien right is
 2839 described in detail shall be stated.

2840 (9) If the developer or any other person has the right to
 2841 increase or add to the recreational facilities at any time after
 2842 the establishment of the cooperative whose unit owners have use
 2843 rights therein, without the consent of the unit owners or
 2844 associations being required, there shall appear a statement in
 2845 conspicuous type in substantially the following form:

2846 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT
 2847 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this
 2848 statement, the location in the disclosure materials where such
 2849 reserved rights are described shall be stated.

2850 (10) A statement of whether the developer's plan includes
 2851 a program of leasing units rather than selling them, or leasing
 2852 units and selling them subject to such leases. If so, there

2853 shall be a description of the plan, including the number and
 2854 identification of the units and the provisions and term of the
 2855 proposed leases, and a statement in boldfaced type that: THE
 2856 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

2857 (11) The arrangements for management of the association
 2858 and maintenance and operation of the cooperative property and of
 2859 other property that will serve the unit owners of the
 2860 cooperative property, and a description of the management
 2861 contract and all other contracts for these purposes having a
 2862 term in excess of 1 year, including the following:

- 2863 (a) The names of contracting parties.
- 2864 (b) The term of the contract.
- 2865 (c) The nature of the services included.
- 2866 (d) The compensation, stated on a monthly and annual
 2867 basis, and provisions for increases in the compensation.
- 2868 (e) A reference to the volumes and pages of the
 2869 cooperative documents and of the exhibits containing copies of
 2870 such contracts.

2871
 2872 Copies of all described contracts shall be attached as exhibits.
 2873 If there is a contract for the management of the cooperative
 2874 property, then a statement in conspicuous type in substantially
 2875 the following form shall appear, identifying the proposed or
 2876 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR
 2877 THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE
 2878 CONTRACT MANAGER). Immediately following this statement, the
 2879 location in the disclosure materials of the contract for
 2880 management of the cooperative property shall be stated.

2881 (12) If the developer or any other person or persons other
2882 than the unit owners has the right to retain control of the
2883 board of administration of the association for a period of time
2884 which can exceed 1 year after the closing of the sale of a
2885 majority of the units in that cooperative to persons other than
2886 successors or alternate developers, then a statement in
2887 conspicuous type in substantially the following form shall be
2888 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
2889 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS
2890 HAVE BEEN SOLD. Immediately following this statement, the
2891 location in the disclosure materials where this right to control
2892 is described in detail shall be stated.

2893 (13) If there are any restrictions upon the sale,
2894 transfer, conveyance, or leasing of a unit, then a statement in
2895 conspicuous type in substantially the following form shall be
2896 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
2897 CONTROLLED. Immediately following this statement, the location
2898 in the disclosure materials where the restriction, limitation,
2899 or control on the sale, lease, or transfer of units is described
2900 in detail shall be stated.

2901 (14) If the cooperative is part of a phase project, the
2902 following shall be stated:

2903 (a) A statement in conspicuous type in substantially the
2904 following form shall be included: THIS IS A PHASE COOPERATIVE.
2905 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.
2906 Immediately following this statement, the location in the
2907 disclosure materials where the phasing is described shall be
2908 stated.

2909 (b) A summary of the provisions of the declaration
 2910 providing for the phasing.

2911 (c) A statement as to whether or not residential buildings
 2912 and units which are added to the cooperative may be
 2913 substantially different from the residential buildings and units
 2914 originally in the cooperative, and, if the added residential
 2915 buildings and units may be substantially different, there shall
 2916 be a general description of the extent to which such added
 2917 residential buildings and units may differ, and a statement in
 2918 conspicuous type in substantially the following form shall be
 2919 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE
 2920 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
 2921 UNITS IN THE COOPERATIVE. Immediately following this statement,
 2922 the location in the disclosure materials where the extent to
 2923 which added residential buildings and units may substantially
 2924 differ is described shall be stated.

2925 (d) A statement of the maximum number of buildings
 2926 containing units, the maximum and minimum number of units in
 2927 each building, the maximum number of units, and the minimum and
 2928 maximum square footage of the units that may be contained within
 2929 each parcel of land which may be added to the cooperative.

2930 (15) If the cooperative is created by conversion of
 2931 existing improvements, the following information shall be
 2932 stated:

2933 (a) The information required by s. 719.616.

2934 (b) A caveat that there are no express warranties unless
 2935 they are stated in writing by the developer.

2936 (16) A summary of the restrictions, if any, to be imposed

CS/CS/HB 601

2008

2937 on units concerning the use of any of the cooperative property,
2938 including statements as to whether there are restrictions upon
2939 children and pets, and reference to the volumes and pages of the
2940 cooperative documents where such restrictions are found, or if
2941 such restrictions are contained elsewhere, then a copy of the
2942 documents containing the restrictions shall be attached as an
2943 exhibit.

2944 (17) If there is any land that is offered by the developer
2945 for use by the unit owners and that is neither owned by them nor
2946 leased to them, the association, or any entity controlled by
2947 unit owners and other persons having the use rights to such
2948 land, a statement shall be made as to how such land will serve
2949 the cooperative. If any part of such land will serve the
2950 cooperative, the statement shall describe the land and the
2951 nature and term of service, and the cooperative documents or
2952 other instrument creating such servitude shall be included as an
2953 exhibit.

2954 (18) The manner in which utility and other services,
2955 including, but not limited to, sewage and waste disposal, water
2956 supply, and storm drainage, will be provided and the person or
2957 entity furnishing them.

2958 (19) An explanation of the manner in which the
2959 apportionment of common expenses and ownership of the common
2960 areas have been determined.

2961 (20) An estimated operating budget for the cooperative and
2962 the association, and a schedule of the unit owner's expenses
2963 shall be attached as an exhibit and shall contain the following
2964 information:

2965 (a) The estimated monthly and annual expenses of the
 2966 cooperative and the association that are collected from unit
 2967 owners by assessments.

2968 (b) The estimated monthly and annual expenses of each unit
 2969 owner for a unit, other than assessments payable to the
 2970 association, payable by the unit owner to persons or entities
 2971 other than the association, and the total estimated monthly and
 2972 annual expense. There may be excluded from this estimate
 2973 expenses that are personal to unit owners, which are not
 2974 uniformly incurred by all unit owners, or which are not provided
 2975 for or contemplated by the cooperative documents, including, but
 2976 not limited to, the costs of private telephone; maintenance of
 2977 the interior of cooperative units, which is not the obligation
 2978 of the association; maid or janitorial services privately
 2979 contracted for by the unit owners; utility bills billed directly
 2980 to each unit owner for utility services to his or her unit;
 2981 insurance premiums other than those incurred for policies
 2982 obtained by the cooperative; and similar personal expenses of
 2983 the unit owner. A unit owner's estimated payments for
 2984 assessments shall also be stated in the estimated amounts for
 2985 the times when they will be due.

2986 (c) The estimated items of expenses of the cooperative and
 2987 the association, except as excluded under paragraph (b),
 2988 including, but not limited to, the following items, which shall
 2989 be stated ~~either~~ as an association expense collectible by
 2990 assessments or as unit owners' expenses payable to persons other
 2991 than the association:

2992 1. Expenses for the association and cooperative:

- 2993 a. Administration of the association.
- 2994 b. Management fees.
- 2995 c. Maintenance.
- 2996 d. Rent for recreational and other commonly used areas.
- 2997 e. Taxes upon association property.
- 2998 f. Taxes upon leased areas.
- 2999 g. Insurance.
- 3000 h. Security provisions.
- 3001 i. Other expenses.
- 3002 j. Operating capital.
- 3003 k. Reserves.
- 3004 1. Fee payable to the division.
- 3005 2. Expenses for a unit owner:
- 3006 a. Rent for the unit, if subject to a lease.
- 3007 b. Rent payable by the unit owner directly to the lessor
- 3008 or agent under any recreational lease or lease for the use of
- 3009 commonly used areas, which use and payment are a mandatory
- 3010 condition of ownership and are not included in the common
- 3011 expense or assessments for common maintenance paid by the unit
- 3012 owners to the association.

3013 (d) The following statement in conspicuous type: THE
 3014 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
 3015 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
 3016 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
 3017 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
 3018 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
 3019 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
 3020 THE OFFERING.

3021 (e) Each budget for an association prepared by a developer
3022 consistent with this subsection shall be prepared in good faith
3023 and shall reflect accurate estimated amounts for the required
3024 items in paragraph (c) at the time of the filing of the offering
3025 circular with the division, and subsequent increased amounts of
3026 any item included in the association's estimated budget that are
3027 beyond the control of the developer shall not be considered an
3028 amendment that would give rise to rescission rights set forth in
3029 s. 719.503(1)(a) or (b), nor shall such increases modify, void,
3030 or otherwise affect any guarantee of the developer contained in
3031 the offering circular or any purchase contract. It is the intent
3032 of this paragraph to clarify existing law.

3033 (f) The estimated amounts shall be stated for a period of
3034 at least 12 months and may distinguish between the period prior
3035 to the time unit owners other than the developer elect a
3036 majority of the board of administration and the period after
3037 that date.

3038 (21) A schedule of estimated closing expenses to be paid
3039 by a buyer or lessee of a unit and a statement of whether title
3040 opinion or title insurance policy is available to the buyer and,
3041 if so, at whose expense.

3042 (22) The identity of the developer and the chief operating
3043 officer or principal directing the creation and sale of the
3044 cooperative and a statement of its and his or her experience in
3045 this field.

3046 (23) Copies of the following, to the extent they are
3047 applicable, shall be included as exhibits:

3048 (a) The cooperative documents, or the proposed cooperative

3049 documents if the documents have not been recorded.
 3050 (b) The articles of incorporation creating the
 3051 association.
 3052 (c) The bylaws of the association.
 3053 (d) The ground lease or other underlying lease of the
 3054 cooperative.
 3055 (e) The management agreement and all maintenance and other
 3056 contracts for management of the association and operation of the
 3057 cooperative and facilities used by the unit owners having a
 3058 service term in excess of 1 year.
 3059 (f) The estimated operating budget for the cooperative and
 3060 the required schedule of unit owners' expenses.
 3061 (g) A copy of the floor plan of the unit and the plot plan
 3062 showing the location of the residential buildings and the
 3063 recreation and other common areas.
 3064 (h) The lease of recreational and other facilities that
 3065 will be used only by unit owners of the subject cooperative.
 3066 (i) The lease of facilities used by owners and others.
 3067 (j) The form of unit lease, if the offer is of a
 3068 leasehold.
 3069 (k) A declaration of servitude of properties serving the
 3070 cooperative but not owned by unit owners or leased to them or
 3071 the association.
 3072 (l) The statement of condition of the existing building or
 3073 buildings, if the offering is of units in an operation being
 3074 converted to cooperative ownership.
 3075 (m) The statement of inspection for termite damage and
 3076 treatment of the existing improvements, if the cooperative is a

3077 conversion.

3078 (n) The form of agreement for sale or lease of units.

3079 (o) A copy of the agreement for escrow of payments made to
3080 the developer prior to closing.

3081 (p) A copy of the documents containing any restrictions on
3082 use of the property required by subsection (16).

3083 (24) Any prospectus or offering circular complying with
3084 the provisions of former ss. 711.69 and 711.802 may continue to
3085 be used without amendment, or may be amended to comply with ~~the~~
3086 ~~provisions of~~ this chapter.

3087 (25) A brief narrative description of the location and
3088 effect of all existing and intended easements located or to be
3089 located on the cooperative property other than those in the
3090 declaration.

3091 (26) If the developer is required by state or local
3092 authorities to obtain acceptance or approval of any dock or
3093 marina facility intended to serve the cooperative, a copy of
3094 such acceptance or approval acquired by the time of filing with
3095 the division pursuant to s. 719.502 or a statement that such
3096 acceptance has not been acquired or received.

3097 (27) Evidence demonstrating that the developer has an
3098 ownership, leasehold, or contractual interest in the land upon
3099 which the cooperative is to be developed.

3100 Section 51. Section 719.508, Florida Statutes, is amended
3101 to read:

3102 719.508 Regulation by Division of Hotels and
3103 Restaurants.--In addition to the authority, regulation, or
3104 control exercised by the Division of Florida ~~Land Sales,~~

3105 Condominiums, Timeshares, and Mobile Homes pursuant to this act
 3106 with respect to cooperatives, buildings included in a
 3107 cooperative property shall be subject to the authority,
 3108 regulation, or control of the Division of Hotels and Restaurants
 3109 of the Department of Business and Professional Regulation, to
 3110 the extent provided ~~for~~ in chapters 399 and 509.

3111 Section 52. Paragraph (a) of subsection (2) of section
 3112 719.608, Florida Statutes, is amended to read:

3113 719.608 Notice of intended conversion; time of delivery;
 3114 content.--

3115 (2) (a) Each notice of intended conversion shall be dated
 3116 and in writing. The notice shall contain the following
 3117 statement, with the phrases of the following statement which
 3118 appear in upper case printed in conspicuous type:

3119
 3120 These apartments are being converted to cooperative by
 3121 (name of developer) , the developer.

3122 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
 3123 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
 3124 AGREEMENT AS FOLLOWS:

3125 a. If you have continuously been a resident of these
 3126 apartments during the last 180 days and your rental agreement
 3127 expires during the next 270 days, you may extend your rental
 3128 agreement for up to 270 days after the date of this notice.

3129 b. If you have not been a continuous resident of these
 3130 apartments for the last 180 days and your rental agreement
 3131 expires during the next 180 days, you may extend your rental
 3132 agreement for up to 180 days after the date of this notice.

3133 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
3134 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
3135 DATE OF THIS NOTICE.

3136 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
3137 you may extend your rental agreement for up to 45 days after the
3138 date of this notice while you decide whether to extend your
3139 rental agreement as explained above. To do so, you must notify
3140 the developer in writing. You will then have the full 45 days to
3141 decide whether to extend your rental agreement as explained
3142 above.

3143 3. During the extension of your rental agreement you will
3144 be charged the same rent that you are now paying.

3145 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
3146 OF THE RENTAL AGREEMENT AS FOLLOWS:

3147 a. If your rental agreement began or was extended or
3148 renewed after May 1, 1980, and your rental agreement, including
3149 extensions and renewals, has an unexpired term of 180 days or
3150 less, you may cancel your rental agreement upon 30 days' written
3151 notice and move. Also, upon 30 days' written notice, you may
3152 cancel any extension of the rental agreement.

3153 b. If your rental agreement was not begun or was not
3154 extended or renewed after May 1, 1980, you may not cancel the
3155 rental agreement without the consent of the developer. If your
3156 rental agreement, including extensions and renewals, has an
3157 unexpired term of 180 days or less, you may, however, upon 30
3158 days' written notice cancel any extension of the rental
3159 agreement.

3160 5. All notices must be given in writing and sent by mail,

3161 return receipt requested, or delivered in person to the
 3162 developer at this address: (name and address of developer) .

3163 6. If you have continuously been a resident of these
 3164 apartments during the last 180 days:

3165 a. You have the right to purchase your apartment and will
 3166 have 45 days to decide whether to purchase. If you do not buy
 3167 the unit at that price and the unit is later offered at a lower
 3168 price, you will have the opportunity to buy the unit at the
 3169 lower price. However, in all events your right to purchase the
 3170 unit ends when the rental agreement or any extension of the
 3171 rental agreement ends or when you waive this right in writing.

3172 b. Within 90 days you will be provided purchase
 3173 information relating to your apartment, including the price of
 3174 your unit and the condition of the building. If you do not
 3175 receive this information within 90 days, your rental agreement
 3176 and any extension will be extended 1 day for each day over 90
 3177 days until you are given the purchase information. If you do not
 3178 want this rental agreement extension, you must notify the
 3179 developer in writing.

3180 7. If you have any questions regarding this conversion or
 3181 the Cooperative Act, you may contact the developer or the state
 3182 agency which regulates cooperatives: The Division of Florida
 3183 ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes,
 3184 (Tallahassee address and telephone number of division) .

3185 Section 53. Subsection (7) of section 720.301, Florida
 3186 Statutes, is amended to read:

3187 720.301 Definitions.--As used in this chapter, the term:

3188 (7) "Division" means the Division of Florida ~~Land Sales,~~
 3189 Condominiums, Timeshares, and Mobile Homes in the Department of
 3190 Business and Professional Regulation.

3191 Section 54. Subsection (2) of section 720.401, Florida
 3192 Statutes, is amended to read:

3193 720.401 Prospective purchasers subject to association
 3194 membership requirement; disclosure required; covenants;
 3195 assessments; contract cancellation.--

3196 (2) This section does not apply to any association
 3197 regulated under chapter 718, chapter 719, chapter 721, or
 3198 chapter 723 ~~or to a subdivider registered under chapter 498;~~ and
 3199 also does not apply if disclosure regarding the association is
 3200 otherwise made in connection with the requirements of chapter
 3201 718, chapter 719, chapter 721, or chapter 723.

3202 Section 55. Paragraph (c) of subsection (1) of section
 3203 721.03, Florida Statutes, is amended to read:

3204 721.03 Scope of chapter.--

3205 (1) This chapter applies to all timeshare plans consisting
 3206 of more than seven timeshare periods over a period of at least 3
 3207 years in which the accommodations and facilities, if any, are
 3208 located within this state or offered within this state; provided
 3209 that:

3210 (c) All timeshare accommodations or facilities which are
 3211 located outside the state but offered for sale in this state
 3212 shall be governed by the following:

3213 1. The offering for sale in this state of timeshare
 3214 accommodations and facilities located outside the state is
 3215 subject only to the provisions of ss. 721.01-721.12, 721.18,

3216 721.20, 721.21, 721.26, 721.28, and part II.

3217 2. The division shall not require a developer of timeshare
 3218 accommodations or facilities located outside of this state to
 3219 make changes in any timeshare instrument to conform to the
 3220 provisions of s. 721.07 or s. 721.55. The division shall have
 3221 the power to require disclosure of those provisions of the
 3222 timeshare instrument that do not conform to s. 721.07 or s.
 3223 721.55 as the director determines is necessary to fairly,
 3224 meaningfully, and effectively disclose all aspects of the
 3225 timeshare plan.

3226 3. Except as provided in this subparagraph, the division
 3227 shall have no authority to determine whether any person has
 3228 complied with another state's laws or to disapprove any filing
 3229 out-of-state, timeshare instrument, or component site document,
 3230 based solely upon the lack or degree of timeshare regulation in
 3231 another state. The division may require a developer to obtain
 3232 and provide to the division existing documentation relating to
 3233 an out-of-state filing, timeshare instrument, or component site
 3234 document and prove compliance of same with the laws of that
 3235 state. In this regard, the division may accept any evidence of
 3236 the approval or acceptance of any out-of-state filing, timeshare
 3237 instrument, or component site document by another state in lieu
 3238 of requiring a developer to file the out-of-state filing,
 3239 timeshare instrument, or component site document with the
 3240 division pursuant to this section, or the division may accept an
 3241 opinion letter from an attorney or law firm opining as to the
 3242 compliance of such out-of-state filing, timeshare instrument, or
 3243 component site document with the laws of another state. The

3244 division may refuse to approve the inclusion of any out-of-state
 3245 filing, timeshare instrument, or component site document as part
 3246 of a public offering statement based upon the inability of the
 3247 developer to establish the compliance of same with the laws of
 3248 another state.

3249 4. The division is authorized to enter into an agreement
 3250 with another state for the purpose of facilitating the
 3251 processing of out-of-state timeshare instruments or other
 3252 component site documents pursuant to this chapter and for the
 3253 purpose of facilitating the referral of consumer complaints to
 3254 the appropriate state.

3255 5. Notwithstanding any other provision of this paragraph,
 3256 the offer, in this state, of an additional interest to existing
 3257 purchasers in the same timeshare plan or the same component site
 3258 of a multisite timeshare plan, the same nonspecific multisite
 3259 timeshare plan, with accommodations and facilities located
 3260 outside of this state shall not be subject to the provisions of
 3261 this chapter if the offer complies with the provisions of s.
 3262 721.11(4).

3263 Section 56. Subsection (11) of section 721.05, Florida
 3264 Statutes, is amended to read:

3265 721.05 Definitions.--As used in this chapter, the term:

3266 (11) "Division" means the Division of Florida ~~Land Sales,~~
 3267 Condominiums, Timeshares, and Mobile Homes of the Department of
 3268 Business and Professional Regulation.

3269 Section 57. Paragraph (d) of subsection (2) of section
 3270 721.07, Florida Statutes, is amended to read:

3271 721.07 Public offering statement.--Prior to offering any

3272 timeshare plan, the developer must submit a filed public
 3273 offering statement to the division for approval as prescribed by
 3274 s. 721.03, s. 721.55, or this section. Until the division
 3275 approves such filing, any contract regarding the sale of that
 3276 timeshare plan is subject to cancellation by the purchaser
 3277 pursuant to s. 721.10.

3278 (2)

3279 (d) A developer shall have the authority to deliver to
 3280 purchasers any purchaser public offering statement that is not
 3281 yet approved by the division, provided that the following shall
 3282 apply:

3283 1. At the time the developer delivers an unapproved
 3284 purchaser public offering statement to a purchaser pursuant to
 3285 this paragraph, the developer shall deliver a fully completed
 3286 and executed copy of the purchase contract required by s. 721.06
 3287 that contains the following statement in conspicuous type in
 3288 substantially the following form which shall replace the
 3289 statements required by s. 721.06(1)(g):

3290
 3291 The developer is delivering to you a public offering statement
 3292 that has been filed with but not yet approved by the Division of
 3293 Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes.
 3294 Any revisions to the unapproved public offering statement you
 3295 have received must be delivered to you, but only if the
 3296 revisions materially alter or modify the offering in a manner
 3297 adverse to you. After the division approves the public offering
 3298 statement, you will receive notice of the approval from the
 3299 developer and the required revisions, if any.

3300
 3301 Your statutory right to cancel this transaction without any
 3302 penalty or obligation expires 10 calendar days after the date
 3303 you signed your purchase contract or the date on which you
 3304 receive the last of all documents required to be given to you
 3305 pursuant to section 721.07(6), Florida Statutes, or 10 calendar
 3306 days after you receive revisions required to be delivered to
 3307 you, if any, whichever is later. If you decide to cancel this
 3308 contract, you must notify the seller in writing of your intent
 3309 to cancel. Your notice of cancellation shall be effective upon
 3310 the date sent and shall be sent to (Name of Seller) at
 3311 (Address of Seller) . Any attempt to obtain a waiver of your
 3312 cancellation right is void and of no effect. While you may
 3313 execute all closing documents in advance, the closing, as
 3314 evidenced by delivery of the deed or other document, before
 3315 expiration of your 10-day cancellation period, is prohibited.

3316
 3317 2. After receipt of approval from the division and prior
 3318 to closing, if any revisions made to the documents contained in
 3319 the purchaser public offering statement materially alter or
 3320 modify the offering in a manner adverse to a purchaser, the
 3321 developer shall send the purchaser such revisions together with
 3322 a notice containing a statement in conspicuous type in
 3323 substantially the following form:

3324
 3325 The unapproved public offering statement previously delivered to
 3326 you, together with the enclosed revisions, has been approved by
 3327 the Division of Florida ~~Land Sales~~, Condominiums, Timeshares,

3328 and Mobile Homes. Accordingly, your cancellation right expires
 3329 10 calendar days after you sign your purchase contract or 10
 3330 calendar days after you receive these revisions, whichever is
 3331 later. If you have any questions regarding your cancellation
 3332 rights, you may contact the division at [insert division's
 3333 current address].

3334
 3335 3. After receipt of approval from the division and prior
 3336 to closing, if no revisions have been made to the documents
 3337 contained in the unapproved purchaser public offering statement,
 3338 or if such revisions do not materially alter or modify the
 3339 offering in a manner adverse to a purchaser, the developer shall
 3340 send the purchaser a notice containing a statement in
 3341 conspicuous type in substantially the following form:

3342
 3343 The unapproved public offering statement previously delivered to
 3344 you has been approved by the Division of Florida ~~Land Sales,~~
 3345 Condominiums, Timeshares, and Mobile Homes. Revisions made to
 3346 the unapproved public offering statement, if any, are ~~either~~ not
 3347 required to be delivered to you or are not deemed by the
 3348 developer, in its opinion, to materially alter or modify the
 3349 offering in a manner that is adverse to you. Accordingly, your
 3350 cancellation right expired 10 days after you signed your
 3351 purchase contract. A complete copy of the approved public
 3352 offering statement is available through the managing entity for
 3353 inspection as part of the books and records of the plan. If you
 3354 have any questions regarding your cancellation rights, you may
 3355 contact the division at [insert division's current address].

CS/CS/HB 601

2008

3356 Section 58. Subsection (8) of section 721.08, Florida
3357 Statutes, is amended to read:

3358 721.08 Escrow accounts; nondisturbance instruments;
3359 alternate security arrangements; transfer of legal title.--

3360 (8) An escrow agent holding escrowed funds pursuant to
3361 this chapter that have not been claimed for a period of 5 years
3362 after the date of deposit shall make at least one reasonable
3363 attempt to deliver such unclaimed funds to the purchaser who
3364 submitted such funds to escrow. In making such attempt, an
3365 escrow agent is entitled to rely on a purchaser's last known
3366 address as set forth in the books and records of the escrow
3367 agent and is not required to conduct any further search for the
3368 purchaser. If an escrow agent's attempt to deliver unclaimed
3369 funds to any purchaser is unsuccessful, the escrow agent may
3370 deliver such unclaimed funds to the division and the division
3371 shall deposit such unclaimed funds in the Division of Florida
3372 ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes Trust
3373 Fund, 30 days after giving notice in a publication of general
3374 circulation in the county in which the timeshare property
3375 containing the purchaser's timeshare interest is located. The
3376 purchaser may claim the same at any time prior to the delivery
3377 of such funds to the division. After delivery of such funds to
3378 the division, the purchaser shall have no more rights to the
3379 unclaimed funds. The escrow agent shall not be liable for any
3380 claims from any party arising out of the escrow agent's delivery
3381 of the unclaimed funds to the division pursuant to this section.

3382 Section 59. Section 721.26, Florida Statutes, is amended
3383 to read:

3384 721.26 Regulation by division.--The division has the power
 3385 to enforce and ensure compliance with ~~the provisions of this~~
 3386 chapter, except for parts III and IV, using the powers provided
 3387 in this chapter, as well as the powers prescribed in chapters
 3388 ~~498, 718,~~ and 719. In performing its duties, the division shall
 3389 have the following powers and duties:

3390 (1) To aid in the enforcement of this chapter, or any
 3391 division rule adopted or order ~~promulgated or~~ issued pursuant to
 3392 this chapter, the division may make necessary public or private
 3393 investigations within or outside this state to determine whether
 3394 any person has violated or is about to violate this chapter, or
 3395 any division rule adopted or order ~~promulgated or~~ issued
 3396 pursuant to this chapter.

3397 (2) The division may require or permit any person to file
 3398 a written statement under oath or otherwise, as the division
 3399 determines, as to the facts and circumstances concerning a
 3400 matter under investigation.

3401 (3) For the purpose of any investigation under this
 3402 chapter, the director of the division or any officer or employee
 3403 designated by the director may administer oaths or affirmations,
 3404 subpoena witnesses and compel their attendance, take evidence,
 3405 and require the production of any matter which is relevant to
 3406 the investigation, including the identity, existence,
 3407 description, nature, custody, condition, and location of any
 3408 books, documents, or other tangible things and the identity and
 3409 location of persons having knowledge of relevant facts or any
 3410 other matter reasonably calculated to lead to the discovery of
 3411 material evidence. Failure to obey a subpoena or to answer

3412 questions propounded by the investigating officer and upon
 3413 reasonable notice to all persons affected thereby shall be a
 3414 violation of this chapter. In addition to the other enforcement
 3415 powers authorized in this subsection, the division may, ~~at its~~
 3416 ~~discretion,~~ apply to the circuit court for an order compelling
 3417 compliance.

3418 (4) The division may prepare and disseminate a prospectus
 3419 and other information to assist prospective purchasers, sellers,
 3420 and managing entities of timeshare plans in assessing the
 3421 rights, privileges, and duties pertaining thereto.

3422 (5) Notwithstanding any remedies available to purchasers,
 3423 if the division has reasonable cause to believe that a violation
 3424 of this chapter, or of any division rule adopted or order
 3425 ~~promulgated or~~ issued pursuant to this chapter, has occurred,
 3426 the division may institute enforcement proceedings in its own
 3427 name against any regulated party, as such term is defined in
 3428 this subsection:

3429 (a)1. "Regulated party," for purposes of this section,
 3430 means any developer, exchange company, seller, managing entity,
 3431 owners' association, owners' association director, owners'
 3432 association officer, manager, management firm, escrow agent,
 3433 trustee, any respective assignees or agents, or any other person
 3434 having duties or obligations pursuant to this chapter.

3435 2. Any person who materially participates in any offer or
 3436 disposition of any interest in, or the management or operation
 3437 of, a timeshare plan in violation of this chapter or relevant
 3438 rules involving fraud, deception, false pretenses,
 3439 misrepresentation, or false advertising or the disbursement,

3440 concealment, or diversion of any funds or assets, which conduct
 3441 adversely affects the interests of a purchaser, and which person
 3442 directly or indirectly controls a regulated party or is a
 3443 general partner, officer, director, agent, or employee of such
 3444 regulated party, shall be jointly and severally liable under
 3445 this subsection with such regulated party, unless such person
 3446 did not know, and in the exercise of reasonable care could not
 3447 have known, of the existence of the facts giving rise to the
 3448 violation of this chapter. A right of contribution shall exist
 3449 among jointly and severally liable persons pursuant to this
 3450 paragraph.

3451 (b) The division may permit any person whose conduct or
 3452 actions may be under investigation to waive formal proceedings
 3453 and enter into a consent proceeding whereby an order, rule, or
 3454 letter of censure or warning, whether formal or informal, may be
 3455 entered against that person.

3456 (c) The division may issue an order requiring a regulated
 3457 party to cease and desist from an unlawful practice under this
 3458 chapter and take such affirmative action as in the judgment of
 3459 the division will carry out the purposes of this chapter.

3460 (d)1. The division may bring an action in circuit court
 3461 for declaratory or injunctive relief or for other appropriate
 3462 relief, including restitution.

3463 2. The division shall have broad authority and discretion
 3464 to petition the circuit court to appoint a receiver with respect
 3465 to any managing entity which fails to perform its duties and
 3466 obligations under this chapter with respect to the operation of
 3467 a timeshare plan. The circumstances giving rise to an

3468 appropriate petition for receivership under this subparagraph
3469 include, but are not limited to:

3470 a. Damage to or destruction of any of the accommodations
3471 or facilities of a timeshare plan, where the managing entity has
3472 failed to repair or reconstruct same.

3473 b. A breach of fiduciary duty by the managing entity,
3474 including, but not limited to, undisclosed self-dealing or
3475 failure to timely assess, collect, or disburse the common
3476 expenses of the timeshare plan.

3477 c. Failure of the managing entity to operate the timeshare
3478 plan in accordance with the timeshare instrument and this
3479 chapter.

3480

3481 If, under the circumstances, it appears that the events giving
3482 rise to the petition for receivership cannot be reasonably and
3483 timely corrected in a cost-effective manner consistent with the
3484 timeshare instrument, the receiver may petition the circuit
3485 court to implement such amendments or revisions to the timeshare
3486 instrument as may be necessary to enable the managing entity to
3487 resume effective operation of the timeshare plan, or to enter an
3488 order terminating the timeshare plan, or to enter such further
3489 orders regarding the disposition of the timeshare property as
3490 the court deems appropriate, including the disposition and sale
3491 of the timeshare property held by the owners' association or the
3492 purchasers. In the event of a receiver's sale, all rights,
3493 title, and interest held by the owners' association or any
3494 purchaser shall be extinguished and title shall vest in the
3495 buyer. This provision applies to timeshare estates, personal

3496 | property timeshare interests, and timeshare licenses. All
 3497 | reasonable costs and fees of the receiver relating to the
 3498 | receivership shall become common expenses of the timeshare plan
 3499 | upon order of the court.

3500 | 3. The division may revoke its approval of any filing for
 3501 | any timeshare plan for which a petition for receivership has
 3502 | been filed pursuant to this paragraph.

3503 | (e)1. The division may impose a penalty against any
 3504 | regulated party for a violation of this chapter or any rule
 3505 | adopted thereunder. A penalty may be imposed on the basis of
 3506 | each day of continuing violation, but in no event may the
 3507 | penalty for any offense exceed \$10,000. All accounts collected
 3508 | shall be deposited with the Chief Financial Officer to the
 3509 | credit of the Division of Florida ~~Land Sales~~, Condominiums,
 3510 | Timeshares, and Mobile Homes Trust Fund.

3511 | 2.a. If a regulated party fails to pay a penalty, the
 3512 | division shall thereupon issue an order directing that such
 3513 | regulated party cease and desist from further operation until
 3514 | such time as the penalty is paid; or the division may pursue
 3515 | enforcement of the penalty in a court of competent jurisdiction.

3516 | b. If an owners' association or managing entity fails to
 3517 | pay a civil penalty, the division may pursue enforcement in a
 3518 | court of competent jurisdiction.

3519 | (f) In order to permit the regulated party an opportunity
 3520 | ~~either~~ to appeal such decision administratively or to seek
 3521 | relief in a court of competent jurisdiction, the order imposing
 3522 | the penalty or the cease and desist order shall not become
 3523 | effective until 20 days after the date of such order.

3524 (g) Any action commenced by the division shall be brought
 3525 in the county in which the division has its executive offices or
 3526 in the county where the violation occurred.

3527 (h) Notice to any regulated party shall be complete when
 3528 delivered by United States mail, return receipt requested, to
 3529 the party's address currently on file with the division or to
 3530 such other address at which the division is able to locate the
 3531 party. Every regulated party has an affirmative duty to notify
 3532 the division of any change of address at least 5 business days
 3533 prior to such change.

3534 (6) The division has authority to adopt rules pursuant to
 3535 ss. 120.536(1) and 120.54 to implement and enforce the
 3536 provisions of this chapter.

3537 (7) (a) The use of any unfair or deceptive act or practice
 3538 by any person in connection with the sales or other operations
 3539 of an exchange program or timeshare plan is a violation of this
 3540 chapter.

3541 (b) Any violation of the Florida Deceptive and Unfair
 3542 Trade Practices Act, ss. 501.201 et seq., relating to the
 3543 creation, promotion, sale, operation, or management of any
 3544 timeshare plan shall also be a violation of this chapter.

3545 (c) The division may ~~is authorized to~~ institute
 3546 proceedings against any such person and take any appropriate
 3547 action authorized in this section in connection therewith,
 3548 notwithstanding any remedies available to purchasers.

3549 (8) The failure of any person to comply with any order of
 3550 the division is a violation of this chapter.

3551 Section 60. Section 721.28, Florida Statutes, is amended

3552 to read:

3553 721.28 Division of Florida ~~Land Sales~~, Condominiums,
 3554 Timeshares, and Mobile Homes Trust Fund.--All funds collected by
 3555 the division and any amounts paid as fees or penalties under
 3556 this chapter shall be deposited in the State Treasury to the
 3557 credit of the Division of Florida ~~Land Sales~~, Condominiums,
 3558 Timeshares, and Mobile Homes Trust Fund created by s. 718.509
 3559 ~~498.019~~.

3560 Section 61. Paragraph (c) of subsection (1) of section
 3561 721.301, Florida Statutes, is amended to read:

3562 721.301 Florida Timesharing, Vacation Club, and
 3563 Hospitality Program.--

3564 (1)

3565 (c) The director may designate funds from the Division of
 3566 Florida ~~Land Sales~~, Condominiums, Timeshares, and Mobile Homes
 3567 Trust Fund, not to exceed \$50,000 annually, to support the
 3568 projects and proposals undertaken pursuant to paragraph (b). All
 3569 state trust funds to be expended pursuant to this section must
 3570 be matched equally with private moneys and shall comprise no
 3571 more than half of the total moneys expended annually.

3572 Section 62. Section 721.50, Florida Statutes, is amended
 3573 to read:

3574 721.50 Short title.--This part may be cited as the
 3575 "McAllister Act" in recognition and appreciation for the years
 3576 of extraordinary and insightful contributions by Mr. Bryan C.
 3577 McAllister, Examinations Supervisor of the former, Division of
 3578 Florida Land Sales, Condominiums, and Mobile Homes.

3579 Section 63. Subsection (1) of section 723.003, Florida

3580 Statutes, is amended to read:

3581 723.003 Definitions.--As used in this chapter, the
 3582 following words and terms have the following meanings unless
 3583 clearly indicated otherwise:

3584 (1) The term "division" means the Division of Florida ~~Land~~
 3585 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes of the
 3586 Department of Business and Professional Regulation.

3587 Section 64. Paragraph (e) of subsection (5) of section
 3588 723.006, Florida Statutes, is amended to read:

3589 723.006 Powers and duties of division.--In performing its
 3590 duties, the division has the following powers and duties:

3591 (5) Notwithstanding any remedies available to mobile home
 3592 owners, mobile home park owners, and homeowners' associations,
 3593 if the division has reasonable cause to believe that a violation
 3594 of any provision of this chapter or related ~~any rule promulgated~~
 3595 ~~pursuant hereto~~ has occurred, the division may institute
 3596 enforcement proceedings in its own name against a developer,
 3597 mobile home park owner, or homeowners' association, or its
 3598 assignee or agent, as follows:

3599 (e)1. The division may impose a civil penalty against a
 3600 mobile home park owner or homeowners' association, or its
 3601 assignee or agent, for any violation of this chapter, a properly
 3602 adopted ~~promulgated~~ park rule or regulation, or a rule adopted
 3603 ~~or regulation promulgated~~ pursuant hereto. A penalty may be
 3604 imposed on the basis of each separate violation and, if the
 3605 violation is a continuing one, for each day of continuing
 3606 violation, but in no event may the penalty for each separate
 3607 violation or for each day of continuing violation exceed \$5,000.

3608 All amounts collected shall be deposited with the Chief
 3609 Financial Officer to the credit of the Division of Florida ~~Land~~
 3610 ~~Sales~~, Condominiums, Timeshares, and Mobile Homes Trust Fund.

3611 2. If a violator fails to pay the civil penalty, the
 3612 division shall thereupon issue an order directing that such
 3613 violator cease and desist from further violation until such time
 3614 as the civil penalty is paid or may pursue enforcement of the
 3615 penalty in a court of competent jurisdiction. If a homeowners'
 3616 association fails to pay the civil penalty, the division shall
 3617 thereupon pursue enforcement in a court of competent
 3618 jurisdiction, and the order imposing the civil penalty or the
 3619 cease and desist order shall not become effective until 20 days
 3620 after the date of such order. Any action commenced by the
 3621 division shall be brought in the county in which the division
 3622 has its executive offices or in which the violation occurred.

3623 Section 65. Section 723.009, Florida Statutes, is amended
 3624 to read:

3625 723.009 Division of Florida ~~Land Sales~~, Condominiums,
 3626 Timeshares, and Mobile Homes Trust Fund.--All proceeds from the
 3627 fees, penalties, and fines imposed pursuant to this chapter
 3628 shall be deposited into the Division of Florida ~~Land Sales~~,
 3629 Condominiums, Timeshares, and Mobile Homes Trust Fund created by
 3630 s. 718.509 ~~498.019~~. Moneys in this fund, as appropriated by the
 3631 Legislature pursuant to chapter 216, may be used to defray the
 3632 expenses incurred by the division in administering the
 3633 provisions of this chapter.

3634 Section 66. Paragraph (c) of subsection (2) of section
 3635 723.0611, Florida Statutes, is amended to read:

CS/CS/HB 601

2008

3636 | 723.0611 Florida Mobile Home Relocation Corporation.--
3637 | (2)
3638 | (c) The corporation shall, for purposes of s. 768.28, be
3639 | considered an agency of the state. Agents or employees of the
3640 | corporation, members of the board of directors of the
3641 | corporation, or representatives of the Division of Florida ~~Land~~
3642 | ~~Sales~~, Condominiums, Timeshares, and Mobile Homes shall be
3643 | considered officers, employees, or agents of the state, and
3644 | actions against them and the corporation shall be governed by s.
3645 | 768.28.
3646 | Section 67. This act shall take effect July 1, 2008.